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LEGISLATIVE HISTORY

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Public Law 320--74th Congress

H. R. 8492

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PUBLIC LAW 320. AMENDING THE AGRICULTURAL ADJUSTMENT ACT.

TITLE I

Section 1 amends Section 2 (1) of the Agricultural Adjustment Act to provide that the parity price for commodities whose base period is 1909-1914 shall reflect mortgage interest payments and tax rates per acre on farm real estate and amends Section 2 (2) and (3) of the Act by redefining the policy of Congress as to the protection of consumer interests.

Section 2 revises Section 8 (1) by directing the Secretary of Agriculture, if upon the basis of an investigation he finds that the farm price of the commodity is or will be below the fair exchange value thereof, to (1) adjust the acreage or production of any basic agricultural commodity, and to make rental or benefit payments in connection therewith through agreements with producers, or other voluntary methods, and (2) make payments to remove surpluses, expand domestic or foreign markets, or in connection with production for domestic use but prohibits the use of such powers when the farm price of a commodity is not less and is not likely to be less than the fair exchange value, or when such powers would not effectuate the declared policy, and payment in kind with any commodity other than that in connection with which payment is being made. The Secretary is directed also to make certain additional payments in the case of sugar beets or sugarcane if it is established that returns to growers or producers were reduced by payment of the processing tax under the 1933-34 contracts; and in the case of rice, to provide in any agreement that the producer may pledge for production credit his right to any rental or benefit payments; and is permitted to advance on nonperishable stored commodities a reasonable percentage of any benefit payment.

Section 3 amends Section 12 (b) of the Agricultural Adjustment Act to make proceeds of taxes available for acquisition of any agricultural commodity pledged for a loan made by any Federal agency, or for any payments authorized under Section 8, and refunds on taxes, while Section 4 amends Section 9 (2) by redefining the interstate commerce clause with respect to marketing agreements.

Section 5 strikes out Section 8(3) of the Agricultural Adjustment Act and substitutes new language directing the Secretary, after due notice of and opportunity for a hearing, to issue orders to handlers regulating the handling of commodities in the current of or directly burdening, obstructing or affecting interstate or foreign commerce, such orders to be based upon a finding that it will tend to effectuate the declared policy of the Agricultural Adjustment Act and applicable to milk, fruits (including pecans and walnuts but not including apples or fruits, other than olives, for canning), tobacco, vegetables (not including vegetables, other than asparagus, for canning), soybeans and naval stores.

With respect to milk and its products, Section 5 provides that such orders shall contain one or more of the following terms and conditions: (A) Classifying milk according to use, and fixing, or providing a method for fixing minimum prices for each classification, to be paid by all handlers, subject to certain technical adjustments; (B) Providing that all producers and associations of producers delivering milk to the same handlers shall be paid uniform prices, when such a provision is favored by three-fourths of the producers, by number of volume, or that, subject to certain technical adjustments, all producers delivering milk to all handlers shall be paid uniform prices irrespective of the use that may be made of the milk; (C) Providing for a method for adjustments in payments among handlers; (D) Providing that payments to new producers be at the established price for the lowest use-classification; (E) Providing for market information, verification of weights, sampling, testing, and security for payment except where such services are being rendered producers by qualified cooperative marketing associations; and (F) Providing that properly qualified cooperative marketing associations may blend the proceeds of all sales and distribute these proceeds in accordance with contract; but no marketing agreement or order shall prohibit the marketing of milk or milk products, coming into a marketing area, because of the place of production.

With respect to commodities other than milk (as above defined), Section 5 provides that such orders shall contain one or more of the following terms and conditions: (A) Limiting the total quantity that may be marketed by all handlers; (B) Allotting the quantity each handler may purchase from or handle on behalf of producers; (C) Allotting the quantity each handler may market; (D) Controlling and disposing of surplus; and (E) Establishing reserve pools. Orders may provide for methods for accomplishing these purposes.

All orders shall contain one or more of the following terms and conditions: (A) Prohibiting unfair competition and trade practices; (B) Providing for sale of commodities except milk and cream to be sold for consumption in fluid form at prices filed by handlers; (C) Providing for the selection of agencies with power to administer the Secretary's orders, make rules and regulations, investigate complaints of violations, and recommend amendments; and (D) Allowing the exercise of necessary incidental powers.

Section 5 further provides that no order shall become effective until handlers of fifty percent of the volume of the commodity (larger for California citrus fruits) have signed a marketing agreement, and two-thirds by number of volume of the producers favor such order except that, with the approval of the President, an order shall become effective if handlers of fifty percent of the volume do not sign when (A) noncompliance of the handlers would tend to prevent the effectuation of the purposes of the Agricultural Adjustment Act, and (B) when the order is the only practicable means of advancing the interests of producers and is favored by two-thirds of them by number or volume; that no order shall be issued contrary to a market agreement upon which a hearing has been held or regulate advertising; that except in the case of milk and its products, where orders shall apply to areas as small as possible, no blanket orders shall be issued and for

the inclusion in orders, where practicable, such different terms as may be necessary to correspond to local differences in production and marketing methods; that the action by bona fide cooperative associations of producers in approving or disapproving orders shall be regarded as the action of the members thereof; that orders shall not be applicable to retailers in their capacity as such, except in the case of milk and its products, nor to producers in such capacity; that handlers violating orders shall be fined from \$50 to \$500 with each day counted as a separate violation; that a handler may protest the illegality of an order by written petition, with opportunity for hearing and ruling by the Secretary, and recourse to the courts for review of such ruling; that a marketing agreement or order may be terminated by the Secretary or on demand of a majority of producers by volume or number; and that provisions applicable to orders are equally applicable to amendments to orders.

Section 6 strikes out Section 8 (4) of the Agricultural Adjustment Act and inserts a new section providing that relevant books and records may be examined by the Secretary to determine that extent of compliance with orders or agreements, the extent to which orders and agreements have been effective in achieving the purposes of the Act, and whether the privilege of exemption from the anti-trust laws has been abused, that information so obtained must be kept confidential, and that the base period with which to compare commodity prices may vary to meet particular requirements.

Sections 7, 8, and 9 change the numbering of, and make technical corrections in the language of, certain sections of the Act.

Section 10 amends Sec. 8a (7) of the Agricultural Adjustment Act by inserting at the end a provision for investigation of violations of orders.

Section 11 amends Sec. 9 (a) of the Agricultural Adjustment Act to provide that a processing tax shall be in effect from the beginning of the marketing year therefor next following the proclamation by the Secretary that any payments under Section 8 are to be made.

Section 12 amends Section 9 (b) of the Agricultural Adjustment Act to provide that the rate of the processing tax shall be equal to the difference between the current average farm price and the fair exchange value of a commodity plus not more than twenty percent of this amount to cover estimated credits, refunds, and exemptions; that the rate of the processing tax for wheat, cotton, field corn, hogs, peanuts, tobacco, paper, jute, sugarcane, and sugar beets in effect on the date of the adoption of this amendment shall continue until December 31, 1937; that from April 1, 1935, to July 31, 1936, the rate for rice shall be one cent per pound of rough rice; that from September 1, 1935 to December 31, 1937, the rate for rye shall be thirty cents per bushel of of fifty-six pounds; that prior to December 31, 1937, provided a tax comes into effect, the rate for barley shall be twenty-five cents per bushel of forty-eight pounds; that the above rates may be increased or reduced (including a decrease to zero) according to prescribed conditions.

Section 13 amends Section 9(c) of the Agricultural Adjustment Act to provide that the parity price of a commodity shall also reflect mortgage interest payments and tax payments per acre on farm real estate.

Section 14 amends Section 9 (b) (1) of the Agricultural Adjustment Act by inserting after the word "wheat" where it occurs the following: "rye, barley" and repeals paragraph (5) of such subsection and Section 15 amends Section 9 of the Agricultural Adjustment Act to prohibit any tax upon the processing of any commodity which processing results in the production of newsprint.

Section 16 authorizes the Secretary to encourage the establishment of State and local committees or associations of producers, and provides that each order shall provide for payment by the handlers on a prorated basis, of the administrative expenses of such agencies.

Section 17 makes a technical change in the language of Section 10 (e) of the Agricultural Adjustment Act.

Section 18 amends Section 10 of the Agricultural Adjustment Act by authorizing the cooperation with State authorities in the administration of Federal and State programs in order to effectuate the policy of the Act.

Section 19 makes a technical change in the language of Sec. 12(a) of the Act.

Section 20 extends the provisions of the Jones-Costigan Act (Public No. 213-73d Congress) until December 31, 1937 and amends Section 16 (c) of the Agricultural Adjustment Act to provide for refunds of the floor stocks tax or in the case of sugar beets and sugarcane.

Section 21 amends Section 15 (a) of the Agricultural Adjustment Act by adding a provision entitling importers of low-value products to a remission of the compensating tax in all cases where the processing tax has been suspended or refunded with respect to the domestic product, and making specific provision for certain refunds in the case of large cotton bags.

Section 22 strikes out the requirement in Section 15 (c) of the Agricultural Adjustment Act that claims for refund of processing taxes after delivery of the product for charitable distribution be filed within 6 mos. of such delivery.

Sections 23, 24, and 25 make technical changes in Sections 15 (d), 15 (e), and 16 (a) (2) of the Agricultural Adjustment Act.

Section 26 provides for a floor stocks tax refund to retailers' flour and cereal preparations made chiefly from wheat, cotton products, and sugar, in case of the termination of the processing tax.

Section 27 amends Section 16 (e) (1) of the Agricultural Adjustment Act to limit its application to hogs and adds a new subsection to Section 16 providing claims for refunds must be filed with the Commissioner of Internal Revenue within 120 days from the accrual thereof and in an amount of not less than \$10.

Section 28 amends Section 17 (a) of the Agricultural Adjustment Act by providing a credit against the payment of processing taxes of exported articles.

Section 29 amends Section 19 (b) of the Act to limit the power of the Secretary of the Treasury in collecting taxes by permitting him to postpone payment of not exceeding three-fourths of the amount payable and require any

handler of commodities to file a return under oath showing his liability for taxes.

Section 30 adds a new section, sec. 21., to the Act, denies the right to enjoin or restrain the collection of any tax under the Act imposed after the enactment of this Title, or to obtain a declaratory judgment in connection with any such tax; specifically legalizes and ratifies the assessment and collection of all taxes, the making of agreements and rental and benefit payments, and the initiation of adjustment programs, prior to the date of the enactment of this Act; prohibits refunds or credits of any tax unless the claimant establishes that he has neither passed the tax on, nor passed it back to the producer, or that he has repaid it; provides that if the processing tax is held invalid, such persons having floor stocks on hand are entitled to the same refund which they would be entitled to under Section 16, when it is established that the tax was included in the claimant's purchase price of the stocks and claim has been filed within 6 months after the tax has been finally held invalid, that, in the establishment of these facts, the Commissioner of Internal Revenue, or his agents, is authorized to examine books, papers, records, etc., require attendance of interested persons, and to take their testimony, the information so obtained to be made available to the Department of Agriculture in confidence; prohibits refund of any tax unless claim for such refund is filed within one year after the right accrued; and makes certain provisions of the revenue laws (3226, R.S.) applicable to all suits to recover taxes accrued under the Act.

Section 31 adds section 22 to the AAA, provides that when competing imports materially interfere with any agricultural adjustment program, the President may limit the quantity imported, and later either suspend or modify the limitation to fit changed conditions but no limitation can be imposed which limits the quantity to less than fifty percent of the average amount imported from any country annually between July 1, 1928, and June 30, 1933.

Section 22 appropriates 30% of the gross receipts from customs duties annually for (1) encouraging exports of agricultural commodities by the payment of benefits in connection therewith, (2) encouraging domestic consumption of such products by diverting surpluses from the normal channels of commerce and (3) financing adjustments in the quantity planted or produced for market of agricultural products. It also provides that no part of this fund shall be expended pursuant to clause (3) unless the Secretary determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section; and further provides that no part of this fund may be used to subsidize the export of raw cotton.

Section 33 amends Section 7 of the Act, which deals with cotton option contracts, by removing the requirement that the Secretary of Agriculture sell all cotton held by him under the Act by March 1, 1936, and directs him to sell at his discretion; authorizes him to prescribe regulations by which cotton contracts may be transferred or assigned; and validates, upon determination of the Secretary, assignments made in good faith prior to January 11, 1934.

Section 24 repeals Section 6 of the Act which authorized the Secretary to enter into option contracts, as powers conferred upon him by Section 7 make resort to Section 6 unnecessary.

Section 35 makes the appropriation provided by Section 4 (b) of the Act available until the cotton acquired by the Secretary, including cotton futures, are finally marketed by any agency established to handle, carry, insure, or market such cotton.

Section 36 amends Section 4 (f) of the Act so as explicitly to authorize the use of funds derived from the sale of cotton held by the Secretary of Agriculture for the purpose of meeting administrative expenses, warehouse charges, insurance, etc., incurred in handling such cotton.

Section 37 authorizes appropriation of \$40,000,000, of which sum \$10,000,000 together with the unexpended balance of the prior appropriation of May 25, 1934 are appropriated for the fiscal year 1936, to eliminate diseased dairy and beef cattle, including those suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. Provision is also made for scientific experimentation and efforts to eradicate disease in cattle.

Section 38 provides that nothing in this Act shall invalidate any marketing agreement or license, or impair any remedy provided for the enforcement of any such marketing agreement or license, in effect on the date of the enactment of this bill, nor to invalidate any agreement entered into pursuant to Section 8 (1) of the Agricultural Adjustment Act.

Sections 39 through 42 amend the Bankhead Cotton Act (Public No. 169 - 73d Congress, approved April 21, 1934), so as to authorize the extension of the provisions of such Act for the crop years 1936-37 and 1937-38, subject in the case of each year, to a finding by the President that an emergency in cotton production and marketing continues, or is likely to continue to exist and to findings by the Secretary that two-thirds of the producers favor its continuance and that the tax is necessary; fix minimum State allotments for cotton in certain circumstances; ratify the action of the Secretary in proclaiming 10,500,000 bales of cotton as the national allotment for the crop year 1935-36 as well as all apportionments thereunder; direct that allotments subsequent to 1934-35 be (1) the full amount of production for each farm producing less than 956 pounds of lint cotton in the base period, and (2) not less than 956 pounds for each farm producing more than that amount in the base period, and that adjustments be made accordingly; authorize that the appropriation for administrative expenses be made available (through subsequent legislation which has not yet been enacted) to pay any person, not in excess of twenty-five cents a bale, who, in connection with the operation of any cotton gin, beginning with the crop year 1935-36, incurred additional expenses in connection with the administration of the Act; provide that no regulation of the Secretary shall prohibit the transfer or assignment by a cotton producer of exemption certificates issued to him if the transfer or assignment is to another producer of the same State; and authorize an exemption from the tax of not more than 110 pounds of lint cotton retained by the producer for domestic use in his household.

Sections 43 through 54 amend the Kerr Tobacco Act (Public 483 - 73d Congress, approved June 28, 1934) so as to: Make clear that it is intended to raise revenue; define two additional types of tobacco; extend its operation until April 30, 1939; ratify operation of the Act in the crop year 1935-36; revise the referendum provision contained in Section 3 (b) under which the votes cast in each county will be weighted in proportion to the tobacco acreage in such county; authorize the issuance of tax exemption warrants for persons unwilling to sign contracts because of the religious or moral scruples; redraft Section 5 (b) to provide standards to guide the Secretary in issuing warrants, thereby eliminating the danger of its being declared unconstitutional, and making available for issuance, without regard to county lines, warrants covering an amount of tobacco of any type equal to three percent of the total amount issuable; authorize the voiding of a tax exemption warrant for noncompliance with any agreement, rule, or regulation under the Agricultural Adjustment Act or the Kerr Tobacco Act, and make the violator responsible for payment of the tax; provide that the Commissioner of Internal Revenue shall by regulation prescribe the information to be contained in returns required to be made by producers, warehousemen, processors, and common carriers, and a penalty shall be imposed for failure to file a return; authorize agents of the Secretary of Agriculture to administer oaths in connection with execution of forms; make revenue collected under this Act available for tobacco adjustment programs under the Agricultural Adjustment Act; extend the period for filing claims for tax refunds to one year; and provide for a thirty-day period for producers to sign contracts after proclamation that the tax is effective.

Section 55 makes available out of money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and utilization, including the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

Section 56 declares it the policy of Congress to assure an adequate supply of hog cholera serum and virus and prevent undue fluctuation and unfair competition and trade practices, by regulating marketing of such serum and virus in interstate and foreign commerce.

Section 57 authorizes the Secretary, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and handlers of such products in interstate or foreign commerce.

Section 58 provides that the market agreements entered into under the preceding section shall contain one or more of the conditions specified in Section 8c (7) of the Agricultural Adjustment Act and/or require each manufacturer to have available on May 1 of each year a supply of completed serum equivalent to not less than forty percent of his previous year's sales.

Section 59 provides that an order, to enforce a marketing agreement, may be issued when handlers of not less than 75% of the volume of serum and virus, entering into interstate and foreign commerce, sign the agreement.

Section 60 makes the provisions of certain sections of the Agricultural Adjustment Act applicable to Sections 56 through 59 of this Act.

Sections 61 and 62 amend Sections 11 and 2 (1) of the Agricultural Adjustment Act so as to include potatoes as a basic agricultural commodity.

TITLE II

Section 201 defines the following terms: Person, Commissioner, collector, sale, allotment year, change in the form of potatoes, tax stamp, tax-exemption stamp, potatoes, producer, continental United States, operator, and farm.

Section 202 (a) levies a tax to be paid by the seller at the rate of $3/4$ cent per pound on the first sale, or change in form before sale, of all potatoes harvested in the continental United States on or after December 1, 1935; (b) suspends the operation of Title II of this Act in the event that the total apportionments to producers in any potato-producing region exceed the total probable supply of potatoes in the continental United States during marketing periods for such regions; (c) provides that producers are to vote at least thirty days prior to the beginning of each allotment year (after the majority vote being necessary for its continuance; (d) provides for the lowering of the tax to not less than $1/2$ cent per pound when the taxes levied under (a) tend to (1) adversely affect the orderly marketing of potatoes, (2) depress the farm price of potatoes, or (3) cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to other commodities; (e) provides that payment of the tax on the first sale shall be evidenced by tax stamps, and ; (f) provides that tax stamps are to be available at the offices of the collectors of internal revenue, and at the post offices.

Section 203 directs the Secretary to determine at least thirty days before the beginning of each allotment year, the national allotment for each year, with the view to establishing prices near parity without reducing the total net income to producers below their largest probable net income for that year, and without creating competitive disadvantages. The base period for calculating parity price is the post-war period, August, 1919-July, 1929.

Section 204 provides for the apportionment of the national allotment among the States according to their percentage of the national production in the four years of highest acreage and yields from 1927 to 1934 inclusive, with a possible two percent of the allotment to be used in adjusting discrepancies between States.

Section 204a provides that the Secretary may adjust within five percent the national allotment and the State apportionments thereunder when necessary to effectuate the Act.

Section 205 provides that ninety-five percent of the State allotment is to be apportioned among farms on which potatoes have been grown during any one

or more years from 1932 to 1934 inclusive according to either a percentage of the average sales on such farms of any two or more years during 1932-34 with sales less than 300 pounds being exempt from any percentage reduction and such farm receiving an apportionment equal to average sales, or such other basis as the Secretary deems fair and just.

Sections 206 and 207 provide that the remaining five percent of the State allotment shall be available for apportionment to new producers on a fair and just basis and that such producers after the first year shall be eligible to receive apportionments under Section 205.

Section 208 provides that for the purpose of making apportionments, the District of Columbia shall be considered as a part of the State of Maryland.

Sections 209 and 210 provide that tax exemption stamps are to be issued to each bona fide producer for the amount of his allotment, that such stamps may be transferred or assigned subject to regulation by the Secretary of Agriculture, are exempt from claims of creditors, that sales, assignments, pledges, or transfers unaccompanied by delivery are void, and protect the interests of share-tenants and share-croppers.

Section 211 (a) requires that all potatoes subject to the tax on the first sale shall be packed in closed and marked containers to which shall be affixed evidence of tax payment or tax exemption, except that packaging may be postponed in certain situations involving the grading and storing of bulk potatoes and due weight be given to the customs of industry for packaging and affixing stamps; and (b) provides for identification of potatoes, the change of form of which, is subject to tax.

Section 212 gives the Commissioner of Internal Revenue the power to prescribe regulations to enforce the provisions of this title (Title II).

Section 214 provides that producers, warehousemen, handlers, etc. may be required under regulations to furnish information, make returns and keep records under penalty for failure so to do.

Section 215 provides that one year after payment no claim for refund of taxes may be filed and suit for refund may be brought if claim is filed with the Commissioner of Internal Revenue but not more than two years after filing.

Section 216 authorizes the proceeds of taxes imposed by this Title to be appropriated for administrative expenses, for all purposes of the Agricultural Adjustment Act, for refunds of taxes and for other payments under this Title; and provides that the Secretary of Agriculture and the Secretary of the Treasury may estimate the amount of taxes which will be collected and that pursuant thereto advances from the Treasury may be made.

Section 217 provides for possible exemptions from taxation and packaging requirements, potatoes destined for use in low-value products or as feed for livestock.

Section 218 authorizes the appointment of personnel without regard to the civil service law and fixing the compensation without regard to the Classification Act of 1923.

Section 219 authorizes (a) utilization of existing production control associations, and establishment of regional, State, and local committees and associations of producers to aid in administering the functions vested in the Secretary of Agriculture; and (b) the advancement of Federal funds to pay the expenses of such associations.

Sections 220, 221, 223, 224, and 225 provide penalties and punishments for violations of the Act or regulations pursuant thereto.

Section 222 provides that stamps on an emptied package must be destroyed by the person possessing the package.

Section 226 requires producers to keep books and records which shall be open to inspection to authorized agents.

Section 227 provides that taxes on potatoes sold without the proper stamps shall be assessed, on proper proof, within two years after sale and that the tax so assessed shall be in addition to the penalties imposed by law.

Section 228 provides that taxes imposed under this Act do not apply to potatoes for export, and if paid, refund may be made to the exporter or shipper if the taxpayer waives his claim.

Sections 229 through 232 establish quotas for imported potatoes, based on the ratio of imports to domestic production during the years 1929-34, and provide that importations in excess of the quota shall be subject to an additional internal-revenue tax equal to the tax on domestic potatoes, that all imported potatoes shall be subject to packaging regulations and that potatoes imported from Cuba between December 1 and the end of February in any year are exempt from restrictions unless they unduly threaten to depress the market for domestic potatoes.

Section 233 provides that this title (Title II) may be cited as the "Potato Act of 1935".

Index and Summary of History on H. R. 8492

February 12, 1935 H. R. 5585 was introduced by Rep. Jones and was referred to the House Committee on Agriculture. Print of the bill as introduced. (Similar bill).

S. 1807 was introduced by Senator Smith and was referred to the Senate Committee on Agriculture and Forestry. Print of the bill as introduced. (Companion bill).

February 26, 1935 Hearings: House, H. R. 5585.

March 7, 1935 Hearings: Senate, S. 1807.

April 15, 1935 Print of amendment proposed by Senator Carey to S. 1807.

April 16, 1935 Print of amendment to S. 1807 proposed by Senator Metcalf.

April 24, 1935 Senate Committee reported S. 1807 with amendments. Senate Report 548. Print of the bill as reported.

May 8, 1935 Print of amendment to S. 1807 proposed by Senator Copeland.

May 14, 1935 H. R. 8052 was introduced by Rep. Jones and was referred to the House Committee on Agriculture. (Bill not printed as introduced).

May 15, 1935 House Committee reported H. R. 8052 without amendment. House Report 952. Print of the bill as reported.

May 22, 1935 Prints of amendments to S. 1807 proposed by Senator Byrd.

May 23, 1935 House Resolution 230 was reported from the Rules Committee for the consideration of H. R. 8052. House Report 987. Print of the Resolution as reported.

May 24, 1935 Senate discussed S. 1807.

Print of amendment to S. 1807 proposed by Senator Smith.

May 27, 1935 Prints of amendments to S. 1807 proposed by Senators Bankhead, Byrd, Metcalf, and McKellar.

Senate debated S. 1807.

May 28, 1935 Print of amendment to S. 1807 proposed by Senator Schwellenbach.

Senate recommitted S. 1807 to Senate Committee.

✓ June 14, 1935 H. R. 8492 was introduced by Rep. Jones and was referred to the House Committee on Agriculture. Print of the bill as introduced.

✓ June 15, 1935 House Committee reported H. R. 8492 without amendment. ✓
House Report 1241. Bill not reprinted.

✓ June 17, 1935 House debated and agreed to H. Res. 230.

House began debate on H. R. 8492.

✓ June 18, 1935 House concluded debate and passed H. R. 8492 with amendments.

✓ June 19, 1935 H. R. 8492 was referred to the Senate Committee on Agriculture and Forestry. Print of the bill as referred.

June 20, 1935 Amendment to H. R. 8492 proposed by Senator Cope.

July 3, 1935 Senate Committee reported H. R. 8492 with amendments. ✓
Senate Report 1011. Print of the bill as reported.

July 8, 1935 Amendments to H. R. 8492 proposed by Senators Borah, LaFollette, and Byrd.

July 9, 1935 Amendments to H. R. 8492 proposed by Senators Borah and Luffy.

July 10, 1935 Senate began debate on H. R. 8492.

Amendments to H. R. 8492 proposed by Senators Pailey, Pankhead, Filbo, Carey, Corrally, Core, LaFollett, McAdoo, McKellar, Shipstead, Byrd, and Core.

July 11, 1935 Senate debate continued.

Amendments to H. R. 8492 proposed by Senators Lewis, Burke, and Johnson.

July 12, 1935 Senate debate continued.

Amendments to H. R. 8492 proposed by Senators Cuffy, Moore, Lonergan and Russell.

July 15, 1935 Senate debate continued.

Amendments to H. R. 8492 proposed by Senators McCarran and Pailey.

July 16, 1935 Senate debate continued.

Amendment to H. R. 8492 proposed by Senator Byrnes.

July 17, 1935	Senate debate continued.
July 18, 1935	Senate debate continued.
	Amendments to H. R. 8492 proposed by Senators Wheeler, O'Mahoney and George.
July 19, 1935	Senate debate continued.
July 20, 1935	Senate debate continued.
	Amendment to H. R. 8492 proposed by Senator McCarran.
July 22, 1935	Senate debate continued.
	Amendment to H. R. 8492 proposed by Senator McCarran.
July 23, 1935	Senate debate concluded and passed with amendments.
July 24, 1935	Print of H. R. 8492 with the amendments of the Senate numbered.
July 29, 1935	House Conferees appointed.
July 30, 1935	Senate Conferees appointed.
August 12, 1935	Conferees submitted report. House Report 1757.
August 13, 1935	House debated and agreed to the Conference Report.
August 14, 1935	House continued debate on items in disagreement and concurred therein.
August 15, 1935	Senate debated and agreed to the Conference Report.
	H. Con Res. 34 and S. Con. Res. 24, authorizing certain clerical changes in the enrolled bill were agreed to in the House. (Resolutions printed in the Record).
August 16, 1935	Senate agreed to H. Con. Res. 34. (printed in the Record)
August 24, 1935	Approved. Public Law 320.
	Compilation of Section 32 - Public Law 320.

74TH CONGRESS
1ST SESSION

H. R. 5585

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1935

Mr. JONES introduced the following bill; which was referred to the Committee on Agriculture and ordered to be printed

A BILL

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (1) of section 8 of the Agricultural Ad-
4 justment Act, as amended, is further amended by striking
5 out the semicolon in the first sentence thereof and inserting
6 in lieu thereof the following: "and/or to be made in quan-
7 tities of one or more agricultural commodities acquired by
8 the Secretary of Agriculture pursuant to this title;".

9 SEC. 2. The first sentence of subsection (b) of section
10 12 of the Agricultural Adjustment Act, as amended, is
11 amended to read as follows: "In addition to the foregoing,

1 for the purpose of effectuating the declared policy of the
2 Act, the proceeds derived from all taxes imposed under this
3 title are hereby appropriated to be available to the Secre-
4 tary of Agriculture for (1) expansion of markets and re-
5 moval of surplus agricultural commodities or products
6 thereof, (2) the acquisition of any agricultural commodity
7 pledged as security for any loan made by any Federal
8 agency, which loan was conditioned upon the borrower
9 agreeing or having agreed to cooperate with a program of
10 production adjustment or marketing adjustment adopted
11 under the authority of this title, and (3) the following pur-
12 poses under part 2 of this title: Administrative expenses,
13 rental and benefit payments, and refunds on taxes.”

14 SEC. 3. Subsection (3) of section 8 of the Agricul-
15 tural Adjustment Act, as amended, is amended to read as
16 follows:

17 “(3) (A) After due notice and opportunity for hear-
18 ing, and upon a finding by the Secretary that such action
19 will tend to effectuate the declared policy of the Act, to
20 issue licenses to processors, associations of producers, and
21 others engaged in the handling of any agricultural com-
22 modity or product thereof, or any competing commodity
23 or product thereof, in the current of or in competition with or
24 so as to burden, obstruct, or in any way affect, interstate or
25 foreign commerce, which provide that such handling may

1 be engaged in by the licensees only upon such terms and
2 conditions not in conflict with existing Acts of Congress or
3 regulations pursuant thereto, as may be necessary, (1) to
4 eliminate unfair practices or charges that prevent or tend
5 to prevent the effectuation of the declared policy and the
6 restoration of normal economic conditions in the marketing
7 of such commodities or products and the financing thereof
8 or (2) to make effective any marketing plan set forth in
9 any marketing agreement (or appendix thereto) signed by
10 the persons handling not less than 50 per centum of the
11 volume of the business done in the respective classes of
12 industrial or commercial activity specified in such agreement,
13 or (3) to make effective the marketing plan set forth in
14 any proposed marketing agreement, on which a hearing
15 has been held, whenever the Secretary, with the approval
16 of the President, determines (a) that the refusal or failure
17 to sign such proposed agreement by the persons handling
18 more than 50 per centum of the volume of business done in
19 any class of industrial or commercial activity specified
20 therein, tends to prevent the effectuation of the declared pol-
21 icy with respect to the commodity or product covered by
22 such proposed agreement, and (b) that it appears from said
23 hearing that the issuance of such license is the only practical
24 means of advancing the interests of the producers of such
25 commodity pursuant to the declared policy. No license

1 shall be issued pursuant to clauses (2) or (3) of the preced-
2 ing sentence unless the terms and conditions thereof (a)
3 have been set forth in an executed or proposed marketing
4 agreement, as the case may be, or in an appendix thereto,
5 and (b) are made applicable only to persons in the re-
6 spective classes of industrial or commercial activity specified
7 in such executed or proposed agreement. No license issued
8 under this title shall be applicable to any producer in his
9 capacity as a producer.

10 “(B) Any licensee under any license issued pursuant
11 to this title, or any officer, director, agent, or employee of
12 such licensee, who violates any provision of such license
13 (other than a provision calling for payment of a pro rata
14 share of expenses) shall, on conviction, be fined not less
15 than \$50 or more than \$500 for each such violation, and
16 each day during which such violation continues shall be
17 deemed a separate violation: *Provided, however,* That no
18 person shall be convicted under this title because of any
19 violation (1) of any license or (2) of any obligation im-
20 posed in connection therewith, if such violation occurs be-
21 tween the date upon which such person files with the
22 Secretary a petition, with respect to such license or obli-
23 gation, as provided for in this subsection, and five days
24 after the Secretary enters an order thereon.

1 “Any licensee may file a written petition with the
2 Secretary of Agriculture stating that any provisions of any
3 such license or any obligation imposed in connection there-
4 with is not in accordance with law and he shall thereupon
5 be given an opportunity for a hearing upon such petition,
6 in accordance with regulations made by the Secretary of
7 Agriculture with the approval of the President. After such
8 hearing, the Secretary shall make an order which shall be
9 final, if in accordance with law. The District Court of the
10 United States in any district in which such licensee is an
11 inhabitant or has his principal place of business is hereby
12 vested with jurisdiction in equity to review such order, pro-
13 vided a bill in equity for that purpose be filed within twenty
14 days from the date of the entry of such order; service of
15 process in such proceedings may be had upon the Secretary
16 by delivering to him a copy of the bill of complaint. If
17 the court determines that such order is not in accordance
18 with law, it shall remand such proceedings to the Secretary
19 with directions either (a) to enter such order as the court
20 shall determine to be in accordance with law, or (b) to
21 take such further proceedings as, in its opinion, the law
22 requires.”

23 SEC. 4. Section 8 of the Agricultural Adjustment Act,
24 as amended, is further amended by adding thereto the
25 following new subsection:

1 “(4) (a) All parties to any marketing agreements,
2 and all licensees subject to a license (whether such parties
3 and licensees be corporations or others), shall severally,
4 from time to time, upon the request of the Secretary, furnish
5 him with such information as he finds to be necessary to
6 enable him to ascertain and determine the extent to which
7 such agreement or license has been carried out and/or has
8 effectuated the declared policy of the Act, and, with such
9 information as he finds to be necessary to determine whether
10 or not there has been any abuse of the privilege or exemp-
11 tions from the antitrust laws, such information to be fur-
12 nished in accordance with forms of reports to be supplied
13 by the Secretary. For the purpose of ascertaining the
14 correctness of any report made to the Secretary pursuant
15 to this subsection (4) (a), or for the purpose of obtaining
16 the information required in any such report where it has
17 been requested and has not been furnished, the Secretary
18 is hereby authorized to examine any books, papers, records,
19 accounts, correspondence, contracts, documents, or memo-
20 randa, within the control (1) of any such party to such
21 marketing agreement, or any such licenses, from whom
22 such report was requested and/or (2) of any person having,
23 either directly or indirectly, actual or legal control of or
24 over such party or such licensee and/or (3) of any sub-
25 sidiary of any such party, licensee, or person.

1 “ Notwithstanding the provisions of section 7, all infor-
2 mation furnished to or acquired by the Secretary of Agri-
3 culture pursuant to this subsection shall be kept confidential
4 by all officers and employees of the Department of Agri-
5 culture and shall be disclosed only in a suit or administra-
6 tive hearing brought at the direction, or upon the request,
7 of the Secretary of Agriculture, or to which he is a party,
8 and involving the marketing agreement or license with
9 reference to which the information so to be disclosed was
10 furnished or acquired: *Provided, however,* That nothing in
11 this subsection shall be deemed to prohibit (A) the issuance
12 of general statements based upon the reports of a number
13 of parties to a marketing agreement or of licensees, which
14 statements do not identify the information furnished by any
15 individual, or (B) the publication by direction of the Sec-
16 retary, of the names of any persons violating any marketing
17 agreement or any license, together with a statement of the
18 particular provisions of the marketing agreement or license
19 violated by such persons. Any such officer or employee
20 violating the provisions of this subsection shall upon convic-
21 tion be subject to a fine of not more than \$1,000 or to
22 imprisonment for not more than one year, or to both, and
23 shall be removed from office.”

24 SEC. 5. Section 8 of the Agricultural Adjustment Act,
25 as amended, is further amended by adding after subsection
26 5 thereof the following new subsection:

1 “(6) No marketing agreement or license shall contain
2 provisions for establishing quotas or allotments limiting the
3 amount of the commodity, covered by such marketing agree-
4 ment or license, which may be purchased or in any other
5 way received by all parties to such marketing agreement and
6 by all licensees under such license from each of any classifi-
7 cation of individual producers, unless the Secretary first de-
8 termines that such provisions are approved or favored (1) by
9 at least two-thirds of the producers who, during a representa-
10 tive period determined by the Secretary, have been engaged
11 in the production for market of the commodity covered by
12 and defined in such marketing agreement or license, or (2)
13 by producers who, during such representative period, have
14 produced for market at least two-thirds of such commodity.
15 The Secretary of Agriculture may at any time terminate or
16 from time to time suspend the operation of any marketing
17 agreement or license, or any provision thereof, and he shall
18 terminate any marketing agreement or license, at the end of
19 the then current production or marketing period for such
20 commodity as specified in such marketing agreement or
21 license whenever he finds that such termination is favored by
22 a majority of the producers who, during a representative
23 period determined by the Secretary, have been engaged in
24 the production for market of the commodity covered by and
25 defined in such marketing agreement or license, provided

1 that such majority have during such representative period
2 produced for market more than 50 per centum of such
3 commodity.”

4 SEC. 6. Subsection (b) of section 10 of the Agricul-
5 tural Adjustment Act, as amended, is amended to read as
6 follows:

7 “(b) The Secretary of Agriculture is authorized to
8 establish, for the more effective administration of the func-
9 tions vested in him by this title, State and local committees,
10 or associations of producers, and to permit cooperative asso-
11 ciations of producers, when in his judgment they are quali-
12 fied to do so, to act as agents of their members and patrons
13 in connection with the distribution of rental or benefit pay-
14 ments, and in the administration of this title, shall accord
15 such recognition and encouragement to producer-owned and
16 producer-controlled cooperative associations as will be in
17 harmony with the policy toward cooperative associations set
18 forth in existing Acts of Congress, and as will tend to pro-
19 mote efficient methods of marketing and distribution.

20 “Any license issued by the Secretary under this title
21 may provide that each licensee thereunder shall pay to any
22 authority or agency established under such license, such
23 licensee’s pro rata share (as approved by the Secretary) of
24 such expenses as the Secretary may find will necessarily be
25 incurred by such authority or agency, during any period

1 specified by him, for the maintenance and functioning of such
 2 authority or agency. Any such authority or agency may
 3 maintain in its own name, or in the names of its members,
 4 a suit against any licensee for the collection of such licensee's
 5 pro rata share of expenses and the several district courts
 6 of the United States are hereby vested with jurisdiction to
 7 entertain such suits regardless of the amount in controversy."

74TH CONGRESS }
 1ST SESSION

H. R. 5585

A BILL

To amend the Agricultural Adjustment Act,
 and for other purposes.

By Mr. JONES

FEBRUARY 12, 1935

Referred to the Committee on Agriculture and ordered
 to be printed

74TH CONGRESS
1ST SESSION

S. 1807

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1935

Mr. SMITH introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That subsection (1) of section 8 of the Agricultural Ad-
4 justment Act, as amended, is further amended by striking
5 out the semicolon in the first sentence thereof and inserting
6 in lieu thereof the following: "and/or to be made in quanti-
7 ties of one or more agricultural commodities acquired by
8 the Secretary of Agriculture pursuant to this title;".

9 SEC. 2. The first sentence of subsection (b) of section
10 12 of the Agricultural Adjustment Act, as amended, is
11 amended to read as follows: "In addition to the foregoing,

1 for the purpose of effectuating the declared policy of the
2 Act, the proceeds derived from all taxes imposed under
3 this title are hereby appropriated to be available to the Sec-
4 retary of Agriculture for (1) expansion of markets and
5 removal of surplus agricultural commodities or products
6 thereof, (2) the acquisition of any agricultural commodity
7 pledged as security for any loan made by any Federal
8 agency, which loan was conditioned upon the borrower
9 agreeing or having agreed to cooperate with a program
10 of production adjustment or marketing adjustment adopted
11 under the authority of this title, and (3) the following
12 purposes under part 2 of this title: Administrative expenses,
13 rental and benefit payments, and refunds on taxes.”

14 SEC. 3. Subsection (3) of section 8 of the Agricul-
15 tural Adjustment Act, as amended, is amended to read as
16 follows:

17 “(3) (A) After due notice and opportunity for hear-
18 ing, and upon a finding by the Secretary that such action
19 will tend to effectuate the declared policy of the Act, to issue
20 licenses to processors, associations of producers, and others
21 engaged in the handling of any agricultural commodity or
22 product thereof, or any competing commodity or product
23 thereof, in the current of or in competition with or so as to
24 burden, obstruct, or in any way affect, interstate or foreign
25 commerce, which provide that such handling may be en-

1 gaged in by the licensees only upon such terms and condi-
2 tions not in conflict with existing Acts of Congress or regu-
3 lations pursuant thereto, as may be necessary, (1) to
4 eliminate unfair practices or charges that prevent or tend to
5 prevent the effectuation of the declared policy and the
6 restoration of normal economic conditions in the marketing
7 of such commodities or products and the financing thereof,
8 or (2) to make effective any marketing plan set forth in
9 any marketing agreement (or appendix thereto) signed by
10 the persons handling not less than 50 per centum of the
11 volume of the business done in the respective classes of indus-
12 trial or commercial activity specified in such agreement, or
13 (3) to make effective the marketing plan set forth in any
14 proposed marketing agreement, on which a hearing has been
15 held, whenever the Secretary, with the approval of the
16 President, determines (a) that the refusal or failure to sign
17 such proposed agreement by the persons handling more
18 than 50 per centum of the volume of business done in any
19 class of industrial or commercial activity specified therein,
20 tends to prevent the effectuation of the declared policy with
21 respect to the commodity or product covered by such pro-
22 posed agreement, and (b) that it appears from said hearing
23 that the issuance of such license is the only practical means
24 of advancing the interests of the producers of such com-
25 modity pursuant to the declared policy. No license shall

1 be issued pursuant to clauses (2) or (3) of the preceding
2 sentence unless the terms and conditions thereof (a) have
3 been set forth in an executed or proposed marketing agree-
4 ment, as the case may be, or in an appendix thereto, and (b)
5 are made applicable only to persons in the respective classes
6 of industrial or commercial activity specified in such exe-
7 cuted or proposed agreement. No license issued under
8 this title shall be applicable to any producer in his capacity
9 as a producer.

10 “(B) Any licensee under any license issued pursuant
11 to this title, or any officer, director, agent, or employee of
12 such licensee, who violates any provision of such license
13 (other than a provision calling for payment of a pro rata
14 share of expenses) shall, on conviction, be fined not less
15 than \$50 or more than \$500 for each such violation, and
16 each day during which such violation continues shall be
17 deemed a separate violation: *Provided, however,* That no
18 person shall be convicted under this title because of any
19 violation (1) of any license or (2) of any obligation
20 imposed in connection therewith, if such violation occurs
21 between the date upon which such person files with the
22 Secretary a petition, with respect to such license or obliga-
23 tion, as provided for in this subsection, and five days after
24 the Secretary enters an order thereon.

1 “Any licensee may file a written petition with the Sec-
2 retary of Agriculture stating that any provisions of any such
3 license or any obligation imposed in connection therewith is
4 not in accordance with law and he shall thereupon be given
5 an opportunity for a hearing upon such petition, in accord-
6 ance with regulations made by the Secretary of Agriculture
7 with the approval of the President. After such hearing, the
8 Secretary shall make an order which shall be final, if in ac-
9 cordance with law. The district court of the United States
10 in any district in which such licensee is an inhabitant or has
11 his principal place of business is hereby vested with juris-
12 diction in equity to review such order, provided a bill in
13 equity for that purpose be filed within twenty days from
14 the date of the entry of such order; service of process in
15 such proceedings may be had upon the Secretary by de-
16 livering to him a copy of the bill of complaint. If the court
17 determines that such order is not in accordance with law, it
18 shall remand such proceedings to the Secretary with direc-
19 tions either (a) to enter such order as the court shall de-
20 termine to be in accordance with law, or (b) to take such
21 further proceedings as, in its opinion, the law requires.”

22 SEC. 4. Section 8 of the Agricultural Adjustment Act,
23 as amended, is further amended by adding thereto the fol-
24 lowing new subsection;

1 “(4) (a) All parties to any marketing agreements,
2 and all licensees subject to a license (whether such parties
3 and licensees be corporations or others), shall severally,
4 from time to time, upon the request of the Secretary, furnish
5 him with such information as he finds to be necessary to
6 enable him to ascertain and determine the extent to which
7 such agreement or license has been carried out and/or
8 has effectuated the declared policy of the Act, and, with
9 such information as he finds to be necessary to determine
10 whether or not there has been any abuse of the privilege
11 of exemptions from the antitrust laws, such information to
12 be furnished in accordance with forms of reports to be
13 supplied by the Secretary. For the purpose of ascertaining
14 the correctness of any report made to the Secretary pursuant
15 to this subsection (4) (a), or for the purpose of obtaining
16 the information required in any such report where it has
17 been requested and has not been furnished, the Secretary
18 is hereby authorized to examine any books, papers, records,
19 accounts, correspondence, contracts, documents, or memo-
20 randa, within the control (1) of any such party to such
21 marketing agreement, or any such licenses, from whom
22 such report was requested, and/or (2) of any person hav-
23 ing, either directly or indirectly, actual or legal control of
24 or over such party or such licensee, and/or (3) of any
25 subsidiary of any such party, licensee, or person.

1 “ Notwithstanding the provisions of section 7, all in-
2 formation furnished to or acquired by the Secretary of Agri-
3 culture pursuant to this subsection shall be kept confidential
4 by all officers and employees of the Department of Agri-
5 culture and shall be disclosed only in a suit or administra-
6 tive hearing brought at the direction, or upon the request,
7 of the Secretary of Agriculture, or to which he is a party,
8 and involving the marketing agreement or license with
9 reference to which the information so to be disclosed was
10 furnished or acquired: *Provided, however,* That nothing
11 in this subsection shall be deemed to prohibit (A) the
12 issuance of general statements based upon the reports of a
13 number of parties to a marketing agreement or of licensees,
14 which statements do not identify the information furnished
15 by any individual, or (B) the publication by direction of
16 the Secretary of the names of any persons violating any
17 marketing agreement or any license, together with a state-
18 ment of the particular provisions of the marketing agree-
19 ment or license violated by such persons. Any such officer
20 or employee violating the provisions of this subsection shall
21 upon conviction be subject to a fine of not more than \$1,000
22 or to imprisonment for not more than one year, or to both,
23 and shall be removed from office.”

24 SEC. 5. Section 8 of the Agricultural Adjustment Act,
25 as amended, is further amended by adding after subsection
26 5 thereof the following new subsection:

1 “(6) No marketing agreement or license shall contain
2 provisions for establishing quotas or allotments limiting the
3 amount of the commodity, covered by such marketing agree-
4 ment or license, which may be purchased or in any other
5 way received by all parties to such marketing agreement and
6 by all licensees under such license from each of any classifi-
7 cation of individual producers, unless the Secretary first
8 determines that such provisions are approved or favored (1)
9 by at least two-thirds of the producers who, during a repre-
10 sentative period determined by the Secretary, have been
11 engaged in the production for market of the commodity cov-
12 ered by and defined in such marketing agreement or license,
13 or (2) by producers who, during such representative period,
14 have produced for market at least two-thirds of such com-
15 modity. The Secretary of Agriculture may at any time
16 terminate or from time to time suspend the operation of any
17 marketing agreement or license, or any provision thereof,
18 and he shall terminate any marketing agreement or license,
19 at the end of the then current production or marketing period
20 for such commodity as specified in such marketing agree-
21 ment or license whenever he finds that such termination is
22 favored by a majority of the producers who, during a repre-
23 sentative period determined by the Secretary, have been
24 engaged in the production for market of the commodity cov-

1 ered by and defined in such marketing agreement or license,
2 provided that such majority have during such representative
3 period produced for market more than 50 per centum of such
4 commodity.”

5 SEC. 6. Subsection (b) of section 10 of the Agricul-
6 tural Adjustment Act, as amended, is amended to read as
7 follows:

8 “(b) The Secretary of Agriculture is authorized to
9 establish, for the more effective administration of the func-
10 tions vested in him by this title, State and local committees,
11 or associations of producers, and to permit cooperative asso-
12 ciations of producers, when in his judgment they are quali-
13 fied to do so, to act as agents of their members and patrons
14 in connection with the distribution of rental or benefit pay-
15 ments and in the administration of this title, shall accord
16 such recognition and encouragement to producer-owned and
17 producer-controlled cooperative associations as will be in
18 harmony with the policy toward cooperative associations set
19 forth in existing acts of Congress, and as will tend to pro-
20 mote efficient methods of marketing and distribution.

21 “Any license issued by the Secretary under this title
22 may provide that each licensee thereunder shall pay to any
23 authority or agency established under such license, such
24 licensee’s pro rata share (as approved by the Secretary) of

1 such expenses as the Secretary may find will necessarily
2 be incurred by such authority or agency, during any period
3 specified by him, for the maintenance and functioning of
4 such authority or agency. Any such authority or agency
5 may maintain in its own name, or in the names of its mem-
6 bers, a suit against any licensee for the collection of such li-
7 censee's pro rata share of expenses and the several district
8 courts of the United States are hereby vested with jurisdic-
9 tion to entertain such suits regardless of the amount in
10 controversy."

74TH CONGRESS }
1ST Session

S. 1807

A BILL

To amend the Agricultural Adjustment Act,
and for other purposes.

By Mr. SMITH

FEBRUARY 12, 1935
Read twice and referred to the Committee on
Agriculture and Forestry

74TH CONGRESS
1ST SESSION

S. 1807

IN THE SENATE OF THE UNITED STATES

APRIL 15, 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. CAREY to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the end of the bill insert the following new section:

1 SEC. . In cases where any part of the purchase or
2 benefit payment under an emergency cattle agreement en-
3 tered into by any producer of cattle pursuant to the Agri-
4 cultural Adjustment Act, as amended, has been or is to
5 be made from funds appropriated for relief in stricken agri-
6 cultural areas, no provision of any such agreement in which
7 such producer agrees to cooperate with or to participate in
8 any further general programs proffered by the Secretary of
9 Agriculture pertaining to the adjustment or reduction of

1 production and/or for the support and balance of the mar-
2 ket for cattle and/or dairy products, or in which such pro-
3 ducer agrees to abide by and conform to any regulations
4 or administrative rulings relating to emergency cattle agree-
5 ments prescribed by said Secretary after the date such
6 agreements were entered into, shall be considered valid or
7 binding on such producer; and no such provision shall be
8 included in any such agreement hereafter entered into with
9 any producer of cattle pursuant to said Act, when any part
10 of the payment under such agreement is to be made from
11 relief appropriations.

AMENDMENT

Intended to be proposed by Mr. Carey to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes.

APRIL 15, 1935

Ordered to lie on the table and to be printed

IN THE SENATE OF THE UNITED STATES

APRIL 15 (calendar day, APRIL 16), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. METCALF to the bill (S. 1807)
to amend the Agricultural Adjustment Act, and for other
purposes, viz: At the end of the bill insert a new section
as follows:

1 SEC. . (a) After the date of enactment of this Act
2 no tax shall be imposed under the Agricultural Adjustment
3 Act, as amended, upon the processing of cotton; but the
4 compensatory tax imposed by subsection (e) of section 15
5 of such Act upon any article processed or manufactured
6 wholly or partly from cotton shall continue, at the rate in
7 effect on the date of enactment of this Act, for two years
8 after such date.

9 (b) Section 1 of the Emergency Relief Appropriation
10 Act of 1935 is amended by striking out "\$4,000,000,000 "
11 and inserting in lieu thereof "\$4,137,876,000 ".

AMENDMENT

Intended to be proposed by Mr. MERCALF to
the bill (S. 1807) to amend the Agricultural
Adjustment Act, and for other purposes.

APRIL 15 (calendar day, APRIL 16), 1935
Ordered to lie on the table and to be printed

AMEND THE AGRICULTURAL ADJUSTMENT ACT, AND FOR OTHER PURPOSES

APRIL 15 (calendar day, APRIL 24), 1935.—Ordered to be printed

Mr. SMITH, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 1807]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, having considered the same, recommend that the bill do pass with the following amendments:

On page 1, line 3, after the word "That" insert the following: "the first sentence of".

On page 1, line 5, after the word "by" insert the following: "striking out the word 'reduction' wherever it appears and inserting in lieu thereof the word 'adjustment', and by".

On page 1, line 7, strike out the following: "in the first sentence thereof".

On page 2, line 1, insert the following:

SEC. 2. (a) The first sentence of subsection (a) of section 12 of the Agricultural Adjustment Act, as amended, is amended by striking out the word "reduction" wherever it appears in such sentence and inserting in lieu the word "adjustment".

On page 2, line 6, at the beginning of said line, strike out "SEC. 2" and insert in lieu thereof the following: "(b)".

On page 2, line 13, after word "or" insert the word "surplus".

On page 2, line 14, strike out the word "thereof" and insert in lieu thereof the following: "of agricultural commodities".

On page 3, line 23, after the word "agreement" insert the following: "(or appendix thereto)".

On page 4, line 6, after the word "and" strike out "(b) that it appears from said hearing that the issuance of such license is the only practical means of advancing the interests of the producers of

such commodity pursuant to the declared policy" and insert in lieu thereof the following:

(b) that the issuance of such license is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or license, or by producers who, during such representative period, have produced for market at least two-thirds of such commodity produced for market during such period.

On page 6, line 3, insert the following: "(including the Supreme Court of the District of Columbia)".

On page 7, line 6, strike out the word "supplied" and insert in lieu thereof the word "prescribed".

On page 7, line 13, after the comma, insert the following: "as he may find necessary or pertinent".

On page 8, line 9, strike out the word "individual" and insert in lieu thereof the word "person".

On page 8, line 20, strike out the word "subsection" and insert in lieu thereof the word "subsections".

On page 9, line 1, strike out the word "of" and insert in lieu thereof the words "producer within".

On page 9, line 2, after the word "of" strike out the word "individual".

On page 9, line 11, strike out the words "may at any time" and insert in lieu thereof the following: "shall, whenever he determines that any license, or any provision thereof, obstructs and/or does not tend to effectuate the declared policy of this title,".

On page 9, at the end of line 14 and beginning of line 15, strike out the words "any marketing agreement or" and insert in lieu thereof the word "such".

On page 9, line 15, after the second "or" strike out the word "any" and insert in lieu thereof the word "such".

On page 10, line 3, insert the following:

(7) In connection with the making of any marketing agreement or the issuance of any license, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or license, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or license, shall be the post-war period, August 1919-July 1929, or all portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture.

On page 11, line 7, strike out the word "Any" and insert in lieu thereof the word "Each".

On page 11, line 8, strike out the word "may" and insert in lieu thereof the word "shall".

On page 11, line 14, after the word "agency" insert the following: "other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than such licensees."

On page 11, line 22, after the word "States" insert the following: "(including the Supreme Court of the District of Columbia)".

On page 12, line 1, insert the following:

SEC. 7. Nothing contained in this Act shall invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, nor any Act done pursuant thereto, either before or after the enactment of this Act.

The objective set forth in the declaration of policy in the Agricultural Adjustment Act is primarily to secure fair exchange value for farm products. This objective is, in itself, a worthy one from the standpoint of economics and social justice to farmers, and is of real national importance in the recovery program because by restoring and sustaining farm buying power, the Agricultural Adjustment Act can contribute effectively to the general recovery of business.

It is to permit the agricultural adjustment program to contribute its full share toward recovery that the proposed amendments to the Agricultural Adjustment Act are needed. The amendments would facilitate operation of the adjustment program in behalf of producers of the widely grown staples by authorizing purchase by the Government of commodities pledged as security for Government loans, and their disposition through the making of benefit payments "in kind" to cooperating producers. These powers will insure the maintenance of adequate reserves of food and fiber, and will tend to iron out price fluctuations.

Those sections of the bill which relate to marketing agreements and licenses vitally affect the interests of the 2,000,000 or more farmers who must depend largely or wholly upon marketing agreements or licenses, or both, in order to share in the benefits of the Agricultural Adjustment Act. Among these farmers are the producers of fruits, vegetables, and other crops not named in the act as "basic" commodities, and also producers of some of the "basic" commodities, particularly whole milk.

The marketing agreement and license sections of the act have been especially valuable in reinforcing the operations of cooperative marketing associations, by assuring the cooperation of processors, handlers, and distributors in programs designed to increase the farm price of commodities. While these farmers' marketing associations have hitherto been of much benefit to the members in such functions as grading, standardizing, branding, selling, and advertising, they have usually not been able to operate effectively in controlling supply or price.

Under the Agricultural Adjustment Act, however, it has been possible to support cooperatives with the power of the Federal Government in this particular field of operation. The Secretary of Agriculture has entered into marketing agreements with associations of producers, distributors, handlers, and processors, and the terms of these agreements have usually been made applicable to minority groups of handlers by means of licenses. The agreement and license programs which have been developed to date contain a variety of features depending upon the economic problem presented by a given commodity in a given area, but their essential objective has always been to raise producer prices either by controlling the movement of supplies to market or by limiting the total supplies marketed, and by insuring that the producers will receive the benefits of the higher prices resulting from such regulation of marketing.

The proposed amendments are primarily designed to implement and clarify the language of the original act, and to give express powers to the Secretary which were already vested in him by implication. They are not at variance with or contrary to the present language of the statute which is, however, unfortunately vague, and which has, in consequence given rise to difficulties in enforcement which have prejudiced successful operation under the marketing agreements and licenses. These amendments contain various provisions designed to safeguard the exercise of the licensing power by the Secretary. Thus, the classes of persons who can be subjected to the licensing power have been restricted by a provision stating that no license can be applicable to any producer of agricultural commodities in his capacity as such producer. Of even greater importance in preventing the arbitrary or unreasonable imposition of licenses is the provision that, in case a majority of the processors or distributors affected by a marketing agreement are unwilling to assent to it, no license can be imposed upon them unless its issuance is favored by two-thirds or more of the producers of the commodity specified in the license, or by the producers who market two-thirds or more of the volume of the commodity marketed. The fears that have been expressed by some that the licensing powers are so broad that their exercise may be subject to grave abuse are largely answered by these and other restrictive provisions.

AMENDMENTS AFFECTING THE BENEFIT CONTRACT PROGRAM

It is provided in section 1 of S. 1807 that the word "reduction", wherever it appears in the first sentence of section 8 (1) of the Agricultural Adjustment Act, shall be stricken out and the word "adjustment" substituted therefor. In connection with many of the commodity benefit programs, it has frequently been found desirable to require a larger reduction in acreage from the base period during the first year covered by such programs than is required during the second or later years. Thus, while the provisions with reference to the later years require a reduction in acreage in comparison to that which obtained during the base period, they allow an increase in acreage over that which is permitted during the first year of the reduction program. However, it has been contended by some that the use of the word "reduction" in section 8 (1) requires that any agreements entered into under that section shall provide for a reduction in acreage from that which obtained during the preceding year. Under such an interpretation of the act, the Agricultural Adjustment Administration would be restricted to a program of continual reduction, and would not be authorized to pay benefits in connection with a program which permitted an increase in acreage over immediately preceding years. To make plain the power of the Secretary of Agriculture to permit adjustments in acreage upward where the policy of the Act so requires, it is proposed to eliminate the word "reduction" and to substitute therefor the word "adjustment."

The word "reduction" also appears in section 12 (a) of the Agricultural Adjustment Act, which appropriates the sum of \$100,000,000 to be available for "rental and benefit payments made with respect to reduction in acreage or reduction in production for market." Subsection (a) of section 2 of S. 1807 provides that the word "reduction"

shall be stricken from this sentence and the word "adjustment" shall be substituted therefor.

Section 1 of S. 1807 further amends section 8 (1) of the Agricultural Adjustment Act by authorizing the making of rental or benefit payments "in quantities of one or more agricultural commodities acquired by the Secretary of Agriculture pursuant to this title." Subsection (b) of section 2 of S. 1807 amends section 12 (b) of the Agricultural Adjustment Act by making the proceeds of processing taxes available for "the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency", if the loan was conditioned upon cooperation by the borrower in a program of production adjustment entered into under the Agricultural Adjustment Act. These provisions make possible the coordination of commodity loans and adjustment contracts in the direction of what has been described as the "ever normal granary." The "ever normal granary" plan contemplates that the Government may come into possession of substantial amounts of an agricultural commodity upon which loans have been made, particularly if a season of high yield should be followed by another season of high yield. Such Government-owned supplies could, under the proposed amendments, be used to make "benefit payments in kind", supplementing or in substitution for cash benefits, in return for the producer's cooperation in adjusting production of that commodity. Wise national policy, in the interest of producers and consumers, counsels the maintenance of adequate reserves of food and fiber at all times, especially when international trade conditions require that production be brought more nearly in line with domestic requirements. The use of commodity loans, along with the production of supplies for export markets, would help to provide the desired margin of safety, and would tend to level out the extreme ups and downs of price which result from year-to-year variations in yield.

AMENDMENTS TO MARKETING AGREEMENT AND LICENSE SECTIONS

Section 3 of S. 1807 provides that subsection 3 of section 8 of the Agricultural Adjustment Act be stricken out and a new subsection 3 inserted in its stead. The new subsection 3 is divided into two paragraphs, the first of which covers the substantive provisions governing the issuance of licenses, and the second of which provides a new procedure for the enforcement of licenses.

The first paragraph, numbered (A), alters the language of section 8 (3) as it appears in the present act, which confers the licensing power in pursuance of the Federal power over interstate commerce, to conform to the language which is now contained in section 8 (2) of the Agricultural Adjustment Act, dealing with marketing agreements. The new language is inserted to make it clear that licenses may be issued which will be applicable to all persons handling agricultural commodities or competing commodities or products of either, if such handling is in the current of or in competition with, or in any way burdens, obstructs, or affects interstate or foreign commerce.

Under the present language of section 8(3) the licensing power only extends to the handling of commodities "in the current of interstate or foreign commerce." Under the present wording of this section it has been possible to argue that Congress did not intend to vest the

Secretary with power to license handlers who did not operate in the current of interstate commerce, even though their operations could be shown to burden and obstruct interstate commerce. It is, of course, not intended to authorize the licensing of persons handling goods only in intrastate commerce except where such handling burdens, obstructs, or affects interstate commerce. The language contained in the amendments will, however, make it clear that the full extent of the Federal power over interstate commerce is intended to be vested in the Secretary in connection with the issuance of licenses to processors, associations of producers, and handlers.

Section 8 (3) of the present act also contains certain language susceptible of a construction which restricts the power of the Secretary to the inclusion in licenses of only such provisions as are necessary to eliminate unfair practices or charges. Such a construction is wholly out of harmony with the declared policy of the act, in that such provisions alone could not serve effectively to insure the payment of parity prices to producers, and it renders the licensing power ineffectual as an instrument to be used in aid of marketing agreements entered into under section 8 (2) of the act. Under the proposed amendments it is made clear that licenses issued pursuant to clause (2) or (3) of section 8 (3) (A) may contain any terms and conditions designed to effectuate the declared policy which have been embodied in an executed or proposed marketing agreement, and that these terms and conditions may be made applicable to persons in the respective classes of industrial or commercial activity specified in such an agreement.

The issuance of licenses in pursuance of executed or proposed marketing agreements has, however, been subjected to certain limitations which do not affect the issuance of licenses intended merely to eliminate unfair practices and charges. Under clause 2 of section 8 (3) (A), no license can be issued unless the marketing plan the terms of which are to be embodied in the license has been agreed to by the persons handling at least 50 percent of the business done in the respective classes of industrial or commercial activity specified in the agreement. Under clause 3 no license can be issued unless the Secretary, with the approval of the President, determines (1) that the refusal to sign the proposed marketing agreement by persons handling 50 percent of the volume of business covered by the agreement tends to prevent effectuation of the declared policy of the act, (2) that the issuance of the license is the only practical means of advancing the interests of the producers of the commodity covered by the agreement pursuant to the declared policy, and (3) that the issuance of the license is favored by at least two-thirds of the producers engaged during a representative period in the production for market of the commodity specified in the license, or by producers who have produced at least two-thirds of the volume of such commodity produced for market during such period.

It is further provided in the proposed amendments that no license whatever shall be applicable to any producer in his capacity as a producer.

The second part, lettered (B), of section 8 (3) as amended by S. 1807, provides a new method for the enforcement of licenses. Under the act as it is now drawn the Secretary is given power to suspend or revoke licenses with respect to persons whom he finds to have violated

their provisions. Since the effect of such a revocation or suspension is to deprive the licensee of the right to engage in business of the type covered by the license, it has been found that this is a more drastic penalty than it is generally desirable to impose. Accordingly, under the proposed amendments the provisions authorizing the revocation or suspension of licenses have been stricken out, and provisions have been inserted which impose a fine on any licensee of not less than \$50 and not more than \$500 for each violation of the license.

The second paragraph of part (B) establishes a mechanism for testing the validity of licenses. It is provided that any licensee may file a petition with the Secretary of Agriculture alleging that any provision of a license or any obligation imposed in connection with the license is not in accordance with law. After holding a hearing upon the petition, the Secretary is to make an order with reference to the validity or invalidity of the license in its application to the petitioner, which shall be final if in accordance with law. The petitioner may then, if he desires, file a bill in equity in the Federal courts in order to obtain a review of the Secretary's order, and, if the courts finally determine that the order is not in accordance with law, the proceedings are to be remanded to the Secretary with directions to enter such order or take such further proceedings as, in the opinion of the court, are required by law. During the period while any such petition is pending before the Secretary and for 5 days thereafter, the penalties imposed by the act for violation of the license cannot be imposed upon the petitioner, but the Secretary may nevertheless, during this period proceed to obtain an injunction against the petitioner pursuant to section 8a (6) of the Agricultural Adjustment Act. It is thought that these provisions establish an equitable and expeditious procedure for testing the validity of licenses, without hampering the Government's power to enforce compliance with their terms.

Section 4 of S. 1807 adds a new subsection (4) (a) to section 8 of the Agricultural Adjustment Act. This new subsection authorizes the Secretary to require the parties to any marketing agreement or license to furnish him with such information as he finds necessary in order to determine the extent to which any agreement or license is being complied with and is effectuating the declared policy of the act, and with such further information as he finds necessary to determine whether there has been any abuse of the privilege of exemption from the antitrust laws conferred in section 8 (2) of the Agricultural Adjustment Act. In order to determine the correctness of any such report or for the purpose of obtaining information requested to be furnished in such report which has not been furnished, the Secretary is further authorized to examine such books and records as he may find necessary to the inquiry in hand, and which are in the control of any party to the marketing agreement or license, or any person having control over such party, or any subsidiary of such party or person.

The second paragraph of this subsection provides what are adequate safeguards to the power of examination of books and records conferred upon the Secretary. It is there stated that all information furnished to or obtained by the Secretary pursuant to this subsection shall be kept confidential by all officers and employees of the Department of Agriculture and shall be disclosed only in a suit or administrative hearing brought at the direction of the Secretary, or to which

he is a party, involving the marketing agreement or license with reference to which the information was obtained. Severe penalties are imposed upon any officer or employee who violates this provision. It is provided, however, that general statements based upon the reports of a number of parties to marketing agreements or licenses, which do not identify the information furnished by any person, may be published, and that the names of violators of agreements or licenses may be made known.

Section 5 of S. 1807 adds two new subsections to section 8 of the Agricultural Adjustment Act. Subsection 8 (6) provides that no marketing agreement or license shall contain provisions for establishing quotas or allotments which limit the amount of any commodity which can be purchased from individual producers unless the Secretary determines that such quota or allotment provisions are favored by at least two-thirds of the producers affected or by producers who have produced at least two-thirds of the commodity affected. In dealing with the problem of surplus farm products and low prices through marketing agreements and licenses it has been found necessary in some instances to limit the total marketings of a particular product during a given period or season. One of the principal objectives in the establishment of producer quotas or allotments is to insure that every producer will share equitably in the available market for his product. The requirement that at least two-thirds of the producers favor any quota or allotment provisions before they are made effective in connection with a marketing agreement and license program will serve to encourage the type of programs to which individual producers and their cooperative marketing organizations will be willing to give their continued support. This new subsection also provides that the Secretary must terminate any marketing agreement or license whenever he finds that such termination is favored by the majority of the producers affected, provided that such majority have produced for market during a representative period more than 50 percent of the commodity covered by the agreement or license.

A new subsection 8 (7) authorizes the Secretary, in connection with the making of any marketing agreement or the issuance of any license, to select a post-war base period in cases where the purchasing power during the pre-war period of the commodity covered by the agreement or license cannot be satisfactorily ascertained from available statistics of the Department of Agriculture.

AMENDMENTS TO SECTION 10 (B) OF THE AGRICULTURAL ADJUSTMENT ACT

Section 6 of S. 1807 modifies subsection (b) of section 10 of the Agricultural Adjustment Act by adding language which authorizes the Secretary to accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing acts of Congress. Since the efforts which farmers have made through their own cooperative associations have frequently been directed to the same objectives as have the marketing agreement and license programs under the Agricultural Adjustment Act, it is desirable that the Secretary of Agriculture should be authorized to accord appropriate recognition and encouragement to farmers' cooperative associations.

Subsection (b) of section 10 is further amended by adding a new paragraph which authorizes the requirement in a license that each licensee pay a pro rata share of the expenses incurred in connection with the administration of a license. The operation of any marketing plan necessarily involves certain expenses which properly should be borne by the particular groups affected. Such expenses should be relatively minor as compared with benefits received by the producers affected by the marketing agreement and license programs. It is obviously necessary, however, for the expenses to be borne on a pro rata basis by all licensees since otherwise such expenses would have to be borne entirely by those who were willing to subscribe voluntarily to a marketing agreement. Such an arrangement would place at a disadvantage those who are cooperating voluntarily in programs designed to improve the position of producers. Language has been inserted in this subsection which will preclude the levying of assessments upon licenses to cover the cost of handling any commodities received by the license authority and held for the benefit of producers or any other persons who are not licensees.

SAVING CLAUSE

Section 7 of S. 1807 declares that nothing contained in the amendatory bill shall be construed to invalidate any agreement or license in effect upon the date of enactment of the bill, nor of any act done pursuant to such an agreement or license before or after the enactment of the bill. This will enable the Secretary to continue to administer licenses and agreements now in effect without fear of legal prejudice as a result of enactment of the amendatory bill.



74TH CONGRESS
1ST SESSION

S. 1807

[Report No. 548]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1935

Mr. SMITH introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

APRIL 15 (calendar day, APRIL 24), 1935

Reported by Mr. SMITH, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That *the first sentence of* subsection (1) of section 8 of the
4 Agricultural Adjustment Act, as amended, is further
5 amended by *striking out the word "reduction" wherever it*
6 *appears and inserting in lieu thereof the word "adjustment",*
7 *and by striking out the semicolon in the first sentence thereof*
8 and inserting in lieu thereof the following: "and/or to be
9 made in quantities of one or more agricultural commodities
10 acquired by the Secretary of Agriculture pursuant to this
11 title;".

1 SEC. 2. (a) The first sentence of subsection (a) of
2 section 12 of the Agricultural Adjustment Act, as amended,
3 is amended by striking out the word “reduction” wherever
4 it appears in such sentence and inserting in lieu thereof
5 the word “adjustment”.

6 ~~SEC. 2.~~ (b) The first sentence of subsection (b) of
7 section 12 of the Agricultural Adjustment Act, as amended, is
8 amended to read as follows: “In addition to the foregoing,
9 for the purpose of effectuating the declared policy of the
10 Act, the proceeds derived from all taxes imposed under
11 this title are hereby appropriated to be available to the Sec-
12 retary of Agriculture for (1) expansion of markets and
13 removal of surplus agricultural commodities or *surplus* prod-
14 ucts ~~thereof~~ of *agricultural commodities*, (2) the acquisition
15 of any agricultural commodity pledged as security for any
16 loan made by any Federal agency, which loan was condi-
17 tioned upon the borrower agreeing or having agreed to
18 cooperate with a program of production adjustment or mar-
19 keting adjustment adopted under the authority of this title,
20 and (3) the following purposes under part 2 of this title:
21 Administrative expenses, rental and benefit payments, and
22 refunds on taxes.”

23 SEC. 3. Subsection (3) of section 8 of the Agricul-
24 tural Adjustment Act, as amended, is amended to read as
25 follows;

1 “(3) (A) After due notice and opportunity for hear-
2 ing, and upon a finding by the Secretary that such action
3 will tend to effectuate the declared policy of the Act, to issue
4 licenses to processors, associations of producers, and others
5 engaged in the handling of any agricultural commodity or
6 product thereof, or any competing commodity or product
7 thereof, in the current of or in competition with or so as to
8 burden, obstruct, or in any way affect, interstate or foreign
9 commerce, which provide that such handling may be en-
10 gaged in by the licensees only upon such terms and condi-
11 tions not in conflict with existing Acts of Congress or regu-
12 lations pursuant thereto, as may be necessary, (1) to
13 eliminate unfair practices or charges that prevent or tend to
14 prevent the effectuation of the declared policy and the
15 restoration of normal economic conditions in the marketing
16 of such commodities or products and the financing thereof,
17 or (2) to make effective any marketing plan set forth in
18 any marketing agreement (or appendix thereto) signed by
19 the persons handling not less than 50 per centum of the
20 volume of the business done in the respective classes of indus-
21 trial or commercial activity specified in such agreement, or
22 (3) to make effective the marketing plan set forth in any
23 proposed marketing agreement (*or appendix thereto*) on
24 which a hearing has been held, whenever the Secretary, with
25 the approval of the President, determines (a) that the re-

1 fusual or failure to sign such proposed agreement by the per-
2 sons handling more than 50 per centum of the volume of busi-
3 ness done in any class of industrial or commercial activity
4 specified therein, tends to prevent the effectuation of the
5 declared policy with respect to the commodity or product
6 covered by such proposed agreement, and ~~(b) that it appears~~
7 ~~from said hearing that the issuance of such license is the only~~
8 ~~practical means of advancing the interests of the producers~~
9 ~~of such commodity pursuant to the declared policy (b) that~~
10 *the issuance of such license is the only practical means of*
11 *advancing the interests of the producers of such commodity*
12 *pursuant to the declared policy, and is approved or favored*
13 *by at least two-thirds of the producers who, during a repre-*
14 *sentative period determined by the Secretary, have been en-*
15 *gaged in the production for market of the commodity specified*
16 *in such marketing agreement or license, or by producers who,*
17 *during such representative period, have produced for mar-*
18 *ket at least two-thirds of the volume of such commodity pro-*
19 *duced for market during such period. No license shall*
20 *be issued pursuant to clauses (2) or (3) of the preceding*
21 *sentence unless the terms and conditions thereof (a) have*
22 *been set forth in an executed or proposed marketing agree-*
23 *ment, as the case may be, or in an appendix thereto, and (b)*
24 *are made applicable only to persons in the respective classes*
25 *of industrial or commercial activity specified in such exe-*

1 cuted or proposed agreement. No license issued under
2 this title shall be applicable to any producer in his capacity
3 as a producer.

4 “(B) Any licensee under any license issued pursuant
5 to this title, or any officer, director, agent, or employee of
6 such licensee, who violates any provision of such license
7 (other than a provision calling for payment of a pro rata
8 share of expenses) shall, on conviction, be fined not less
9 than \$50 or more than \$500 for each such violation, and
10 each day during which such violation continues shall be
11 deemed a separate violation: *Provided, however,* That no
12 person shall be convicted under this title because of any
13 violation (1) of any license or (2) of any obligation
14 imposed in connection therewith, if such violation occurs
15 between the date upon which such person files with the
16 Secretary a petition, with respect to such license or obliga-
17 tion, as provided for in this subsection, and five days after
18 the Secretary enters an order thereon.

19 “Any licensee may file a written petition with the Sec-
20 retary of Agriculture stating that any provisions of any such
21 license or any obligation imposed in connection therewith is
22 not in accordance with law and he shall thereupon be given
23 an opportunity for a hearing upon such petition, in accord-
24 ance with regulations made by the Secretary of Agriculture
25 with the approval of the President. After such hearing, the

1 Secretary shall make an order which shall be final, if in ac-
2 cordance with law. The district court of the United States
3 (*including the Supreme Court of the District of Columbia*)
4 in any district in which such licensee is an inhabitant or has
5 his principal place of business is hereby vested with juris-
6 diction in equity to review such order, provided a bill in
7 equity for that purpose be filed within twenty days from
8 the date of the entry of such order; service of process in
9 such proceedings may be had upon the Secretary by de-
10 livering to him a copy of the bill of complaint. If the court
11 determines that such order is not in accordance with law, it
12 shall remand such proceedings to the Secretary with direc-
13 tions either (a) to enter such order as the court shall de-
14 termine to be in accordance with law, or (b) to take such
15 further proceedings as, in its opinion, the law requires.”

16 SEC. 4. Section 8 of the Agricultural Adjustment Act,
17 as amended, is further amended by adding thereto the fol-
18 lowing new subsection:

19 “(4) (a) All parties to any marketing agreements,
20 and all licensees subject to a license (whether such parties
21 and licensees be corporations or others), shall severally,
22 from time to time, upon the request of the Secretary, furnish
23 him with such information as he finds to be necessary to
24 enable him to ascertain and determine the extent to which
25 such agreement or license has been carried out and/or

1 has effectuated the declared policy of the Act, and, with
2 such information as he finds to be necessary to determine
3 whether or not there has been any abuse of the privilege
4 of exemptions from the antitrust laws, such information to
5 be furnished in accordance with forms of reports to be
6 ~~supplied~~ *prescribed* by the Secretary. For the purpose of
7 ascertaining the correctness of any report made to the Sec-
8 retary pursuant to this subsection (4) (a), or for the pur-
9 pose of obtaining the information required in any such report
10 where it has been requested and has not been furnished, the
11 Secretary is hereby authorized to examine any books, papers,
12 records, accounts, correspondence, contracts, documents, or
13 memoranda, *as he may find necessary or pertinent*
14 within the control (1) of any such party to such
15 marketing agreement, or any such licensee, from whom
16 such report was requested, and/or (2) of any person hav-
17 ing, either directly or indirectly, actual or legal control of
18 or over such party or such licensee, and/or (3) of any
19 subsidiary of any such party, licensee, or person.

20 “Notwithstanding the provisions of section 7, all in-
21 formation furnished to or acquired by the Secretary of Agri-
22 culture pursuant to this subsection shall be kept confidential
23 by all officers and employees of the Department of Agri-
24 culture and shall be disclosed only in a suit or administra-
25 tive hearing brought at the direction, or upon the request,

1 of the Secretary of Agriculture, or to which he is a party,
 2 and involving the marketing agreement or license with
 3 reference to which the information so to be disclosed was
 4 furnished or acquired: *Provided, however, That nothing*
 5 *in this subsection shall be deemed to prohibit (A) the*
 6 *issuance of general statements based upon the reports of a*
 7 *number of parties to a marketing agreement or of licensees,*
 8 *which statements do not identify the information furnished*
 9 *by any individual person, or (B) the publication by direction*
 10 *of the Secretary of the names of any persons violating any*
 11 *marketing agreement or any license, together with a state-*
 12 *ment of the particular provisions of the marketing agree-*
 13 *ment or license violated by such persons. Any such officer*
 14 *or employee violating the provisions of this subsection shall*
 15 *upon conviction be subject to a fine of not more than \$1,000*
 16 *or to imprisonment for not more than one year, or to both,*
 17 *and shall be removed from office."*

18 SEC. 5. Section 8 of the Agricultural Adjustment Act,
 19 as amended, is further amended by adding after subsection
 20 5 thereof the following new ~~subsection~~ *subsections*:

21 "(6) No marketing agreement or license shall contain
 22 provisions for establishing quotas or allotments limiting the
 23 amount of the commodity, covered by such marketing agree-
 24 ment or license, which may be purchased or in any other
 25 way received by all parties to such marketing agreement and

1 by all licensees under such license from each ~~of~~ *producer*
 2 *within* any classification of ~~individual~~ producers, unless the
 3 Secretary first determines that such provisions are approved
 4 or favored (1) by at least two-thirds of the producers who,
 5 during a representative period determined by the Secretary,
 6 have been engaged in the production for market of the
 7 commodity covered by and defined in such marketing agree-
 8 ment or license, or (2) by producers who, during such rep-
 9 resentative period, have produced for market at least two-
 10 thirds of such commodity. The Secretary of Agriculture
 11 ~~may at any time~~ *shall, whenever he determines that any*
 12 *license, or any provision thereof, obstructs and/or does not*
 13 *tend to effectuate the declared policy of this title, terminate or*
 14 *from time to time suspend the operation of any marketing*
 15 ~~agreement or such license, or any such provision thereof, and~~
 16 *he shall terminate any marketing agreement or license,*
 17 *at the end of the then current production or marketing period*
 18 *for such commodity as specified in such marketing agree-*
 19 *ment or license whenever he finds that such termination is*
 20 *favored by a majority of the producers who, during a repre-*
 21 *sentative period determined by the Secretary, have been*
 22 *engaged in the production for market of the commodity cov-*
 23 *ered by and defined in such marketing agreement or license,*
 24 *provided that such majority have during such representative*

1 period produced for market more than 50 per centum of such
2 commodity.”

3 “(7) *In connection with the making of any marketing*
4 *agreement or the issuance of any license, if the Secretary*
5 *finds and proclaims that, as to any commodity specified in*
6 *such marketing agreement or license, the purchasing power*
7 *during the base period specified for such commodity in*
8 *section 2 of this title cannot be satisfactorily determined*
9 *from available statistics of the Department of Agriculture,*
10 *the base period, for the purposes of such marketing agree-*
11 *ment or license, shall be the post-war period, August 1919–*
12 *July 1929, or all that portion thereof for which the Secretary*
13 *finds and proclaims that the purchasing power of such*
14 *commodity can be satisfactorily determined from available*
15 *statistics of the Department of Agriculture.”*

16 SEC. 6. Subsection (b) of section 10 of the Agricul-
17 tural Adjustment Act, as amended, is amended to read as
18 follows:

19 “(b) The Secretary of Agriculture is authorized to
20 establish, for the more effective administration of the func-
21 tions vested in him by this title, State and local committees,
22 or associations of producers, and to permit cooperative asso-
23 ciations of producers, when in his judgment they are quali-
24 fied to do so, to act as agents of their members and patrons
25 in connection with the distribution of rental or benefit pay-

1 ments and in the administration of this title, shall accord
2 such recognition and encouragement to producer-owned and
3 producer-controlled cooperative associations as will be in
4 harmony with the policy toward cooperative associations set
5 forth in existing acts of Congress, and as will tend to pro-
6 mote efficient methods of marketing and distribution.

7 “~~Any~~ *Each* license issued by the Secretary under this
8 title ~~may~~ *shall* provide that each licensee thereunder shall
9 pay to any authority or agency established under such license,
10 such licensee's pro rata share (as approved by the Secretary)
11 of such expenses as the Secretary may find will necessarily
12 be incurred by such authority or agency, during any period
13 specified by him, for the maintenance and functioning of
14 such authority or agency, *other than expenses incurred in*
15 *receiving, handling, holding, or disposing of any quantity*
16 *of a commodity received, handled, held, or disposed of by such*
17 *authority or agency for the benefit or account of persons other*
18 *than such licensees.* Any such authority or agency
19 may maintain in its own name, or in the names of its mem-
20 bers, a suit against any licensee for the collection of such
21 licensee's pro rata share of expenses and the several district
22 courts of the United States (*including the Supreme Court*
23 *of the District of Columbia*) are hereby vested with jurisdic-
24 tion to entertain such suits regardless of the amount in
25 controversy.”

1 *SEC. 7. Nothing contained in this Act shall invalidate*
 2 *any marketing agreement or license in existence on the date*
 3 *of the enactment hereof, or any provision thereof, nor any*
 4 *act done pursuant thereto, either before or after the enactment*
 5 *of this Act.*

74TH CONGRESS }
 1ST SESSION

S. 1807

Calendar No. 571

[Report No. 548]

A BILL

To amend the Agricultural Adjustment Act,
 and for other purposes.

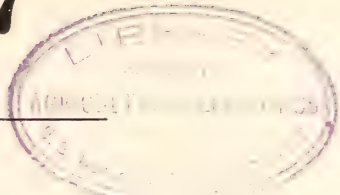
By Mr. SMITH

FEBRUARY 12, 1935

Read twice and referred to the Committee on
 Agriculture and Forestry

APRIL 15 (calendar day, APRIL 24), 1935

Reported with amendments



IN THE SENATE OF THE UNITED STATES

MAY 7 (calendar day, MAY 8), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. COPELAND to the bill (S. 1807)
to amend the Agricultural Adjustment Act, and for other
purposes, viz: On page 12, after line 5, insert the following:

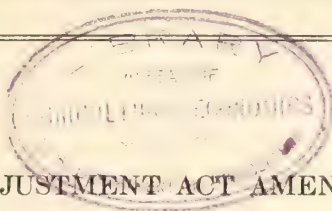
- 1 Section 7, subsection (c), of section 15 of the Agri-
- 2 cultural Adjustment Act, as amended, is further amended
- 3 by inserting after the word "organization" in the fourth
- 4 line of said subsection, the words "or any semipublic hos-
- 5 pital", and by striking out the period at the end of said
- 6 subsection and adding the phrase "and the words semipublic
- 7 hospital mean a hospital supported in whole or in part by
- 8 public subscription or endowment and not operated for
- 9 profit."

AMENDMENT

Intended to be proposed by Mr. CopeLAND to the bill (S. 1807) to amend the Agricul-
tural Adjustment Act, and for other pur-
poses.

MAY 7 (calendar day, MAY 8), 1935

Ordered to lie on the table and to be printed



AGRICULTURAL ADJUSTMENT ACT AMENDMENTS

MAY 15, 1935.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. JONES, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H. R. 8052]

The Committee on Agriculture, to whom was referred the bill (H. R. 8052) to amend the Agricultural Adjustment Act, and for other purposes, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The proposed amendments to the Agricultural Adjustment Act are needed primarily in order to supplement the present act in such a way as to permit the Agricultural Adjustment program to be made more effective. The primary objective set forth in the declaration of policy in the Agricultural Adjustment Act is to secure parity prices for farm products through balancing production with consumption. This goal is obviously of vital importance in the recovery program. The restoration of farm-buying power to its pre-war level will substantially assist in bringing about general improvement in business conditions. These amendments will permit a more flexible program by permitting the use of different plans with reference to different commodities and thus enabling the plan to be fitted to the particular commodity. The word "adjustment" has been substituted for the word "reduction" so that the production of a crop hereafter may be adjusted to our domestic and foreign market demand rather than being based on the question of reduction alone. It may mean a decrease or an increase, or neither, depending upon the supply necessary to fit the general market demand. Further desirable flexibility in the agricultural program is furnished in those provisions of the present bill which propose to add to the powers of the Secretary of Agriculture to make rental or benefit payments in connection with production or acreage adjustment the power to provide for payments

for expansion of markets, removal of surpluses, and payments on the domestically consumed part of production. Any one or more of these plans may be carried out independently or in combination with acreage or production adjustment.

Of real importance in the agricultural program which the proposed amendments are intended to make possible are those which will enable the Secretary of Agriculture to put into operation the plan which has been described and is generally known as the "ever normal granary." The Government is authorized to acquire basic agricultural commodities which have been pledged as security for Government loans, and with them to make payments "in kind" to producers who cooperate in the adjustment programs. Adequate reserves of food and fiber can in this manner be maintained, and fluctuations in price can be smoothed out.

Of importance to 2,000,000 or more farmers are the sections of the bill which relate to marketing agreements and licenses. The producers of fruits and vegetables and other commodities which have not been named in the act as "basic" commodities are forced to rely for the most part upon marketing agreements and licenses in order to achieve the goal set forth in the declaration of policy. The operations of cooperative marketing associations will be reenforced by these sections, which will assure the cooperation of processors and distributors in programs intended to raise farm prices. The marketing agreements and licenses which have been issued and entered into pursuant to the Agricultural Adjustment Act have contained a great variety of provisions in order to adapt each particular program to the peculiar problems and circumstances presented in a given area by a particular commodity. The essential purpose of these agreements and licenses has, however, always been to raise producer prices.

The proposed amendments, insofar as they relate to marketing agreements and licenses, are primarily intended to implement and spell out in more detail and with greater freedom from ambiguity the powers which were intended to be conferred in the original act. The present language of the statute is unfortunately subject to serious misconstruction. This has given rise to obstacles in connection with the enforcement of marketing agreements and licenses which have seriously endangered their successful operation. Furthermore, the amendments contain provisions intended to safeguard the exercise of and prevent abuses in the application of the licensing power conferred upon the Secretary. Specific exemption of producers from the licensing power has been provided for, and the imposition of licenses in order to enforce a marketing agreement to which the asset of 50 percent by volume of the processors and handlers cannot be obtained has been limited to those cases in which the Secretary can find that two-thirds of the producers of the commodity specified in the license favor its imposition. A congressional policy that licenses shall be limited in their application to the smallest practicable region, and that they shall contain different terms applicable to different areas, has been carefully spelled out. These and other restrictive provisions are, in the opinion of the committee, adequately drawn to guard against any fear that the licensing powers are so broad as to subject their exercise to the risk of abuse.

The bill gives recognition to the necessity of insuring that, so far as possible, adjustment of production and consequent price increases

within the United States shall not operate to deprive American farmers of their share of foreign trade in agricultural commodities. Authorization is given for the appropriation of 30 percent of the annual receipts from customs duties to be available, among other purposes, to encourage exportation of basic commodities by paying benefits or indemnifying losses in connection with such exportation and by payments in connection with the part of production for domestic consumption. Since the farm population of the United States is roughly 30 percent of the total population, this provision will make available for the benefit of the farmer a sum equivalent to his fair share of the tariff receipts. Upon the basis of the total customs receipts during the past 3 years, it is anticipated that in the neighborhood of \$100,000,000 can annually be made available for the purposes described in the bill. These purposes include, in addition to the encouragement of exportation, the retirement of submarginal agricultural and grazing lands by purchasing or leasing them on behalf of the United States, and the making of payments to farmers in connection with the acreage or production adjustment of basic agricultural commodities.

Further recognition of the desirability of stimulating the export trade in agricultural commodities is afforded by the provision authorizing the imposition of a processing tax not only in order to finance the making of rental and benefit payments to producers for engaging in adjustment programs but also for financing payments for the expansion of domestic and foreign markets. Expansion of domestic markets is in the interest of a fuller utilization of our agricultural resources. The current depression has revealed more than ever the existence of areas of substandard consumption of farm products in this country. Even in normal times, the low-income groups could consume more of farm products than has been the case in the past. An expansion of the domestic markets will serve to build up the low-consuming areas within our own population to a level adequate for the maintenance of health, and to bring about a permanently larger volume of consumption so as to require a minimum of restriction of our agricultural resources.

ANALYSIS OF THE BILL

Section 1 (a) amends the declaration of policy in the Agricultural Adjustment Act, which has as its objective the reestablishment of prices paid to farmers at a level that will give agricultural commodities a current purchasing power equivalent to that of the base period. The amendment proposes that, in the case of all commodities for which the base period is the pre-war period (August 1909 to July 1914), such prices will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate as contrasted with such payments during the base period. This section is intended to give the Agricultural Adjustment Administration a somewhat more adequate standard for determining parity prices. The present method of calculation is composed of an index of prices of goods which farmers buy in relation to the pre-war level, and does not cover expenditures for taxes and for debt service. At the present time, taxes per acre and mortgage interest per acre are probably about 160 to 170 percent of the pre-war level. The

combination of these two items together with the index of prices paid by farmers may be expected to give parity standards approximately 5 percent higher than at present.

Subsection (b) of section 1 makes the base period in the case of wool and mohair the post-war period (August 1919 to July 1929) instead of the pre-war period (August 1909 to July 1914).

Section 2 amends subsection (1) of section 8.

Subsection (a) inserts a paragraph letter made necessary by the addition of the new paragraph proposed in subsection (d) of this section.

Subsection (b) of section 2 substitutes for the existing general power of the Secretary to provide for reduction in the acreage or production for market, or both, of any basic agricultural commodity the power to provide for adjustment in acreage or production, or both.

Subsection (c) of section 2 authorizes the Secretary to make rental or benefit payments in quantities of one or more agricultural commodities acquired by him under the Agricultural Adjustment Act. This provision authorizes payments in kind, either in whole or in part, in lieu of payments in cash which are required under the present law. The amendment made by this subsection, together with the corresponding provision found in subsection (d) authorizing payments in kind in the case of payments authorized by that subsection, and the provisions of section 3 permitting the acquisition of commodities pledged with the Federal Government, are designed to carry out the "ever normal granary" plan outlined in the previous portions of this report.

Subsection (d) inserts a new provision which specifically gives the Secretary the power, in carrying out the declared policy of the Agricultural Adjustment Act, to make payments for the expansion of domestic or foreign markets of a basic agricultural commodity, payments for the removal of surpluses of or surplus products of a basic agricultural commodity, or payments in connection with the production of that part of a basic agricultural commodity required for domestic consumption. Such payments may be made with respect to a commodity whether or not an adjustment program is in effect on that commodity but the payments may be made in combination with rental or benefit payments. Any one or more of such payments may be made and the payments may be made in kind. This paragraph also contains a provision which applies generally throughout the Agricultural Adjustment Act to payments in kind the effect of which is to prohibit the payment for the program on one commodity from being made in another commodity. Thus, wheat may not be used to make rental or benefit payments or payments for expansion of markets, removal of surpluses, or domestic production payments in carrying out the cotton or tobacco program but may be used in connection with the wheat program.

Section 3 makes important changes in section 12 (b) of the Agricultural Adjustment Act which sets forth the purposes for which the proceeds of processing taxes may be used. First, a technical amendment is made to make certain that the payments made under such section 12 (b) are for the purpose of effectuating the policy of the Agricultural Adjustment Act. Second, the funds available under section 12 (b) may be used for the acquisition of any agricultural commodity pledged as security for a loan made by any Federal

agency, which loan was conditioned upon the borrower agreeing to cooperate with a program of production or marketing adjustment adopted under the act. (See also sec. 2 (b).) Third, the provisions of the present law authorizing the use of processing tax proceeds for expansion of markets and removal of surpluses have been grouped together with the other purposes relating to basic commodities for which processing tax proceeds may be used, namely, rental and benefit payments, expansion of domestic and foreign markets, removal of surpluses, and payments on production of that part required for domestic consumption. All these purposes have been treated generally as payments authorized under section 8 (e). In the case of the expansion of markets and removal of surpluses, it is incidentally made clear that payments may be made for expansion of both domestic and foreign markets and that surplus removal includes removal of a surplus product of a basic commodity even if there is no surplus of the commodity itself. The authority to use tax proceeds for administrative expenses and refunds of taxes is not disturbed.

Section 4 of the bill strikes out the provision of the Agricultural Adjustment Act which authorizes the Secretary to license processors, associations of producers, and others handling agricultural commodities and products thereof, and substitutes therefor a new subsection dealing with licensing.

The proposed provisions differ from the present law in several respects and add several new powers and limitations. A comparison of the proposed provisions and the present law and a detailed discussion of the proposed provisions are set forth in the numbered paragraphs below:

First. Specific provision is made that there must be due notice and opportunity for hearing prior to the issuance of a license. No such requirement is stated in the present law.

Second. The definition of those whose dealings may be licensed because such dealings relate to interstate or foreign commerce has been broadened to include not only those engaged in handling agricultural commodities and products thereof in the current of interstate or foreign commerce but also those whose dealings are in competition with or burden, obstruct, or in any way affect such commerce. It is, of course, not intended to authorize the licensing of persons handling goods only in intrastate commerce except where such handling burdens, obstructs, or affects interstate commerce. The language contained in the amendments will, however, make it clear that the full extent of the Federal power over interstate commerce is intended to be vested in the Secretary in connection with the issuance of licenses to processors, associations of producers, and handlers.

Third. The provision of the present law authorizing licenses to eliminate unfair practices and charges is retained, subject to the provisions applicable to all licenses set forth hereinafter. These licenses are called "clause (1) licenses" herein. These licenses may be issued without regard to the provisions which are applicable solely to other licenses, such as the provision requiring a signed marketing agreement in the case of clause (2) licenses and the provision requiring farmer approval in the case of clause (3) licenses.

Fourth. The new provision adds to the present law a new class of licenses, herein called "clause (2) licenses." These licenses are to be issued to make effective a marketing plan set forth in a marketing

agreement which relates to any agricultural commodity or product thereof and which is signed by the handlers of 50 percent or more of the volume of business done by the respective classes of business or industrial activity specified in the license.

Fifth. The new provision adds to the present law a second new class of licenses herein called "clause (3) licenses." These licenses may be issued only to make effective a marketing plan set forth in a proposed marketing agreement on which a hearing has been held. They cannot apply to any basic agricultural commodity (or its products), as now defined, except that they can apply to milk and its products, tobacco, and sugar beets. Nor can these licenses apply to any non-basic agricultural commodity or product thereof except wool, mohair, fruits, and vegetables. They may be issued only after certain determinations are made by the Secretary with the approval of the President. There must be a determination that the failure or refusal to sign of persons handling more than 50 percent of the volume of business specified in the agreement tends to prevent the effectuation of the declared policy of the act. It must be found that the issuance of such a license is the only practical means of advancing the interests of the farmers producing the commodity. Finally, it must be found that two-thirds of the farmers producing the commodity for market, or the farmers producing for marketing two-thirds of the volume of the commodity, approve or favor the license. Provision is made under which regional licenses will be issued instead of national licenses, so far as practicable, and under which licenses will give due recognition to differences in production and marketing, or both, in different cases. No such clause (3) license can be applicable to a retailer in his capacity as retailer. An exception to this provision authorizes the licensing of a retailer of milk and its products in his capacity as a retailer of such commodities.

Sixth. No license issued under the title (clause (1), clause (2), and clause (3) licenses) can be applicable to a producer in his capacity as producer.

Seventh. The penalty for violation of a license has been changed from a requirement that the license be suspended or revoked to a fine of not less than \$50 nor more than \$500 for each violation, and each day is to be a separate offense.

Eighth. Specific provision is made for review of licenses. No similar provision is contained in the present act. It is provided that any licensee may file a petition with the Secretary of Agriculture alleging that a license or any provision of a license or any obligation imposed in connection with a license is not in accordance with law. After holding a hearing upon the petition, the Secretary is to make an order with reference to the validity or invalidity of the license in its application to the petitioner, which shall be final if in accordance with law. The petitioner may then, if he desires, file a bill in equity in the Federal courts in order to obtain a review of the Secretary's order, and, if the courts finally determine that the order is not in accordance with law, the proceedings are to be remanded to the Secretary with directions to enter such order or take such further proceedings as, in the opinion of the court, are required by law. During the period while any such petition is pending before the Secretary and for 5 days thereafter, the penalties imposed by the act for violation of the license cannot be imposed upon the petitioner, but the Secretary

may, nevertheless, during this period proceed to obtain an injunction against the petitioner pursuant to section 8a (6) of the Agricultural Adjustment Act. But whenever, in proceedings brought by the licensee to review the Secretary's order, a final decree is entered by the District Court, then any separate injunction proceedings which may have been instituted by the Secretary against the licensee pursuant to section 8a (6) shall abate. When, however, a licensee has instituted proceedings in equity to review the Secretary's order and the Secretary files a counterclaim (i. e., a crossbill for injunctive relief) in such proceedings, then upon the rendition of a final decree the counterclaim will not abate, and the respective parties may appeal, pursuant to the applicable Federal statutes (section 128 of the Judicial Code) relating to appeals from final decrees, from the final decree rendered by the District Court upon both the bill to review the Secretary's order and the counterclaim. It is believed that these provisions establish an equitable and expeditious procedure for testing the validity of licenses, without hampering the Government's power to enforce compliance with their terms.

Section 5 adds to the present law a new subsection enabling the Secretary to secure information with respect to the operation of marketing agreements and licenses. Parties to marketing agreements and licenses are required, on request of the Secretary, to furnish him with information he finds necessary to determine the extent to which the agreement or license has been carried out or has effectuated the policy of the act and with information to enable him to determine if there has been abuse of the privilege of antitrust exemptions. To ascertain the correctness of a report furnished, or to secure the information when not furnished, the Secretary may examine books, records, etc., which he deems relevant. He may examine such data if it is within the control of the person from whom requested or within the control of any person having actual or legal control of the person from whom requested, or any subsidiary of any person from whom requested, or of any subsidiary of the person controlling the person from whom the information is requested. The information secured is required to be kept confidential by persons in the Department of Agriculture. So much of it as the Secretary deems relevant may be disclosed in a suit or administrative hearing to which the Secretary is a party if the suit or hearing involves the agreement or license with respect to which the information was furnished or acquired. General statements may be issued which do not identify the information furnished by any person and, by direction of the Secretary, the name of any person violating an agreement or license together with the provision violated may be issued. Officers or employees of the Department violating the subsection are subject to fine and imprisonment and removal from office.

Section 6 adds a new subsection (6) to section 8 of the Agricultural Adjustment Act which relates to the termination of licenses and marketing agreements. Whenever the Secretary determines that a license or any provision thereof obstructs or does not tend to effectuate the declared policy, he is to terminate or suspend such license or provision. The Secretary is required to terminate a marketing agreement or license whenever he finds that a majority of the farmers producing the commodity during a representative period determined by him who, during such period, have produced for market more than

50 percent of the volume of the commodity favor its termination. In the latter case the termination is effective at the end of the current marketing period fixed in the agreement or license. To be effective, however, such termination must be announced on or before an announcement date fixed in the agreement or license.

Section 6 also adds a new subsection (7) to section 8 of the Agricultural Adjustment Act. The new subsection authorizes the Secretary to use as a base period, for the purposes of any marketing agreement or license, the post-war period (August 1919 to July 1929) or all that portion thereof for which the Secretary can satisfactorily determine the purchasing power of a commodity from available statistics of the Department if he finds and proclaims that as to that commodity the purchasing power during the pre-war period cannot be satisfactorily determined from available statistics of the Department.

Section 7 specifically authorizes the Secretary, or an officer of the Department designated by him, to institute an investigation and to conduct a hearing in order to determine the facts with respect to a violation of a license for the purpose of referring the matter to the Attorney General. By the force of section 10 (h) the Secretary can, in connection with such investigation and hearing, exercise the same powers subject to the same limitations as in the case of similar proceedings before the Federal Trade Commission. Notice is required to be given the licensee prior to the hearing.

Section 8 (a) amends the section of the Agricultural Adjustment Act (sec. 9) which provides that when the Secretary determines that rental or benefit payments are to be made a processing tax is imposed. This amendment provides that when the Secretary determines that payments for any one or more of the purposes specified in section 8 (1) (rental or benefit payments, payments for expansion of domestic or foreign markets, payments for removal of surplus basic commodities, or surplus products of basic commodities, and payments in connection with the production of that part of a basic commodity required for domestic consumption) are to be made, a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year next following the proclamation. The effect of the amendment is to add the new purposes to the extent that they are authorized by the amendment made by section 2 (d) of the bill to the purposes for which processing taxes shall be imposed, to forbid such payments unless there is an accompanying processing tax, and to provide that the tax is imposed following the Secretary's declaration that the particular payment is to be made.

Section 8 (b) amends section 9 (a) of the Agricultural Adjustment Act so as to terminate the processing tax levied to make payments for the purposes outlined in the preceding paragraph at the end of the marketing year current at the time of the proclamation that such payments are to be terminated. The subsection also provides that if any one or more of such payments are in effect the tax terminates at the end of the marketing year only if the Secretary proclaims that all such payments are to be discontinued. The amendments made by this subsection have no effect on the present law in a case in which rental or benefit payments alone are to be made.

Section 9 amends the provision of the Agricultural Adjustment Act which fixes the rate of the processing tax at an amount which equals the difference between the current average farm price and the

fair exchange value of the commodity. The amendment made by this section increases the rate of the processing tax to make up for the amount of tax lost because the tax is credited or refunded if the processed article is used for charitable or welfare purposes or because the processing is tax exempt. The increased amount of processing tax under this amendment cannot exceed 20 percent of the difference between the current average farm price and the fair exchange value. The amendment is not to affect processing taxes which are effective at the time the bill is enacted, and they are not required to be adjusted or altered unless the Secretary finds that such adjustment or alteration is necessary in order to effectuate the declared policy of the act.

Section 10 amends the provision of the Agricultural Adjustment Act (sec. 9 (c)) which defines "parity price" to add to it a provision which requires, in the case of commodities the base period for which is August 1909 to July 1914, a parity price which will also reflect comparative interest payments per acre on farm indebtedness and tax payments per acre on farm real estate. Rates of tax in effect on the date the bill is enacted are not to be required to be readjusted as the result of the proposed amendment unless the Secretary of Agriculture finds it necessary to adjust such rates pursuant to section 9 (a). (See also sec. 1 (a).)

Section 11 adds a provision to section 10 (b) of the Agricultural Adjustment Act which authorizes the Secretary of Agriculture to utilize the services of State and local committees and associations of producers. The amendments permit the Secretary to utilize the cooperative associations of producers in connection with the distribution of payments for expansion of domestic or foreign markets. This section of the bill also requires the Secretary to accord such recognition and encouragement to cooperative associations owned or controlled by producers as will be in harmony with the policy toward them set forth in existing acts of Congress and will tend to promote efficient methods of marketing and distribution. It is not intended by this language to discriminate against other handlers, processors, or dealers, but it has been found from experience that the participation by local committees and associations of producers has been of material value in administering the program.

A new paragraph is added to section 10 (b) which provides that licenses issued under the title shall provide that the licensee shall pay to the authority established under the license that licensee's pro rata share of the expenses incurred by the authority, but no payment is required to be made for any part of the expenses of the authority, incurred in receiving, handling, holding, or disposing of commodities for the benefit of persons other than licensees. The provision also authorizes a suit by the authority in its own name to collect such expenses and authorizes the district courts to entertain such suits.

Section 12 amends section 10 (e) of the Agricultural Adjustment Act which provides that neither the determination of the amount of, nor the making of, any rental or benefit payment is subject to the review of any governmental officer, except the Secretary of Agriculture and the Secretary of the Treasury, by extending the provision to apply to the determination and making of payments for expansion of domestic or foreign markets, removal of surpluses, or payments on the portion required for domestic consumption.

Section 13 adds to the section of the present act which gives the Secretary of Agriculture miscellaneous powers a new subsection which is designed to provide for cooperation between the Secretary and State agencies. This power probably exists under the present law, but it is deemed advisable to make specific provision for it. The new subsection authorizes, but does not require, the Secretary to confer and hold joint hearings with, cooperate with, and avail himself of the services, records, and facilities of, duly constituted State and territorial authorities. This authorization is to further carry out the declared policy of the title and looks to securing voluntary uniformity in the formulation, administration, and enforcement of State and Federal programs relating to the regulation of the production, handling, marketing, and sale of agricultural commodities and their products.

Section 14 specifically authorizes the use of the \$100,000,000 fund appropriated under section 12 (a) of the Agricultural Adjustment Act for payments for expansion of domestic or foreign markets, removal of surpluses, or payments on the portion required for domestic consumption. This provision is complementary to the provisions of section 3 (b) of the bill which authorize payments out of processing tax receipts for such purposes. The section also authorizes the use of the fund in connection with acreage or production adjustment programs. The change corresponds to that made by section 2 (a), which authorizes payment in connection with adjustment of acreage or production rather than reduction thereof as provided under the present act.

Section 15 adds a new subsection to section 12 of the Agricultural Adjustment Act. This provision authorizes an additional appropriation for each fiscal year of an amount equal to 30 percent of the gross customs receipts during the preceding year ending December 31. Amounts which may be appropriated under this subsection are to be maintained in a separate fund. The fund may be used for three major purposes. The first is the encouragement of exportation of agricultural commodities and products thereof by the payment of benefits in connection with their exportation or indemnifying for losses incurred in connection with exportation and by payments to producers in connection with the production of that part of the production of any agricultural commodity required for domestic consumption. The second use is the purchase or lease, on behalf of the United States, of submarginal agricultural and grazing lands. The third use to which sums may be put is the making of payments (which for the purposes of the act are not considered rental or benefit payments and hence do not require the levy of a processing tax as a condition of their payment) in connection with acreage or production adjustment of basic agricultural commodities. The Secretary is to expend the amounts as he deems will best effectuate the policy of restoring agricultural purchasing power as contemplated by the Agricultural Adjustment Act consistently with the fullest utilization of the productive capacity of land which can be profitably cultivated and with the most rapid expansion of agricultural exports.

Section 16 adds a new subsection to section 12 of the Agricultural Adjustment Act which provides that the amounts expended for expansion of domestic and foreign markets, removal of surpluses, payments on that part of production required for domestic consumption, administrative expenses, and rental and benefit payments in connec-

tion with any basic agricultural commodity shall not be less than the amount of the taxes levied under the act with respect to that commodity. For the purpose of the calculations required under this provision, amounts collected and expended from taxes which are held for or paid for use in, any possession are not to be included, refunds and abatements of taxes are not to be included, and hogs and field corn may be considered a single commodity.

Section 17 amends the provision of section 15 of the Agricultural Adjustment Act which authorizes the Secretary to ascertain whether the payment of processing taxes upon any basic agricultural commodity is causing or will cause the processors thereof disadvantages in competition from any competing commodity by reason of excessive shifts in consumption. The Secretary is then authorized to specify the competing commodity and thereupon a compensating tax is imposed on the processing of that competing commodity which will prevent such disadvantages in competition. The effect of the amendment made by this section is to authorize the inquiry to ascertain if similar disadvantages in competition are being caused or may be caused to producers or both producers and processors and to impose a similar compensating tax if the Secretary finds that such disadvantages in competition are caused or will be caused.

Section 18 adds a new section to the Agricultural Adjustment Act (section 21) authorizing certain limitations on imports in connection with the agricultural adjustment program. Whenever the current average farm price of an agricultural commodity is less than parity, if the President has reason to believe that any article or articles are being imported or are likely to be imported under such conditions and in sufficient quantities to prevent the price from reaching parity and to render ineffective any operation or program under the Act, he is to order an investigation to determine these facts. The Secretary of Agriculture, or the United States Tariff Commission, whichever the President designates, is to conduct the investigation. The investigation is to be made after such notice and hearing and subject to such regulations as the President specifies.

If the President finds the existence of the facts required, after the investigation and report to him, he is to direct that the article or articles causing such situation shall be imported subject to such terms and conditions, such limitations on quantity, or the payment of such compensating taxes as he finds necessary to prescribe so that the entry of the things specified will not prevent attainment of parity and will not render or tend to render ineffective the operation or program. If compensating taxes are levied, they are to become available for expenditure under the act, and they are not to be in substitution for the processing tax on imported articles imposed under the present law. The President's decision on facts is final, the Secretary of the Treasury is required to carry out the order of the President, and the President, after investigation and finding, may suspend, revoke, or modify an order issued under the section.

Section 19 makes certain existing appropriations available to the Secretary of Agriculture for use by him in experimentation and efforts to eradicate Bang's disease in cattle. Under the Jones-Connally Cattle Act passed last year and the appropriation in pursuance of it, the Secretary was authorized to spend money to eradicate this disease. Under the construction placed on this Act, the money

could be spent only for slaughter of the cattle affected. The proposed section provides that the Secretary shall use as much as he deems advisable of the remainder of that fund for experiments in developing cures of or prevention of infection by the disease and in carrying out that policy instead of slaughter of the cattle. The appropriation was originally available until December 31, 1935, and by this new section is available for the original purpose until then as well as for the new purpose specified in the section. This section makes the amount unexpended on December 31, 1935, available only for the new purposes specified in the section and makes such remaining funds available until December 31, 1937.

Section 20 provides that the amendments made to the Agricultural Adjustment Act by the proposed bill are not to invalidate marketing agreements or licenses in force on the date of the enactment of the bill or invalidate acts done under such agreements or licenses on or before or after such date.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in the Agricultural Adjustment Act made by the bill are shown as follows: Existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman.

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress—

(1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base *[period] period*; and, in the case of all commodities for which the base period is the prewar period, *August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments, and tax payments during the base period.* The base period in the case of all agricultural commodities except *[tobacco] tobacco, wool, and mohair* shall be the pre-war period, August 1909–July 1914. In the case of tobacco, wool, and mohair the base period shall be the postwar period, August 1919–July 1929.

(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets.

(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914.

* * * * *

GENERAL POWERS

SEC. 8. In order to effectuate the declared policy, the Secretary of Agriculture shall have power—

(1) (A) To provide for *[reduction] adjustment* in the acreage or *[reduction] adjustment* in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be

paid out of any moneys available for such payments or to be made in quantities of one or more agricultural commodities acquired by the Secretary of Agriculture pursuant to this title; and, in the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, to make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for [reduction] adjustment in the acreage of [reduction] adjustment in the production for market, or both, of sugar beets or sugarcane. In the case of rice, the Secretary, in exercising the discretion conferred upon him by this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to this section, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of the Act, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments. Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any non-perishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing, but no deduction may be made for interest.

(B) To provide, in the case of any basic agricultural commodity (whether or not a program of adjustment in the acreage or adjustment in the production for market of such commodity is in effect in pursuance of paragraph (A)), for payments for expansion of domestic or foreign markets thereof, payments for removal of surpluses thereof or surplus products thereof, and payments in connection with the production of that part thereof required for domestic consumption, or any one or more such payments. Such payments shall be made in such amounts as the Secretary of Agriculture deems fair and reasonable and shall be made out of moneys available for such payments or in quantities of one or more agricultural commodities acquired by the Secretary pursuant to this title. Payments authorized under this paragraph may be made in combination with payments made in pursuance of paragraph (A). No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made.

(2) After due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, in the current of or in competition with, or so as to burden, obstruct, or in any way affect, interstate or foreign commerce. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of this Act. For the purpose of carrying out any such agreement the parties thereto shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act. Such loans shall not be in excess of such amounts as may be authorized by the agreements.

[(3) To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions, not in conflict with existing Acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof. The Secretary of Agriculture may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the Secretary suspending or revoking any

such license shall be final if in accordance with law. Any such person engaged in such handling without a license as required by the Secretary under this section shall be subject to a fine of not more than \$1,000 for each day during which the violation continues.】

(3) (A) After due notice and opportunity for hearing, and upon a finding by the Secretary that such action will tend to effectuate the declared policy of this title, to issue licenses to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, or any competing commodity or product thereof, in the current of or in competition with or so as to burden, obstruct, or in any way affect, interstate or foreign commerce. Such licenses shall provide that such handling may be engaged in by the licensees only upon such terms and conditions, not in conflict with existing Acts of Congress or regulations pursuant thereto, as may be necessary for any one or more of the following purposes:

(1) To eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof.

(2) To make effective any marketing plan set forth in any marketing agreement (or appendix thereto) signed by the persons handling not less than 50 per centum of the volume of the business done in the respective classes of industrial or commercial activity specified in such agreement.

(3) To make effective the marketing plan set forth in any proposed marketing agreement (or appendix thereto), on which a hearing has been held, whenever the Secretary, with the approval of the President, determines—

(a) That the refusal or failure to sign such proposed agreement by the persons handling more than 50 per centum of the volume of business done in any class of industrial or commercial activity specified therein tends to prevent the effectuation of the declared policy with respect to the commodity or product specified in such proposed agreement, and

(b) that the issuance of such license is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or license, or by producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market during such period.

No license shall be issued pursuant to clause (2) or clause (3) of the preceding sentence unless the terms and conditions thereof (a) have been set forth in an executed or proposed marketing agreement, as the case may be, or in an appendix thereto, and (b) are made applicable only to persons in the respective classes of industrial or commercial activity specified in such executed or proposed agreement. Except in the case of milk and its products, tobacco, and sugar beets, no license issued under such clause (3) shall be effective with respect to any commodity (or product thereof) which on April 1, 1935, is defined, under section 11, as a basic agricultural commodity, nor shall any such license be effective with respect to any nonbasic agricultural commodity (or product thereof) except wool, mohair, fruits, and vegetables. No license shall be issued under such clause (3) which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several licenses applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or products would not effectively carry out the declared policy of this title. Licenses issued under such clause (3) shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable consistently with carrying out such declared policy. All licenses issued under such clause (3) which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms applicable to different production areas and marketing areas as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas. No license shall be issued under this title except in aid of an executed or proposed marketing agreement or appendix thereto. No license issued under such clause (3) shall be applicable to any person who sells agricultural commodities at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products. No license issued under this title shall be applicable to any producer in his capacity as a producer.

(B) Any licensee under any license issued pursuant to this title, or any officer, director, agent, or employee of such licensee, who violates any provision of such

license (other than a provision calling for payment of a pro rata share of expenses, shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided, however, That no person shall be convicted under this title because of any violation (1) of any license or (2) of any obligation imposed in connection therewith, if such violation occurs between the date upon which such person files with the Secretary a petition, with respect to such license or obligation, as provided for in this subsection, and five days after the Secretary enters an order thereon.*

(C) Any licensee may file a written petition with the Secretary of Agriculture stating that any such license or any provision of any such license or any obligation imposed in connection therewith is not in accordance with law. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture with the approval of the President. After such hearing, the Secretary shall make an order which shall be final, if in accordance with law. The District Court of the United States (including the Supreme Court of the District of Columbia) in any district in which such licensee is an inhabitant or has his principal place of business is hereby vested with jurisdiction in equity to review such order, provided a bill in equity for that purpose be filed within twenty days from the date of the entry of such order. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such order is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to enter such order as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. Nothing contained in this subsection shall be construed to prevent, hinder, or delay the United States or the Secretary of Agriculture from pursuing the remedies provided for in section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection) shall abate whenever a final decree has been rendered in proceedings between the same parties and covering the same subject matter instituted pursuant to this subsection.

(4) To require any licensee under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such systems of accounts, as may be necessary for the purpose of part 2 of this title.

(4a) (1) All parties to any marketing agreement, and all licensees subject to a license, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or license has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such licensee, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such licensee or (3) of any subsidiary of any such party, licensee, or person.

(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this subsection shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he is a party, and involving the marketing agreement or license with reference to which the information so to be disclosed was furnished or acquired. Nothing in this subsection shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of licensees, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any license, together with a statement of the particular provisions of the marketing agreement or license violated by such person. Any such officer or employee violating the provisions of this subsection shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

(5) No person engaged in the storage in a public warehouse of any basic agricultural commodity in the current of interstate or foreign commerce, shall deliver any such commodity upon which a warehouse receipt has been issued and is outstanding, without prior surrender and cancellation of such warehouse receipt. Any person violating any of the provisions of this subsection shall, upon conviction, be punished by a fine of not more than \$5,000, or by imprisonment for not more than two years, or both. The Secretary of Agriculture may revoke any license issued under subsection (3) of this section, if he finds, after due notice and opportunity for hearing, that the licensee has violated the provisions of this subsection.

(6) *The Secretary of Agriculture shall, whenever he determines that any license, or any provision thereof, obstructs and/or does not tend to effectuate the declared policy of this title, terminate, or suspend the operation of such license, or such provision thereof. The Secretary shall terminate any marketing agreement or license, at the end of the then current marketing period for such commodity as specified in such marketing agreement or license whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or license, provided that such majority have during such representative period produced for market more than 50 per centum of the volume of such commodity produced for market during such period, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or license.*

(7) *In connection with the making of any marketing agreement or the issuance of any license, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or license, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or license, shall be the post-war period, August 1919—July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture.*

* * * * *

(Sec. 8a) (7) Upon the request of the Secretary of Agriculture, it shall be the duty of the several district attorneys of the United States, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to, this title. *Whenever the Secretary, or such officer or employee of the Department as he may designate for the purpose, has reason to believe that any licensee has violated, or is violating, the provisions of any license heretofore or hereafter issued pursuant to this title, the Secretary shall have power to institute an investigation and, after due notice to such licensee, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.*

* * * * *

PROCESSING TAX

SEC. 9. (a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that [rental or benefit payments] any one or more payments authorized to be made under section 8 (1) are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year thereafter next following the date of such proclamation; except that (1) in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after the adoption of this amendment, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after the date of the adoption of this amendment, and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the com-

modity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that [rental or benefit payments] *all payments authorized under section 8 (1) which are in effect are to be discontinued with respect to such commodity.* The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided, That upon any article upon which a manufacturer's sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.*

(b) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, *plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (1) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (2) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax: Provided, however, That the rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate in order to effectuate the declared policy of the title; except that (1) if the Secretary has reason to believe that the tax at such rate on the processing of the commodity generally or for any particular use or uses will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties, and if thereupon the Secretary finds that any such result will occur, then the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, shall be at such rate as will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and (2) for the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be at the rate of 1 cent per pound of rough rice, subject, however, to any modification of such rate which may be made pursuant to any other provision of this title.* In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account. In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing. In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (1) of a ton of sugar beets and (2) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); except that such rate shall not exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.

(c) For the purposes of part 2 of this title, the fair-exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; [and the current average farm price and the fair-exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture] and, in the case of all commodities where the base period is the prewar period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair-exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title.

(SEC. 10) (b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of [rental or benefit payments] payments authorized to be made under section 8 (1). The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2) Each license issued by the Secretary under this title shall provide that each licensee thereunder shall pay to any authority or agency established under such license, such licensee's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than such licensees. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any licensee for the collection of such licensee's pro rata share of expenses. The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(c) The action of any officer, employee, or agent in determining the amount of and in making any [rental or benefit payment] payment authorized to be made under section 8 (1) shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

(i) The Secretary of Agriculture is authorized, in order to effectuate the declared policy of this title and in order to promote uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the production, handling, marketing, or sale of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State or Territory, to cooperate with such authorities, and to avail himself of services, records, and facilities of such authorities.

APPROPRIATION

SEC. 12. (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this title and for [rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title] payments authorized to be made under section 8 (1). Such sum shall remain available until expended.

To enable the Secretary of Agriculture to finance, under such terms and conditions as he may prescribe, surplus reductions and production adjustments with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section (12) and to support and

balance the markets for the dairy- and beef-cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000: *Provided*, That not more than 60 per centum of such amount shall be used for either of such industries.

(b) In addition to the foregoing, *for the purpose of effectuating the declared policy of this title*, the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for (1) **[expansion of markets and removal of surplus agricultural products]** *the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title*, and (2) the following purposes under part 2 of this title: Administrative expenses, **[rental and benefit payments,]** *payments authorized to be made under section 8 (1), and refunds on taxes.* The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this title.

(d) *There is authorized to be appropriated for each fiscal year, in addition to other amounts authorized or appropriated under this title, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of such fiscal year.* Sums appropriated in pursuance of such authorization shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to: (1) *Encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation, or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption;* (2) *purchase or lease, on behalf of the United States, sub-marginal agricultural and grazing lands;* and (3) *make payments, which shall not be considered rental or benefit payments, in connection with acreage or production adjustment of basic agricultural commodities.* The Secretary shall expend the amounts appropriated in pursuance of this subsection for such of the above specified purposes, and at such times, in such manner, and in such amounts as he finds and prescribes as best effectuating the policy of restoration of agricultural purchasing power as contemplated by section 2 of this title consistently with the fullest utilization of the productive capacity of land which can be profitably cultivated and with the most rapid expansion of exportation of agricultural commodities.

(e) *Amounts expended under this title which are expended for payments authorized to be made under section 8 (1) and administrative expenses in connection with any basic agricultural commodity, shall not be less than a sum equal to the proceeds of the taxes levied under this title with respect to such commodity.* For the purposes of this subsection: (1) *Amounts collected and expended from taxes, the proceeds of which under this title are held for, or paid for use in, any possession of the United States, shall not be included;* (2) *the amount of all refunds and abatements of taxes shall not be included;* and (3) *hogs and field corn may be considered as one commodity.*

* * * * *

(Sec. 15) (d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the **[processors]** *processors, producers, or both*, thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exists, or will exist, he shall proclaim such finding. The Secretary shall specify in this

proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity.

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Sec. 21. (a) Whenever the current average farm price of any agricultural commodity is less than the fair exchange value thereof, if the President has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to prevent such farm price from equalling such fair exchange value and to render ineffective any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the Secretary of Agriculture or the United States Tariff Commission, whichever he designates, to determine such facts. Such investigation shall be made after such notice and hearing and subject to such regulations as the President shall specify.

(b) If, after such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by order direct that the entry into the United States of such article or articles shall, for such time as may be specified by him, be permitted subject to (1) such terms and conditions, (2) such limitations on the total quantities thereof which may be imported, or (3) the payment of such compensating taxes, as he finds necessary to prescribe in order that the entry of such article or articles will not prevent such farm price from equalling such fair exchange value and to prevent the entry of such article or articles from rendering or tending to render ineffective such program or operation undertaken under this title. Any compensating tax imposed under this section shall be in addition to any tax imposed under section 10 (c) and the provisions of such section shall apply thereto.

(c) Any decision of the President as to facts under this section shall be final.

(d) Upon information of any order of the President under subsection (b), the Secretary of the Treasury shall permit entry of any article or articles specified therein only in conformity with such order.

(e) After investigation, report, and finding in the manner provided in the case of an original order, any order or provision thereof may be suspended or revoked by the President whenever he finds that the circumstances requiring the order or provision no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the provisions of this section.

MINORITY REPORT

This is not a minority report in the usual sense, as many of the undersigned members of the Committee on Agriculture favor several provisions of the bill and desire to reserve the right to vote for or against H. R. 8052 on final passage. The report is therefore made as an explanatory statement for the benefit of the membership of the House in order to clarify, as far as possible, any misinformation or misunderstanding as to the purport of the bill.

FARM LEGISLATION NOT POLITICAL

The subject of farm legislation has not been considered by the members of the Committee on Agriculture on a political or partisan basis. All members of the committee are in general and whole-hearted accord in any constructive effort which seeks to restore equality for agriculture and make farming a profitable enterprise. We are of the firm conviction that there will be no permanent recovery for the entire country until agriculture has been restored to a profitable basis.

We are not opposing certain parts of this legislation merely for the sake of being against something which has been proposed, as we have a sincere desire for this Congress, in its representative capacity, to enact a type of permanent beneficial legislation which will meet the needs of the present emergency and at the same time adequately serve the requirements of agriculture in a long-time program during normal times.

We are opposed to the further granting of additional authority and power by Congress to any governmental agency or officer for the purpose of regimenting farmers and the agricultural industry of this country as is proposed in certain sections of H. R. 8052.

PROPAGANDA

All Members of Congress have received scores of letters for and against the Agricultural Adjustment Administration amendments. Nearly all communications have referred to H. R. 5585, which bill has been modified and broadened in certain instances, and is now before the House as H. R. 8052.

Since April 1, 1935, Members of Congress from the Corn Belt sections have received hundreds of letters from farmers who are members of local corn-hog committees requesting the continuation of the corn-hog and corn-loan programs.

Neither H. R. 5585 or H. R. 8052 seeks to repeal or in any way curtail the present corn-hog or corn-loan program now in effect in the Agricultural Adjustment Act, and yet the originators of this propaganda, which no doubt was broadcast by interested parties in Washington to farmers in all sections of the country, have sent out misleading information in order to secure pressure for the passage of

H. R. 8052 which has nothing to do with the continuation of the corn-hog or corn-loan programs.

We are giving herewith a copy of the misleading propaganda above referred to. The names of Representatives, Senators, and the department chief have been omitted, as we have no desire to cause embarrassment for anyone at this time.

PROPAGANDA CIRCULAR

We have been asked by those vitally interested in the welfare of the farmer to contact some in this county requesting them to write to the names of the parties listed below urging them to favor the Agricultural Adjustment Administration program and support all measures pertaining to the continuation of corn-hog section of the administration.

There are opposing factions in Washington and throughout the country who are doing everything possible to hinder the organization and collective action of the farmer.

Won't you please write to these parties and assume the responsibility to do so at once?

If you believe in the policy of the administration, tell them; and if you have been benefited by the corn-hog program let them know it and how you have been helped.

Below you will find a few suggestions that may help you. Your cooperation is earnestly desired and your prompt action is necessary.

Favor amendments.—Farm grain storage (ever normal granary); long time program; planned agriculture (corn-loan program); licensing power (of packers, etc.); collect processing tax without paying on any particular commodity (distribution of processing tax to all farm commodities).

MARKETING AGREEMENTS AND LICENSES

In the hearings before the committee, Mr. Chester Davis, Chief of the Agricultural Adjustment Administration, and Secretary Wallace, both stated that the existing law conferred upon the Secretary the power to negotiate marketing agreements and impose licenses. As evidence of this fact, the committee was advised that the Secretary had approved 66 marketing agreements and issued 7,700 licenses to handlers, processors, and distributors. We were informed that the necessity for the enactment of the license provisions of H. R. 8052 was largely for the purpose of confirming and clarifying powers already granted to the Secretary of Agriculture by the Agricultural Adjustment Act.

It is difficult for us to understand the very indefinite and vague reasons given by the officials of the Department of Agriculture for the necessity for this bill, when they already claim the authority and have acted thereunder by the approval of a large number of marketing agreements and licenses, unless it is the purpose of the Secretary to further tighten his control over farmers and the handlers, distributors, and processors of farm products.

If the purpose of the legislation is to establish congressional intent in order to aid the courts in interpreting a Federal act, it is presumptuous on our part to even intimate that Congress should first have a clear conception or understanding of what is intended by the language in the bill.

At the present time it is doubtful if any member of the committee has a clear conception of the extent of the authority being conferred by the bill upon the Secretary. Therefore, our only conclusion can be that there is no limit to what he can do with the powers delegated to him.

APPARENT EXEMPTIONS FOR FARMERS AND RETAILERS FROM LICENSES

While section 4 of the bill definitely provides that no producer or retailer shall be licensed, unless he is a retailer of milk and its products, your attention is invited to the fact that the moment this producer or retailer attempts to sell commercially any farm product, he immediately becomes subject to all licensing provisions of paragraphs 1 and 2 of said section. All retailers of milk, butter, cheese, and other dairy products may be subjected to an arbitrary license imposed by the Secretary of Agriculture. It is estimated that more than 1,000,000 retail dealers could be licensed.

Paragraph 1 of section 4 relates to imposed licenses so as to eliminate unfair practices or charges. It is pointed out that if the Secretary of Agriculture should come to the determination that a few farmers or retail dealers in agricultural commodities were engaging in unfair practices or charges, this bill gives the Secretary the authority to license all farmer producers who deal commercially (and scores of thousands of farmers do so now), as well as all retailers, in farm commodities. If Mr. Farmer or Mr. Retailer would refuse to conduct his business under rules and regulations issued by the Secretary in a license, he would be guilty of a Federal crime and subject to a fine of not less than \$50 or more than \$500 per day for each violation.

Paragraph 2 of section 4 provides for the issuance of a license to make any marketing plan effective provided the marketing agreement is signed by persons handling not less than 50 percent of the volume of the business done in the respective classes of industrial or commercial activity specified in such agreement.

IMPOSED LICENSES

Paragraph 3 of section 4 gives the Secretary the arbitrary right with the approval of the President, in order to carry out proposed marketing agreements to impose licenses upon producers, retailers, processors, distributors, and handlers of milk and its products, tobacco, sugar beets, wool, mohair, fruits, and vegetables. Section 11 of the Agricultural Adjustment Act defines "basic agricultural commodity" to mean: Wheat, rye, flax, barley, cotton, field corn, grain sorghums, hogs, cattle, rice, tobacco, sugar beets, sugarcane, peanuts, and milk and its products. Section 4 of H. R. 8052 provides—

except in the case of milk and its products, tobacco, and sugar beets, no license issued under such clause (3) shall be effective with respect to any commodity or product thereof which on April 1, 1935, is defined, under section 11, as a basic agricultural commodity.

With the exemptions noted as to basic commodities, the Secretary is given the power to impose licenses upon retailers, handlers, processors, and distributors of canned and fresh vegetables, all fruits, milk and its products, tobacco, sugar beets, wool, and mohair.

Cooperative creameries, cheese factories, fruit and vegetable associations, livestock associations, poultry associations, and other co-operatives and individuals and concerns dealing in farm commodities processed or otherwise, will be compelled, if the Secretary of Agriculture so decrees, to conduct their business under a license issued at his pleasure and according to rules and regulations promulgated by some Government clerk, who may know nothing about the operation

of any great basic industry, and simply issue orders or regulations to satisfy some whim or pet theory.

The authority granted to the Secretary of Agriculture is absolute and goes far beyond any authority heretofore conferred upon him by Congress. We do not say that the Secretary will abuse this additional authority, but we feel that Congress is stepping on dangerous ground should the additional delegation be made.

MARKETING AREAS

The Secretary is given the authority to establish marketing areas in order to make effective marketing agreements. We are opposed to the grant of this power particularly as to nationally produced agricultural products, as we feel that it is contrary to any American policy to arbitrarily establish trade barriers between regions and States in this country. No legislative barrier should be erected so as to interrupt the free flow of commerce between the citizens of various States. In other words, the powers conferred here will authorize the establishment of restrictive trade areas within the United States between various sections within a State and between States. Instead of having 48 United States, this legislation will establish 48 small countries fighting an economic warfare. We are opposed to this policy.

MINORITIES

The Secretary is granted the authority to issue rules and regulations in connection with marketing agreements and licenses. Subdivision (b), of paragraph 3, of section 4, provides that producers of two-thirds of the volume of any commodity may propose a marketing agreement, whereupon the Secretary shall dictate the terms and issue licenses to make same effective. The terms of the marketing agreement and license could absolutely stop one-third of the producers from having any market whatsoever for their products if they refused to sign the marketing agreements. A license might provide that the distributor or processor could only buy from producers who signed the marketing agreement. If a handler or processor would refuse to be licensed, he would be put out of business.

QUOTAS AND ALLOTMENTS

The provisions relating to the establishment of quotas and allotments by two-thirds of the producers of any one commodity was stricken from the bill. We do not know the reason for the elimination of this important section, as it was a limitation upon the authority of the Secretary. The removal of this limitation gives the Secretary unlimited authority to fix quotas and allotments as to production and marketing.

DEVELOPMENT OF DOMESTIC AND FOREIGN MARKETS

In addition to these provisions, H. R. 8052, contains a separate and new subject matter which deals with the disposal of surplus farm products in foreign and domestic markets under an arrangement whereby the American producer will receive a domestic price for that

part of his product which is used in domestic consumption, and making possible the disposal of surplus farm commodities at world price levels in foreign markets by the payment to exporters of the difference between the world price and the domestic price. The principles embodied in this part of the bill are taken from the Jones export debenture plan, as proposed by our distinguished chairman, and the McNary-Haugen farm-relief bill, both of which have been considered by recent Congresses and we believe are thoroughly understood and desired by the farmers of this country.

A large majority of the membership of the Committee on Agriculture favor this plan, and the undersigned minority feel that this proposal should be considered by the present Congress in a separate bill wholly divorced from the many complicated sections relating to marketing agreements and licenses. We also favor the provisions of the bill relating to the payment in kind and the grain-storage loan section of the legislation.

Respectfully submitted.

L. T. MARSHALL.
J. ROLAND KINZER.
PHILIP A. GOODWIN.
AUGUST H. ANDRESEN.
HARRY P. BEAM.
CHARLES W. TOBEY.

MAY 15, 1935.

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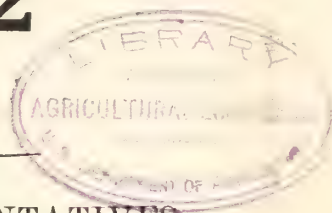


Union Calendar No. 317

74TH CONGRESS
1ST SESSION

H. R. 8052

[Report No. 952]



IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1935

Mr. JONES introduced the following bill; which was referred to the Committee on Agriculture and ordered to be printed

MAY 15, 1935

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

A BILL

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the first sentence of subsection (1) of section 2 of
4 the Agricultural Adjustment Act, as amended, is amended
5 by inserting before the period at the end thereof a semicolon
6 and the following: "and, in the case of all commodities
7 for which the base period is the pre-war period, August 1909
8 to July 1914, will also reflect current interest payments
9 per acre on farm indebtedness secured by real estate and
10 tax payments per acre on farm real estate, as contrasted

1 with such interest payments, and tax payments during the
2 base period ”.

3 (b) Subsection (1) of section 2 of the Agricultural
4 Adjustment Act, as amended, is amended by inserting in
5 the second sentence after “tobacco” a comma and the
6 words “wool, and mohair”; and by inserting in the third
7 sentence after “tobacco,” the words “wool, and mohair”.

8 SEC. 2. Subsection (1) of section 8 of the Agricul-
9 tural Adjustment Act, as amended, is amended as follows:

10 (a) By inserting “(A)” after “(1)”;

11 (b) By striking out the word “reduction” wherever
12 it appears in the first sentence thereof and inserting in
13 lieu thereof the word “adjustment”;

14 (c) By striking out the semicolon in the first sen-
15 tence thereof and inserting in lieu thereof “or to be made
16 in quantities of one or more agricultural commodities
17 acquired by the Secretary of Agriculture pursuant to this
18 title” and a semicolon; and

19 (d) By adding at the end of subsection (1) the
20 following new paragraph:

21 “(B) To provide, in the case of any basic agricul-
22 tural commodity (whether or not a program of adjustment
23 in the acreage or adjustment in the production for market
24 of such commodity is in effect in pursuance of paragraph
25 (A)), for payments for expansion of domestic or foreign

1 markets thereof, payments for removal of surpluses thereof
2 or surplus products thereof, and payments in connection with
3 the production of that part thereof required for domestic
4 consumption, or any one or more such payments. Such
5 payments shall be made in such amounts as the Secretary
6 of Agriculture deems fair and reasonable and shall be made
7 out of moneys available for such payments or in quantities
8 of one or more agricultural commodities acquired by the
9 Secretary pursuant to this title. Payments authorized under
10 this paragraph may be made in combination with payments
11 made in pursuance of paragraph (A). No payment under
12 this title made in an agricultural commodity acquired by
13 the Secretary in pursuance of this title shall be made in a
14 commodity other than that in respect of which the payment
15 is being made.”

16 SEC. 3. The first sentence of subsection (b) of section 12
17 of the Agricultural Adjustment Act, as amended, is amended
18 to read as follows: “In addition to the foregoing, for the
19 purpose of effectuating the declared policy of this title, the
20 proceeds derived from all taxes imposed under this title are
21 hereby appropriated to be available to the Secretary of
22 Agriculture for (1) the acquisition of any agricultural com-
23 modity pledged as security for any loan made by any Federal
24 agency, which loan was conditioned upon the borrower
25 agreeing or having agreed to cooperate with a program of

1 production adjustment or marketing adjustment adopted
2 under the authority of this title, and (2) the following pur-
3 poses under part 2 of this title: Administrative expenses,
4 payments authorized to be made under section 8 (1), and
5 refunds on taxes.”

6 SEC. 4. Subsection (3) of section 8 of the Agricul-
7 tural Adjustment Act, as amended, is amended to read as
8 follows:

9 “(3) (A) After due notice and opportunity for hear-
10 ing, and upon a finding by the Secretary that such action
11 will tend to effectuate the declared policy of this title, to
12 issue licenses to processors, associations of producers, and
13 others engaged in the handling of any agricultural com-
14 modity or product thereof, or any competing commodity
15 or product thereof, in the current of or in competition with
16 or so as to burden, obstruct, or in any way affect, interstate
17 or foreign commerce. Such licenses shall provide that
18 such handling may be engaged in by the licensees only
19 upon such terms and conditions, not in conflict with exist-
20 ing Acts of Congress or regulations pursuant thereto, as
21 may be necessary for any one or more of the following
22 purposes:

23 “(1) To eliminate unfair practices or charges that
24 prevent or tend to prevent the effectuation of the
25 declared policy and the restoration of normal economic

1 conditions in the marketing of such commodities or
2 products and the financing thereof.

3 “(2) To make effective any marketing plan set
4 forth in any marketing agreement (or appendix
5 thereto) signed by the persons handling not less than
6 50 per centum of the volume of the business done in
7 the respective classes of industrial or commercial activ-
8 ity specified in such agreement.

9 “(3) To make effective the marketing plan set
10 forth in any proposed marketing agreement (or
11 appendix thereto), on which a hearing has been held,
12 whenever the Secretary, with the approval of the
13 President, determines—

14 “(a) That the refusal or failure to sign such
15 proposed agreement by the persons handling more
16 than 50 per centum of the volume of business
17 done in any class of industrial or commercial
18 activity specified therein tends to prevent the
19 effectuation of the declared policy with respect
20 to the commodity or product specified in such
21 proposed agreement, and

22 “(b) that the issuance of such license is the
23 only practical means of advancing the interests of
24 the producers of such commodity pursuant to the
25 declared policy, and is approved or favored by at

1 least two-thirds of the producers who, during
2 a representative period determined by the Secre-
3 tary, have been engaged in the production for
4 market of the commodity specified in such mar-
5 keting agreement or license, or by producers who,
6 during such representative period, have produced
7 for market at least two-thirds of the volume of
8 such commodity produced for market during such
9 period.

10 No license shall be issued pursuant to clause (2) or clause
11 (3) of the preceding sentence unless the terms and condi-
12 tions thereof (a) have been set forth in an executed or
13 proposed marketing agreement, as the case may be, or in an
14 appendix thereto, and (b) are made applicable only to
15 persons in the respective classes of industrial or commercial
16 activity specified in such executed or proposed agreement.
17 Except in the case of milk and its products, tobacco, and
18 sugar beets, no license issued under such clause (3) shall
19 be effective with respect to any commodity (or product
20 thereof) which on April 1, 1935, is defined, under section 11,
21 as a basic agricultural commodity, nor shall any such license
22 be effective with respect to any nonbasic agricultural com-
23 modity (or product thereof) except wool, mohair, fruits,
24 and vegetables. No license shall be issued under such
25 clause (3) which is applicable to all production areas

1 or marketing areas, or both, of any commodity or prod-
2 uct thereof unless the Secretary finds that the issuance
3 of several licenses applicable to the respective regional
4 production areas or regional marketing areas, or both, as
5 the case may be, of the commodity or product would not
6 effectively carry out the declared policy of this title.
7 Licenses issued under such clause (3) shall be limited in
8 their application to the smallest regional production areas
9 or regional marketing areas, or both, as the case may be,
10 which the Secretary finds practicable consistently with car-
11 rying out such declared policy. All licenses issued under
12 such clause (3) which are applicable to the same commod-
13 ity or product thereof shall, so far as practicable, prescribe
14 such different terms applicable to different production
15 areas and marketing areas as the Secretary finds neces-
16 sary to give due recognition to the differences in produc-
17 tion and marketing of such commodity or product in such
18 areas. No license shall be issued under this title except in
19 aid of an executed or proposed marketing agreement or
20 appendix thereto. No license issued under such clause (3)
21 shall be applicable to any person who sells agricultural com-
22 modities at retail in his capacity as such retailer, except
23 to a retailer in his capacity as a retailer of milk and its
24 products. No license issued under this title shall be appli-
25 cable to any producer in his capacity as a producer.

1 “(B) Any licensee under any license issued pursuant
2 to this title, or any officer, director, agent, or employee of
3 such licensee, who violates any provision of such license
4 (other than a provision calling for payment of a pro rata
5 share of expenses) shall, on conviction, be fined not less
6 than \$50 or more than \$500 for each such violation, and
7 each day during which such violation continues shall be
8 deemed a separate violation: *Provided, however,* That no
9 person shall be convicted under this title because of any
10 violation (1) of any license or (2) of any obligation im-
11 posed in connection therewith, if such violation occurs be-
12 tween the date upon which such person files with the Secre-
13 tary a petition, with respect to such license or obligation,
14 as provided for in this subsection, and five days after the
15 Secretary enters an order thereon.

16 “(C) Any licensee may file a written petition with the
17 Secretary of Agriculture stating that any such license or any
18 provision of any such license or any obligation imposed in
19 connection therewith is not in accordance with law. He
20 shall thereupon be given an opportunity for a hearing upon
21 such petition, in accordance with regulations made by the
22 Secretary of Agriculture with the approval of the President.
23 After such hearing, the Secretary shall make an order which
24 shall be final, if in accordance with law. The District Court
25 of the United States (including the Supreme Court of

1 the District of Columbia) in any district in which such
2 licensee is an inhabitant or has his principal place of
3 business is hereby vested with jurisdiction in equity to
4 review such order, provided a bill in equity for that
5 purpose be filed within twenty days from the date of the
6 entry of such order. Service of process in such proceedings
7 may be had upon the Secretary by delivering to him a
8 copy of the bill of complaint. If the court determines that
9 such order is not in accordance with law, it shall remand such
10 proceedings to the Secretary with directions either (1)
11 to enter such order as the court shall determine to be in
12 accordance with law, or (2) to take such further pro-
13 ceedings as, in its opinion, the law requires. Nothing con-
14 tained in this subsection shall be construed to prevent, hinder,
15 or delay the United States or the Secretary of Agriculture
16 from pursuing the remedies provided for in section 8a (6)
17 of this title. Any proceedings brought pursuant to section
18 8a (6) of this title (except where brought by way of counter-
19 claim in proceedings instituted pursuant to this subsection)
20 shall abate whenever a final decree has been rendered in
21 proceedings between the same parties and covering the same
22 subject matter instituted pursuant to this subsection."

23 SEC. 5. Section 8 of the Agricultural Adjustment Act,
24 as amended, is further amended by adding after subsection
25 (4) the following new subsection:

1 “(4a) (1) All parties to any marketing agreement,
2 and all licensees subject to a license, shall severally, from
3 time to time, upon the request of the Secretary, furnish him
4 with such information as he finds to be necessary to enable
5 him to ascertain and determine the extent to which such
6 agreement or license has been carried out or has effectuated
7 the declared policy of this title, and with such information as
8 he finds to be necessary to determine whether or not there
9 has been any abuse of the privilege of exemptions from the
10 antitrust laws. Such information shall be furnished in
11 accordance with forms of reports to be prescribed by the
12 Secretary. For the purpose of ascertaining the correctness
13 of any report made to the Secretary pursuant to this sub-
14 section, or for the purpose of obtaining the information
15 required in any such report where it has been requested and
16 has not been furnished, the Secretary is hereby authorized
17 to examine such books, papers, records, accounts, corre-
18 spondence, contracts, documents, or memoranda, as he deems
19 relevant and which are within the control (1) of any such
20 party to such marketing agreement, or any such licensee,
21 from whom such report was requested or (2) of any person
22 having, either directly or indirectly, actual or legal control
23 of or over such party or such licensee or (3) of any sub-
24 sidiary of any such party, licensee, or person.

1 “(2) Notwithstanding the provisions of section 7, all
2 information furnished to or acquired by the Secretary of
3 Agriculture pursuant to this subsection shall be kept confi-
4 dential by all officers and employees of the Department of
5 Agriculture and only such information so furnished or
6 acquired as the Secretary deems relevant shall be disclosed
7 by them and then only in a suit or administrative hearing
8 brought at the direction, or upon the request, of the Secre-
9 tary of Agriculture, or to which he is a party, and involving
10 the marketing agreement or license with reference to which
11 the information so to be disclosed was furnished or acquired.
12 Nothing in this subsection shall be deemed to prohibit (A)
13 the issuance of general statements based upon the reports
14 of a number of parties to a marketing agreement or of
15 licensees, which statements do not identify the information
16 furnished by any person, or (B) the publication by direction
17 of the Secretary, of the name of any person violating any
18 marketing agreement or any license, together with a state-
19 ment of the particular provisions of the marketing agreement
20 or license violated by such person. Any such officer or
21 employee violating the provisions of this subsection shall
22 upon conviction be subject to a fine of not more than \$1,000
23 or to imprisonment for not more than one year, or to both,
24 and shall be removed from office.”

1 SEC. 6. Section 8 of the Agricultural Adjustment Act,
2 as amended, is further amended by adding after subsection
3 (5) thereof the following new subsections:

4 “(6) The Secretary of Agriculture shall, whenever he
5 determines that any license, or any provision thereof, ob-
6 structs and/or does not tend to effectuate the declared policy
7 of this title, terminate or suspend the operation of such
8 license, or such provision thereof. The Secretary shall ter-
9 minate any marketing agreement or license, at the end of
10 the then current marketing period for such commodity as
11 specified in such marketing agreement or license whenever
12 he finds that such termination is favored by a majority of
13 the producers who, during a representative period determined
14 by the Secretary, have been engaged in the production for
15 market of the commodity specified in such marketing agree-
16 ment or license, provided that such majority have during
17 such representative period produced for market more than
18 50 per centum of the volume of such commodity produced
19 for market during such period, but such termination shall
20 be effective only if announced on or before such date (prior
21 to the end of the then current marketing period) as may
22 be specified in such marketing agreement or license.

23 “(7) In connection with the making of any marketing
24 agreement or the issuance of any license, if the Secretary
25 finds and proclaims that, as to any commodity specified in

1 such marketing agreement or license, the purchasing power
2 during the base period specified for such commodity in
3 section 2 of this title cannot be satisfactorily determined
4 from available statistics of the Department of Agriculture,
5 the base period, for the purposes of such marketing agree-
6 ment or license, shall be the post-war period, August 1919-
7 July 1929, or all that portion thereof for which the Secretary
8 finds and proclaims that the purchasing power of such
9 commodity can be satisfactorily determined from available
10 statistics of the Department of Agriculture.”

11 SEC. 7. Subsection (7) of section 8a of the Agricul-
12 tural Adjustment Act, as amended, is amended by inserting
13 at the end thereof the following new sentence: “Whenever
14 the Secretary, or such officer or employee of the Department
15 as he may designate for the purpose, has reason to believe
16 that any licensee has violated, or is violating, the provisions
17 of any license heretofore or hereafter issued pursuant to
18 this title, the Secretary shall have power to institute an
19 investigation and, after due notice to such licensee, to
20 conduct a hearing in order to determine the facts for the
21 purpose of referring the matter to the Attorney General
22 for appropriate action.”

23 SEC. 8. (a) Subsection (a) of section 9 of the Agri-
24 cultural Adjustment Act, as amended, is amended by striking
25 out all of the second sentence preceding the semicolon and

1 inserting in lieu thereof the following: “ When the Secretary
2 of Agriculture determines that any one or more payments
3 authorized to be made under section 8 (1) are to be made
4 with respect to any basic agricultural commodity, he shall
5 proclaim such determination, and a processing tax shall be
6 in effect with respect to such commodity from the beginning
7 of the marketing year therefor next following the date of
8 such proclamation ”.

9 (b) The eighth sentence of such subsection (a) is
10 amended by striking out “ rental or benefit payments ” and
11 inserting in lieu thereof: “ all payments authorized under
12 section 8 (1) which are in effect ”.

13 SEC. 9. The first sentence of subsection (b) of section
14 9 of the Agricultural Adjustment Act, as amended, is fur-
15 ther amended by striking out the semicolon and inserting
16 in lieu thereof a comma and the following: “ plus such per-
17 centage of such difference, not to exceed 20 per centum, as
18 the Secretary of Agriculture may determine will result in
19 the collection, in any marketing year with respect to which
20 such rate of tax may be in effect pursuant to the provisions
21 of this title, of an amount of tax equal to (1) the amount of
22 credits or refunds which he estimates will be allowed or made
23 during such period pursuant to section 15 (c) with respect
24 to the commodity and (2) the amount of tax which he
25 estimates would have been collected during such period

1 upon all processings of such commodity which are exempt
2 from tax by reason of the fact that such processings are done
3 by or for a State, or a political subdivision or an institution
4 thereof, had such processings been subject to tax: *Provided,*
5 *however,* That the rate of tax upon the processing of any
6 commodity, in effect on the date on which this amendment
7 is adopted, shall not be affected by the adoption of this
8 amendment and shall not be required to be adjusted or
9 altered, unless the Secretary of Agriculture finds that it is
10 necessary to adjust or alter any such rate in order to effectu-
11 ate the declared policy of the title;”.

12 SEC. 10. Subsection (c) of section 9 of the Agri-
13 cultural Adjustment Act, as amended, is amended to read
14 as follows:

15 “(c) For the purposes of part 2 of this title, the fair
16 exchange value of a commodity shall be the price therefor
17 that will give the commodity the same purchasing power,
18 with respect to articles farmers buy, as such commodity had
19 during the base period specified in section 2; and, in the
20 case of all commodities where the base period is the pre-war
21 period, August 1909 to July 1914, will also reflect interest
22 payments per acre on farm indebtedness secured by real
23 estate and tax payments per acre on farm real estate, as
24 contrasted with such interest payments and tax payments
25 during said base period; and the current average farm price

1 and the fair exchange value shall be ascertained by the
2 Secretary of Agriculture from available statistics of the
3 Department of Agriculture. The rate of tax upon the
4 processing of any commodity, in effect on the date on which
5 this amendment is adopted, shall not be affected by the
6 adoption of this amendment and shall not be required to
7 be adjusted or altered, unless the Secretary of Agriculture
8 finds that it is necessary to adjust or alter any such rate
9 pursuant to section 9 (a) of this title.”

10 SEC. 11. Subsection (b) of section 10 of the Agricul-
11 tural Adjustment Act, as amended, is amended to read as
12 follows:

13 “(b) (1) The Secretary of Agriculture is authorized
14 to establish, for the more effective administration of the
15 functions vested in him by this title, State and local com-
16 mittees, or associations of producers, and to permit coopera-
17 tive associations of producers, when in his judgment they
18 are qualified to do so, to act as agents of their members
19 and patrons in connection with the distribution of payments
20 authorized to be made under section 8 (1). The Secretary,
21 in the administration of this title, shall accord such recogni-
22 tion and encouragement to producer-owned and producer-
23 controlled cooperative associations as will be in harmony
24 with the policy toward cooperative associations set forth in
25 existing Acts of Congress, and as will tend to promote
26 efficient methods of marketing and distribution.

1 “(2) Each license issued by the Secretary under this
2 title shall provide that each licensee thereunder shall pay
3 to any authority or agency established under such license,
4 such licensee’s pro rata share (as approved by the Secre-
5 tary) of such expenses as the Secretary may find will
6 necessarily be incurred by such authority or agency, during
7 any period specified by him, for the maintenance and func-
8 tioning of such authority or agency, other than expenses
9 incurred in receiving, handling, holding, or disposing of
10 any quantity of a commodity received, handled, held, or
11 disposed of by such authority or agency for the benefit or
12 account of persons other than such licensees. Any such
13 authority or agency may maintain in its own name, or in
14 the names of its members, a suit against any licensee for
15 the collection of such licensee’s pro rata share of expenses.
16 The several district courts of the United States are hereby
17 vested with jurisdiction to entertain such suits regardless
18 of the amount in controversy.”

19 SEC. 12. Subsection (e) of section 10 of the Agricul-
20 tural Adjustment Act, as amended, is amended by striking
21 out “ rental or benefit payment ” and inserting in lieu thereof
22 “ payment authorized to be made under section 8 (1) ”.

23 SEC. 13. Section 10 of the Agricultural Adjustment
24 Act, as amended, is amended by inserting at the end thereof
25 the following new subsection:

1 “(i) The Secretary of Agriculture is authorized, in
2 order to effectuate the declared policy of this title and in order
3 to promote uniformity in the formulation, administration, and
4 enforcement of Federal and State programs relating to the
5 regulation of the production, handling, marketing, or sale of
6 agricultural commodities or products thereof, to confer with
7 and hold joint hearings with the duly constituted authorities
8 of any State or Territory, to cooperate with such authorities,
9 and to avail himself of services, records, and facilities of
10 such authorities.”

11 SEC. 14. The first sentence of subsection (a) of section
12 12 of the Agricultural Adjustment Act, as amended, is
13 amended by striking out “ rental and benefit payments made
14 with respect to reduction in acreage or reduction in produc-
15 tion for market under part 2 of this title ” and inserting in
16 lieu thereof “ payments authorized to be made under section
17 8 (1) ”.

18 SEC. 15. Section 12 of the Agricultural Adjustment
19 Act, as amended, is amended by adding at the end thereof
20 the following new subsection:

21 “(d) There is authorized to be appropriated for each
22 fiscal year, in addition to other amounts authorized or appro-
23 priated under this title, an amount equal to 30 per centum of
24 the gross receipts from duties collected under the customs
25 laws during the period January 1 to December 31, both

1 inclusive, preceding the beginning of such fiscal year. Sums
2 appropriated in pursuance of such authorization shall be
3 maintained in a separate fund and shall be used by the
4 Secretary of Agriculture only to: (1) Encourage the ex-
5 portation of agricultural commodities and products thereof
6 by the payment of benefits in connection with the exporta-
7 tion thereof or of indemnities for losses incurred in con-
8 nection with such exportation or by payments to producers
9 in connection with the production of that part of any
10 agricultural commodity required for domestic consumption;
11 (2) purchase or lease, on behalf of the United States,
12 submarginal agricultural and grazing lands; and (3) make
13 payments, which shall not be considered rental or benefit
14 payments, in connection with acreage or production adjust-
15 ment of basic agricultural commodities. The Secretary shall
16 expend the amounts appropriated in pursuance of this sub-
17 section for such of the above-specified purposes, and at such
18 times, in such manner, and in such amounts as he finds and
19 prescribes as best effectuating the policy of restoration of
20 agricultural purchasing power as contemplated by section 2
21 of this title consistently with the fullest utilization of the
22 productive capacity of land which can be profitably culti-
23 vated and with the most rapid expansion of exportation of
24 agricultural commodities.”

1 SEC. 16. Section 12 of the Agricultural Adjustment
2 Act, as amended, is amended by adding at the end thereof
3 the following new subsection:

4 “(e) Amounts expended under this title which are
5 expended for payments authorized to be made under section
6 8 (1) and administrative expenses in connection with any
7 basic agricultural commodity, shall not be less than a sum
8 equal to the proceeds of the taxes levied under this title
9 with respect to such commodity. For the purposes of this
10 subsection: (1) Amounts collected and expended from taxes
11 the proceeds of which under this title are held for, or paid
12 for use in, any possession of the United States shall not be
13 included; (2) the amount of all refunds and abatements of
14 taxes shall not be included; and (3) hogs and field corn
15 may be considered as one commodity.”

16 SEC. 17. The first sentence of subsection (d) of section
17 15 of the Agricultural Adjustment Act, as amended, is
18 amended by inserting after “processors” a comma and the
19 phrase “producers, or both,”.

20 SEC. 18. The Agricultural Adjustment Act, as amended,
21 is amended by inserting after section 20 the following new
22 section:

23 “SEC. 21. (a) Whenever the current average farm
24 price of any agricultural commodity is less than the fair ex-
25 change value thereof, if the President has reason to believe

1 that any one or more articles are being imported or are likely
2 to be imported into the United States under such conditions
3 and in sufficient quantities to prevent such farm price from
4 equalling such fair exchange value and to render ineffective
5 any program or operation undertaken under this title, he
6 shall cause an immediate investigation to be made by the
7 Secretary of Agriculture or the United States Tariff Com-
8 mission, whichever he designates, to determine such facts.
9 Such investigation shall be made after such notice and hear-
10 ing and subject to such regulations as the President shall
11 specify.

12 “(b) If, after such investigation and report to him of
13 findings and recommendations made in connection therewith,
14 the President finds the existence of such facts, he shall by
15 order direct that the entry into the United States of such
16 article or articles shall, for such time as may be specified
17 by him, be permitted subject to (1) such terms and condi-
18 tions, (2) such limitations on the total quantities thereof
19 which may be imported, or (3) the payment of such com-
20 pensating taxes as he finds necessary to prescribe in order
21 that the entry of such article or articles will not prevent such
22 farm price from equalling such fair exchange value and to
23 prevent the entry of such article or articles from rendering
24 or tending to render ineffective such program or operation
25 undertaken under this title. Any compensating tax imposed

1 under this section shall be in addition to any tax imposed
2 under section 10 (e) and the provisions of such section
3 shall apply thereto.

4 “(c) Any decision of the President as to facts under
5 this section shall be final.

6 “(d) Upon information of any order of the President
7 under subsection (b), the Secretary of the Treasury shall
8 permit entry of any article or articles specified therein only
9 in conformity with such order.

10 “(e) After investigation, report, and finding in the
11 manner provided in the case of an original order, any order
12 or provision thereof may be suspended or revoked by the
13 President whenever he finds that the circumstances requir-
14 ing the order or provision no longer exist, or may be modi-
15 fied by the President whenever he finds that changed
16 circumstances require such modification to carry out the
17 provisions of this section.”

18 SEC. 19. The Secretary of Agriculture is authorized
19 to use as much as he finds advisable of the funds appro-
20 priated by the second paragraph of Public Resolution Num-
21 bered 27, Seventy-third Congress, approved May 25, 1934,
22 to carry out section 6 of the Act entitled “An Act to amend
23 the Agricultural Adjustment Act so as to include cattle
24 and other products as basic agricultural commodities, and
25 for other purposes”, approved April 7, 1934, for experi-

1 mentation and efforts to eradicate Bang's disease in cattle.
2 The sums made available for such purposes by this section
3 shall be available until December 31, 1937, and may be used
4 for all necessary expenses in connection therewith, including
5 the employment of persons and means in the District of
6 Columbia and elsewhere.

7 SEC. 20. Nothing contained in this Act shall invalidate
8 any marketing agreement or license in existence on the date
9 of the enactment hereof, or any provision thereof, nor any
10 act done pursuant thereto, either before or after the enact-
11 ment of this Act.

74TH CONGRESS }
1ST Session

H. R. 8052

[Report No. 952]

A BILL

To amend the Agricultural Adjustment Act,
and for other purposes.

By Mr. JONES

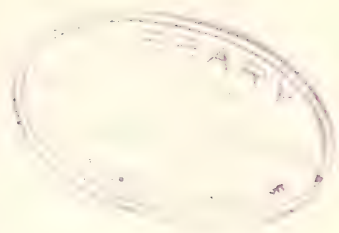
MAY 14, 1935

Referred to the Committee on Agriculture and ordered
to be printed

MAY 15, 1935

Committed to the Committee of the Whole House on
the state of the Union and ordered to be printed





IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 22), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BYRD to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 3, lines 7 and 8, strike out "or in competi-
2 tion with or so as to burden, obstruct, or in any way
3 affect,".

4 On page 4, line 16, strike out the word "or" where
5 it appears the second time and insert the word "and".

6 On page 5, line 1, after the period, insert the follow-
7 ing new sentence: "No license shall be issued under this
8 title except in aid of an executed or proposed marketing
9 agreement or appendix thereto."

10 On page 5, line 3, before the period, insert a semicolon
11 and the following: "and for the purpose of determining

1 the application of any such license, the preparation of a
 2 commodity by the producer thereof for market or for dis-
 3 tribution or use which does not involve a material change
 4 in the form of the commodity, and the sale by the producer
 5 of the commodity so prepared, shall not be construed to
 6 affect his capacity as a producer ”.

AMENDMENTS

Intended to be proposed by Mr. BYRD to the
 bill (S. 1807) to amend the Agricultural
 Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 22), 1935

Ordered to lie on the table and to be printed

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 22), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BYRD to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 9, beginning with line 11, strike out through
2 the word " he " in line 16.

3 On page 10, line 2, after the period and before the
4 quotation marks insert the following new sentences: " The
5 Secretary of Agriculture shall by order terminate or suspend
6 the operation of any license, or any provision thereof, when-
7 ever he finds, after notice to the licensee and an opportunity
8 for him to be heard, that such license, or such provision
9 thereof, obstructs and/or does not tend to effectuate the
10 declared policy of this title. The order of the Secretary in
11 any such case shall be final, if in accordance with law, and
12 any such order shall be subject to judicial review in the
13 same manner and to the same extent as an order made by
14 the Secretary under subsection (3) (B) of this section."

AMENDMENTS

Intended to be proposed by Mr. BYRD to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 22), 1935

Ordered to lie on the table and to be printed



74TH CONGRESS
1ST SESSION

House Calendar No. 116

H. RES. 230

[Report No. 987]

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 1935

Mr. O'CONNOR, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

1 *Resolved*, That immediately upon the adoption of this
2 resolution it shall be in order to move that the House resolve
3 itself into the Committee of the Whole House on the state
4 of the Union for consideration of H. R. 8052, a bill to amend
5 the Agricultural Adjustment Act, and for other purposes,
6 and all points of order against said bill are hereby waived.
7 That after general debate, which shall be confined to the
8 bill and shall continue not to exceed six hours, to be equally
9 divided and controlled by the Chairman and ranking minor-
10 ity member of the Committee on Agriculture, the bill shall
11 be read for amendments under the five-minute rule. At the
12 conclusion of the reading of the bill for amendments the

1 Committee shall rise and report the same to the House with
 2 such amendments as may have been adopted, and the pre-
 3 vious question shall be considered as ordered on the bill and
 4 amendments thereto to final passage without intervening
 5 motion except one motion to recommit, with or without
 6 instructions.

74TH CONGRESS }
1ST Session

H. RES. 230

[Report No. 987]

RESOLUTION

For the consideration of H. R. 8052.

By Mr. O'CONNOR

MAY 23, 1935

Referred to the House Calendar and ordered to be
printed

be expended under any contract with any private shipyard unless the bid of such private shipyard, upon the basis of which such contract was entered into, has been certified to by the Comptroller General, after consideration by him of (1) the Navy Department's estimates of cost of construction in the navy yards of the vessel covered by such bid, (2) estimates and reports prepared by the Navy Department and by the Comptroller General of the costs of construction in navy yards and in private shipyards of similar vessels, (3) previous bids made by private shipyards for similar vessels, and (4) the likelihood of changing costs of construction during the period of construction contemplated by such bid, as (a) fair, reasonable, and not excessive in amount, and (b) being lower than any bid that could be anticipated upon a readvertisement for bids: *Provided further*, That no part of any appropriation made by this act or later acts shall be expended under any contract with any private shipyard unless the Comptroller General shall, prior to each payment under such contract, certify that such shipyard has complied with all applicable provisions of this act and of the act of March 27, 1934 (Public, No. 135, 73d Cong.) relating to repayment of profits, insofar as previous contracts of such shipyard with the United States, or any agency thereof, are concerned, and as a basis for such certification the Comptroller General shall cause to be made at least ample examinations of the books and records of such shipyard relating to costs of construction of the vessel or vessels built by such shipyard pursuant to such previous contracts and such actual examination of such books and records as is made shall be recited in said certificate, and *Provided further*,"

Mr. NYE. Mr. President, it is evident that there is need for consolidation of these amendments into one legislative bill. The accomplishment of that will be the immediate purpose of the Munitions Investigating Committee. I sincerely hope for the cooperation of the entire Senate and its committees in accomplishing expeditious consideration of that character of legislation when it shall be offered.

The VICE PRESIDENT. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. NYE. Let us have the yeas and nays.

The yeas and nays were not ordered.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	King	Robinson
Austin	Costigan	La Follette	Russell
Bankhead	Couzens	Loneragan	Schall
Barbour	Dickinson	McGill	Schwellenbach
Barkley	Dieterich	McKellar	Sheppard
Bilbo	Donahay	McNary	Shipstead
Black	Duffy	Maloney	Smith
Brown	Fletcher	Metcalf	Steiwer
Bulkley	Frazier	Minton	Thomas, Utah
Bulow	Gerry	Moore	Trammell
Byrd	Gibson	Murphy	Truman
Byrnes	Glass	Murray	Tydings
Capper	Gore	Neely	Vandenberg
Caraway	Guffey	Norris	Walsh
Carey	Hale	Nye	Wheeler
Chavez	Hatch	O'Mahoney	White
Clark	Hayden	Overton	
Connally	Johnson	Pittman	
Coolidge	Keyes	Radcliffe	

The VICE PRESIDENT. Seventy-three Senators having answered to their names, a quorum is present. The question is, Shall the bill pass?

Mr. CLARK. Mr. President, I do not wish to delay the Senate on this matter, but it seems to me, in the case of a bill of this unprecedented magnitude, appropriating practically almost half a billion dollars for purposes of naval construction, that a demand for the yeas and nays is not unreasonable. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KING. Mr. President, before the vote is taken upon this measure I desire to state that, except for the lateness of the hour and the eagerness of the Senate to recess or adjourn, I should carry out the purpose which I had in mind to speak at some length upon the bill and cognate questions. I shall take advantage of the opportunity, however, on Monday to address the Senate upon the bill, even though it shall have passed in the meantime, and upon such questions as are relevant to a proper discussion of the question.

I am opposed to the bill and shall vote against it.

The VICE PRESIDENT. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McNARY (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. HARRISON], who is unavoidably absent. I am advised that if present he would vote as I am about to vote. I therefore feel at liberty to vote, and vote "yea."

The roll call was concluded.

Mr. McKELLAR (after having voted in the affirmative). I have a general pair with the junior senator from Delaware [Mr. TOWNSEND]. I transfer my pair with him to the junior Senator from New York [Mr. WAGNER], and will allow my vote to stand.

Mr. BARKLEY. My colleague [Mr. LOGAN] is unavoidably absent. He is paired with the Senator from Pennsylvania [Mr. DAVIS]. I am not authorized to announce how my colleague would vote if present.

Mr. ROBINSON. I desire to announce that the Senator from Arizona [Mr. ASHURST], the Senator from Tennessee [Mr. BACHMAN], the senior Senator from North Carolina [Mr. BAILEY], the Senator from Georgia [Mr. GEORGE], the Senator from Illinois [Mr. LEWIS], the Senator from California [Mr. McADOO], the junior Senator from North Carolina [Mr. REYNOLDS], and the Senator from New York [Mr. WAGNER] are necessarily detained from the Senate on official business. I am advised that if present and voting, these Senators would vote "yea."

I also desire to announce that the Senator from Washington [Mr. BONE], the Senator from Nebraska [Mr. BURKE], the Senator from Louisiana [Mr. LONG], the Senator from Nevada [Mr. McCARRAN], the Senator from Idaho [Mr. POPE], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS] are necessarily detained from the Senate on departmental business.

Mr. AUSTIN. The Senator from Pennsylvania [Mr. DAVIS] is absent on account of illness. If present, he would vote "yea."

The Senator from Delaware [Mr. HASTINGS] is detained from the Senate on official business.

The Senator from Delaware [Mr. TOWNSEND] and the Senator from South Dakota [Mr. NORBECK] are necessarily absent.

The result was announced—yeas 55, nays 18, as follows:

YEAS—55			
Adams	Coolidge	Hayden	Robinson
Austin	Copeland	Johnson	Russell
Bankhead	Couzens	Keyes	Schall
Barbour	Dickinson	Loneragan	Schwellenbach
Barkley	Dieterich	McKellar	Sheppard
Bilbo	Duffy	McNary	Smith
Brown	Fletcher	Maloney	Steiwer
Bulkley	Gerry	Metcalf	Trammell
Byrd	Gibson	Minton	Truman
Byrnes	Glass	Moore	Tydings
Caraway	Gore	O'Mahoney	Vandenberg
Carey	Guffey	Overton	Walsh
Chavez	Hale	Pittman	White
Connally	Hatch	Radcliffe	

NAYS—18			
Black	Donahay	Murphy	Shipstead
Bulow	Frazier	Murray	Thomas, Utah
Capper	King	Neely	Wheeler
Clark	La Follette	Norris	
Costigan	McGill	Nye	

NOT VOTING—22			
Ashurst	Davis	Long	Thomas, Okla.
Bachman	George	McAdoo	Townsend
Bailey	Harrison	McCarran	Van Nuys
Bone	Hastings	Norbeck	Wagner
Borah	Lewis	Pope	
Burke	Logan	Reynolds	

So the bill was passed.

Mr. BYRNES. I move that the Senate insist upon its amendments and ask for a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. BYRNES, Mr. COPELAND, Mr. TRAMMELL, Mr. HALE, and Mr. KEYES conferees on the part of the Senate.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

Mr. SMITH. Mr. President, I move that the Senate proceed to the consideration of Senate bill 1807, to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the motion of the Senator from South Carolina.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, which had been reported from the Committee on Agriculture and Forestry, with amendments.

Mr. SMITH. I offer as an amendment to or substitute for the bill, House bill 8052.

The VICE PRESIDENT. The amendment will be printed and be considered pending.

Mr. McNARY. Mr. President, what was the request made by the Senator from South Carolina?

Mr. SMITH. I asked that Senate bill 1807 be taken up, and then I offered as an amendment or as a substitute the House bill on the same subject.

The VICE PRESIDENT. The Chair understands the parliamentary situation to be as follows:

Upon motion of the Senator from South Carolina, the Senate proceeded to the consideration of Senate bill 1807. The Senator from South Carolina then offered an amendment in the nature of a substitute, which amendment is pending.

REGULATION OF TRAFFIC IN FOOD, DRUGS, AND COSMETICS

Mr. COPELAND. Mr. President, there is on the calendar Senate bill 5, the food and drugs bill. I am about to ask unanimous consent that the amendments which have been agreed upon by the various persons interested in the bill may now be adopted, without any view to passing the bill tonight, but in order that it may be printed, so that at an opportune time those who are interested in the bill may study it.

The VICE PRESIDENT. The Senator from New York asks unanimous consent that, without displacing the pending unfinished business, the Senate take up a certain bill and agree to the amendments referred to.

Mr. ROBINSON. Mr. President, first it will be necessary temporarily to lay aside the unfinished business, which is the bill dealing with the A. A. A. amendments, and then to proceed with the consideration of the bill referred to by the Senator from New York.

The VICE PRESIDENT. The Chair is simply putting the request of the Senator from New York.

Mr. KING. Mr. President, will the Senator from Arkansas yield?

Mr. ROBINSON. I yield.

Mr. KING. May I ask the Senator from New York whether he would not accomplish all he is now seeking to accomplish if he would have the amendments printed and placed upon the desks of Senators so that we might consider them? Then, I would have no objection to having the bill taken up in the regular order following the so-called "triple A amendment bill." In fact, I should prefer that it precede the triple A bill.

The VICE PRESIDENT. The Chair recognized the Senator from New York to present a unanimous-consent request.

Mr. McNARY. Mr. President, is it the desire of the Senator from New York to have the Senate act upon all the amendments, or is the request simply to have them printed in the bill?

Mr. COPELAND. It is my desire to have the amendments acted upon so that the bill may be reprinted as amended.

Mr. McNARY. That raises the question as to whether we shall adopt the proposed amendments without consideration.

Mr. COPELAND. I think the Senate would adopt them without much consideration, because they must appeal so strongly to the judgment of Senators. [Laughter.]

Mr. President, seriously, as Senators know, there has been much controversy about this bill, and I am very happy to say that after conferences with the Senator from North Carolina [Mr. BAILEY], the Senator from Missouri [Mr.

CLARK], the Senator from Tennessee [Mr. McKELLAR], the Senator from Idaho [Mr. BORAH], the Senator from Michigan [Mr. VANDENBERG], and others, we appear to be in full agreement as to what amendments should be adopted.

I believe that it would facilitate action if we could do as I am now proposing, namely, have the amendments acted upon by the Senate. Then I will not press the measure, but will ask that the bill as amended be printed so that there may be further consideration if it is so desired. I submit my request for unanimous consent.

The VICE PRESIDENT. The Senator from New York asks unanimous consent that the unfinished business be temporarily laid aside, that the Senate agree to the amendments referred to by the Senator from New York, and that the bill be printed as amended.

Mr. ROBINSON. The Senator modified his request so that his request, as I now understand it, is that the bill be printed with the amendments.

Mr. COPELAND. No.

The VICE PRESIDENT. No; the Senator did not make that request. The Chair was particular to understand the request.

Mr. COPELAND. Mr. President, I hope that we may dispose of the amendments, and then that the bill may be printed so that it may be given further thought by Members of the Senate who might desire to have other amendments offered.

Mr. BARKLEY. The idea of the Senator from New York is not to the effect that the less we consider the amendments the more apt we will be to adopt them? [Laughter.]

Mr. COPELAND. I know the Senator from Kentucky is very much interested in the bill.

Mr. BARKLEY. I am sympathetic with the Senator's proposal.

Mr. ROBINSON. Mr. President, I am going to suggest to the Senator from New York, in an earnest desire to be of assistance to him, that he have his bill printed with the amendments so that Senators may have the opportunity of examining the bill if they wish to do so, and that on another occasion, in a very short time, so far as my wish is concerned, he call up the bill for action.

Mr. COPELAND. Mr. President, if that is the best I can do, that is what I have to take. [Laughter.]

Mr. McNARY. Mr. President, I was just about to remark that I should be very happy to cooperate with the Senator from New York in the preparation of the bill, but this is an unusual procedure, a practice which has never been heretofore recognized, and if the request is pressed, I shall have to object to it.

Mr. ROBINSON. The Senator does not object to the request I presented?

Mr. McNARY. No; I suggested a moment ago that the proper course would be to obtain unanimous consent to have the amendments printed in the new bill, and then we may consider it later.

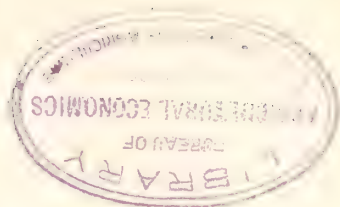
Mr. McKELLAR. Mr. President, may I ask the Senator from Arkansas whether he suggested printing the amendments in the bill in italics so that it can be determined just what they are?

Mr. ROBINSON. Yes; my suggestion to the Senator from New York was that the bill be printed with the amendments, and they should be printed in italics.

Mr. COPELAND. Mr. President, it is well known in the Senate which amendments are controversial. There was one amendment offered by the Senator from North Carolina [Mr. BAILEY] to which I objected so seriously that I stated that I would rather have the bill die than to have the amendment adopted. The amendment provided that no article could be taken off the market except one particular sample of it, no matter whether it affected health or not. That amendment has been changed so that now it provides that unless health is involved there shall be only one seizure. That is entirely agreeable to me. There are other amendments with which I think every Senator who is really interested in debating the bill will be satisfied. There is much discontent because this bill has not been acted upon.

74TH CONGRESS
1ST SESSION

S. 1807



IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 24), 1935

Ordered to be printed

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Proposed by Mr. SMITH to the bill (S. 1807), to amend the Agricultural Adjustment Act, and for other purposes, viz: Strike out all after the enacting clause and insert the following:

- 1 That (a) the first sentence of subsection (1) of sec-
- 2 tion 2 of the Agricultural Adjustment Act, as amended,
- 3 is amended by inserting before the period at the end thereof
- 4 a semicolon and the following: "and, in the case of all
- 5 commodities for which the base period is the pre-war period,
- 6 August 1909 to July 1914, will also reflect current interest
- 7 payments per acre on farm indebtedness secured by real
- 8 estate and tax payments per acre on farm real estate, as
- 9 contrasted with such interest payments, and tax payments
- 10 during the base period".

1 (b) Subsection (1) of section 2 of the Agricultural
2 Adjustment Act, as amended, is amended by inserting in
3 the second sentence after "tobacco" a comma and the
4 words "wool, and mohair"; and by inserting in the third
5 sentence after "tobacco," the words "wool, and mohair".

6 SEC. 2. Subsection (1) of section 8 of the Agricul-
7 tural Adjustment Act, as amended, is amended as follows:

8 (a) By inserting "(A)" after "(1)";

9 (b) By striking out the word "reduction" wherever
10 it appears in the first sentence thereof and inserting in
11 lieu thereof the word "adjustment";

12 (c) By striking out the semicolon in the first sen-
13 tence thereof and inserting in lieu thereof "or to be made
14 in quantities of one or more agricultural commodities
15 acquired by the Secretary of Agriculture pursuant to this
16 title" and a semicolon; and

17 (d) By adding at the end of subsection (1) the
18 following new paragraph:

19 "(B) To provide, in the case of any basic agricul-
20 tural commodity (whether or not a program of adjustment
21 in the acreage or adjustment in the production for market
22 of such commodity is in effect in pursuance of paragraph
23 (A)), for payments for expansion of domestic or foreign
24 markets thereof, payments for removal of surpluses thereof
25 or surplus products thereof, and payments in connection with

1 the production of that part thereof required for domestic
2 consumption, or any one or more such payments. Such
3 payments shall be made in such amounts as the Secretary
4 of Agriculture deems fair and reasonable and shall be made
5 out of moneys available for such payments or in quantities
6 of one or more agricultural commodities acquired by the
7 Secretary pursuant to this title. Payments authorized under
8 this paragraph may be made in combination with payments
9 made in pursuance of paragraph (A). No payment under
10 this title made in an agricultural commodity acquired by
11 the Secretary in pursuance of this title shall be made in a
12 commodity other than in respect of which the payment
13 is being made.

14 SEC. 3. The first sentence of subsection (b) of section
15 12 of the Agricultural Adjustment Act, as amended, is
16 amended to read as follows: "In addition to the foregoing,
17 for the purpose of effectuating the declared policy of this title,
18 the proceeds derived from all taxes imposed under this
19 title are hereby appropriated to be available to the Secretary
20 of Agriculture for (1) the acquisition of any agricultural
21 commodity pledged as security for any loan made by any
22 Federal agency, which loan was conditioned upon the bor-
23 rower agreeing or having agreed to cooperate with a pro-
24 gram of production adjustment or marketing adjustment
25 adopted under the authority of this title, and (2) the follow-

1 ing purposes under part 2 of this title: Administrative ex-
2 penses, payments authorized to be made under section
3 8 (1), and refunds on taxes.”

4 SEC. 4. Subsection (3) of section 8 of the Agricul-
5 tural Adjustment Act, as amended, is amended to read as
6 follows:

7 “(3) (A) After due notice and opportunity for hear-
8 ing, and upon a finding by the Secretary that such action
9 will tend to effectuate the declared policy of this title, to
10 issue licenses to processors, associations of producers, and
11 others engaged in the handling of any agricultural com-
12 modity or product thereof, or any competing commodity
13 or product thereof, in the current of or in competition with
14 or so as to burden, obstruct, or in any way affect, interstate
15 or foreign commerce. Such licenses shall provide that
16 such handling may be engaged in by the licensees only
17 upon such terms and conditions, not in conflict with exist-
18 ing Acts of Congress or regulations pursuant thereto, as
19 may be necessary for any one or more of the following
20 purposes:

21 “(1) To eliminate unfair practices or charges
22 that prevent or tend to prevent the effectuation of the
23 declared policy and the restoration of normal economic
24 conditions in the marketing of such commodities or
25 products and the financing thereof.

1 “(2) To make effective any marketing plan set
2 forth in any marketing agreement (or appendix
3 thereto) signed by the persons handling not less than
4 50 per centum of the volume of the business done in
5 the respective classes of industrial or commercial activ-
6 ity specified in such agreement.

7 “(3) To make effective the marketing plan set
8 forth in any proposed marketing agreement (or
9 appendix thereto), on which a hearing has been held,
10 whenever the Secretary, with the approval of the
11 President, determines—

12 “(a) That the refusal or failure to sign such
13 proposed agreement by the persons handling more
14 than 50 per centum of the volume of business
15 done in any class of industrial or commercial
16 activity specified therein tends to prevent the
17 effectuation of the declared policy with respect
18 to the commodity or product specified in such
19 proposed agreement, and

20 “(b) that the issuance of such license is the
21 only practical means of advancing the interests of
22 the producers of such commodity pursuant to the
23 declared policy, and is approved or favored by at
24 least two-thirds of the producers who, during
25 a representative period determined by the Secre-

1 tary, have been engaged in the production for
2 market of the commodity specified in such mar-
3 keting agreement or license, or by producers who,
4 during such representative period, have produced
5 for market at least two-thirds of the volume of
6 such commodity produced for market during such
7 period.

8 No license shall be issued pursuant to clause (2) or clause
9 (3) of the preceding sentence unless the terms and condi-
10 tions thereof (a) have been set forth in an executed or
11 proposed marketing agreement, as the case may be, or in an
12 appendix thereto, and (b) are made applicable only to
13 persons in the respective classes of industrial or commercial
14 activity specified in such executed or proposed agreement.
15 Except in the case of milk and its products, tobacco, and
16 sugar beets, no license issued under such clause (3) shall
17 be effective with respect to any commodity (or product
18 thereof) which on April 1, 1935, is defined, under section 11,
19 as a basic agricultural commodity, nor shall any such license
20 be effective with respect to any nonbasic agricultural com-
21 modity (or product thereof) except wool, mohair, fruits,
22 and vegetables. No license shall be issued under such
23 clause (3) which is applicable to all production areas
24 or marketing areas, or both, of any commodity or prod-
25 uct thereof unless the Secretary finds that the issuance

1 of several licenses applicable to the respective regional
2 production areas or regional marketing areas, or both, as
3 the case may be, of the commodity or product would not
4 effectively carry out the declared policy of this title.
5 Licenses issued under such clause (3) shall be limited in
6 their application to the smallest regional production areas
7 or regional marketing areas, or both, as the case may be,
8 which the Secretary finds practicable consistently with car-
9 rying out such declared policy. All licenses issued under
10 such clause (3) which are applicable to the same commod-
11 ity or product thereof shall, so far as practicable, prescribe
12 such different terms applicable to different production
13 areas and marketing areas as the Secretary finds neces-
14 sary to give due recognition to the differences in produc-
15 tion and marketing of such commodity or product in such
16 areas. No license shall be issued under this title except in
17 aid of an executed or proposed marketing agreement or
18 appendix thereto. No license issued under such clause (3)
19 shall be applicable to any person who sells agricultural com-
20 modities at retail in his capacity as such retailer, except
21 to a retailer in his capacity as a retailer of milk and its
22 products. No license issued under this title shall be appli-
23 cable to any producer in his capacity as a producer.

24 “(B) Any licensee under any license issued pursuant
25 to this title, or any officer, director, agent, or employee of

1 such licensee, who violates any provision of such license
2 (other than a provision calling for payment of a pro rata
3 share of expenses) shall, on conviction, be fined not less
4 than \$50 or more than \$500 for each such violation, and
5 each day during which such violation continues shall be
6 deemed a separate violation: *Provided, however,* That no
7 person shall be convicted under this title because of any
8 violation (1) of any license or (2) of any obligation im-
9 posed in connection therewith, if such violation occurs be-
10 tween the date upon which such person files with the Secre-
11 tary a petition, with respect to such license or obligation,
12 as provided for in this subsection, and five days after the
13 Secretary enters an order thereon.

14 “(C) Any licensee may file a written petition with the
15 Secretary of Agriculture stating that any such license or any
16 provision of any such license or any obligation imposed in
17 connection therewith is not in accordance with law. He
18 shall thereupon be given an opportunity for a hearing upon
19 such petition, in accordance with regulations made by the
20 Secretary of Agriculture with the approval of the President.
21 After such hearing, the Secretary shall make an order which
22 shall be final, if in accordance with law. The District Court
23 of the United States (including the Supreme Court of
24 the District of Columbia) in any district in which such
25 licensee is an inhabitant or has his principal place of

1 business is hereby vested with jurisdiction in equity to
2 review such order, provided a bill in equity for that
3 purpose be filed within twenty days from the date of the
4 entry of such order. Service of process in such proceedings
5 may be had upon the Secretary by delivering to him a
6 copy of the bill of complaint. If the court determines that
7 such order is not in accordance with law, it shall remand such
8 proceedings to the Secretary with directions either (1)
9 to enter such order as the court shall determine to be in
10 accordance with law, or (2) to take such further pro-
11 ceedings as, in its opinion, the law requires. Nothing con-
12 tained in this subsection shall be construed to prevent, hinder,
13 or delay the United States or the Secretary of Agriculture
14 from pursuing the remedies provided for in section 8a (6)
15 of this title. Any proceedings brought pursuant to section
16 8a (6) of this title (except where brought by way of counter-
17 claim in proceedings instituted pursuant to this subsection)
18 shall abate whenever a final decree has been rendered in
19 proceedings between the same parties and covering the same
20 subject matter instituted pursuant to this subsection.”

21 SEC. 5. Section 8 of the Agricultural Adjustment Act,
22 as amended, is further amended by adding after subsection
23 (4) the following new subsection:

24 “(4a) (1) All parties to any marketing agreement,
25 and all licensees subject to a license, shall severally, from

1 time to time, upon the request of the Secretary, furnish him
2 with such information as he finds to be necessary to enable
3 him to ascertain and determine the extent to which such
4 agreement or license has been carried out or has effectuated
5 the declared policy of this title, and with such information as
6 he finds to be necessary to determine whether or not there
7 has been any abuse of the privilege of exemptions from the
8 antitrust laws. Such information shall be furnished in
9 accordance with forms of reports to be prescribed by the
10 Secretary. For the purpose of ascertaining the correctness
11 of any report made to the Secretary pursuant to this sub-
12 section, or for the purpose of obtaining the information
13 required in any such report where it has been requested and
14 has not been furnished, the Secretary is hereby authorized
15 to examine such books, papers, records, accounts, corre-
16 spondence, contracts, documents, or memoranda, as he deems
17 relevant and which are within the control (1) of any such
18 party to such marketing agreement, or any such licensee,
19 from whom such report was requested or (2) of any person
20 having, either directly or indirectly, actual or legal control
21 of or over such party or such licensee or (3) of any sub-
22 sidiary of any such party, licensee, or person.

23 “(2) Notwithstanding the provisions of section 7, all
24 information furnished to or acquired by the Secretary of
25 Agriculture pursuant to this subsection shall be kept confi-

1 dential by all officers and employees of the Department of
2 Agriculture and only such information so furnished or
3 acquired as the Secretary deems relevant shall be disclosed
4 by them and then only in a suit or administrative hearing
5 brought at the direction, or upon the request, of the Secre-
6 tary of Agriculture, or to which he is a party, and involving
7 the marketing agreement or license with reference to which
8 the information so to be disclosed was furnished or acquired.
9 Nothing in this subsection shall be deemed to prohibit (A)
10 the issuance of general statements based upon the reports
11 of the number of parties to a marketing agreement or of
12 licenses, which statements do not identify the information
13 furnished by any person, or (B) the publication by direction
14 of the Secretary, of the name of any person violating any
15 marketing agreement or any license, together with a state-
16 ment of the particular provisions of the marketing agreement
17 or license violated by such person. Any such officer or
18 employee violating the provisions of this subsection shall
19 upon conviction be subject to a fine of not more than \$1,000
20 or to imprisonment for not more than one year, or to both,
21 and shall be removed from office.”

22 SEC. 6. Section 8 of the Agricultural Adjustment Act,
23 as amended, is further amended by adding after subsection
24 (5) thereof the following new subsections:

1 “(6) The Secretary of Agriculture shall, whenever he
2 determines that any license, or any provision thereof, ob-
3 structs and/or does not tend to effectuate the declared policy
4 of this title, terminate or suspend the operation of such
5 license, or such provision thereof. The Secretary shall ter-
6 minate any marketing agreement or license, at the end of
7 the then current marketing period for such commodity as
8 specified in such marketing agreement or license whenever
9 he finds that such termination is favored by a majority of
10 the producers who, during a representative period deter-
11 mined by the Secretary, have been engaged in the production
12 for market of the commodity specified in such marketing
13 agreement or license, provided that such majority have
14 during such representative period produced for market more
15 than 50 per centum of the volume of such commodity
16 produced for market during such period, but such termination
17 shall be effective only if announced on or before such date
18 (prior to the end of the then current marketing period) as
19 may be specified in such marketing agreement or license.

20 “(7) In connection with the making of any marketing
21 agreement or the issuance of any license, if the Secretary
22 finds and proclaims that, as to any commodity specified in
23 such marketing agreement or license, the purchasing power
24 during the base period specified for such commodity in
25 section 2 of this title cannot be satisfactorily determined

1 from available statistics of the Department of Agriculture,
2 the base period, for the purposes of such marketing agree-
3 ment or license, shall be the post-war period, August 1919-
4 July 1929, or all that portion thereof for which the Secretary
5 finds and proclaims that the purchasing power of such
6 commodity can be satisfactorily determined from available
7 statistics of the Department of Agriculture.”

8 SEC. 7. Subsection (7) of section 8a of the Agricul-
9 tural Adjustment Act, as amended, is amended by inserting
10 at the end thereof the following new sentence: “Whenever
11 the Secretary, or such officer or employee of the Department
12 as he may designate for the purpose, has reason to believe
13 that any licensee has violated, or is violating, the provisions
14 of any license heretofore or hereafter issued pursuant to
15 this title, the Secretary shall have power to institute an
16 investigation and, after due notice to such licensee, to
17 conduct a hearing in order to determine the facts for the
18 purpose of referring the matter to the Attorney General
19 for appropriate action.”

20 SEC. 8. (a) Subsection (a) of section 9 of the Agri-
21 cultural Adjustment Act, as amended, is amended by striking
22 out all of the second sentence preceding the semicolon and
23 inserting in lieu thereof the following: “When the Secretary
24 of Agriculture determines that any one or more payments
25 authorized to be made under section 8 (1) are to be made

1 with respect to any basic agricultural commodity, he shall
2 proclaim such determination, and a processing tax shall be
3 in effect with respect to such commodity from the beginning
4 of the marketing year therefor next following the date of
5 such proclamation ”.

6 (b) The eighth sentence of such subsection (a) is
7 amended by striking out “ rental or benefit payments ” and
8 inserting in lieu thereof: “ all payments authorized under
9 section 8 (1) which are in effect ”.

10 SEC. 9. The first sentence of subsection (b) of section
11 9 of the Agricultural Adjustment Act, as amended, is fur-
12 ther amended by striking out the semicolon and inserting
13 in lieu thereof a comma and the following: “ plus such per-
14 centage of such difference, not to exceed 20 per centum, as
15 the Secretary of Agriculture may determine will result in
16 the collection, in any marketing year with respect to which
17 such rate of tax may be in effect pursuant to the provisions
18 of this title, of an amount of tax equal to (1) the amount of
19 credits or refunds which he estimates will be allowed or made
20 during such period pursuant to section 15 (c) with respect
21 to the commodity and (2) the amount of tax which he
22 estimates would have been collected during such period
23 upon all processings of such commodity which are exempt
24 from tax by reason of the fact that such processings are done
25 by or for a State, or a political subdivision or an institution

1 thereof, had such processings been subject to tax: *Provided*,
2 *however*, That the rate of tax upon the processing of any
3 commodity, in effect on the date on which this amendment
4 is adopted, shall not be affected by the adoption of this
5 amendment and shall not be required to be adjusted or
6 altered, unless the Secretary of Agriculture finds that it is
7 necessary to adjust or alter any such rate in order to effectuate
8 the declared policy of the title; ”.

9 SEC. 10. Subsection (c) of section 9 of the Agricultural
10 Adjustment Act, as amended, is amended to read as
11 follows:

12 “(c) For the purposes of part 2 of this title, the fair
13 exchange value of a commodity shall be the price therefor
14 that will give the commodity the same purchasing power,
15 with respect to articles farmers buy, as such commodity had
16 during the base period specified in section 2; and, in the
17 case of all commodities where the base period is the pre-war
18 period, August 1909 to July 1914, will also reflect interest
19 payments per acre on farm indebtedness secured by real
20 estate and tax payments per acre on farm real estate, as
21 contrasted with such interest payments and tax payments
22 during said base period; and the current average farm price
23 and the fair exchange value shall be ascertained by the
24 Secretary of Agriculture from available statistics of the
25 Department of Agriculture. The rate of tax upon the

1 processing of any commodity, in effect on the date on which
2 this amendment is adopted, shall not be affected by the
3 adoption of this amendment and shall not be required to
4 be adjusted or altered, unless the Secretary of Agriculture
5 finds that it is necessary to adjust or alter any such rate
6 pursuant to section 9 (a) of this title."

7 SEC. 11. Subsection (b) of section 10 of the Agricul-
8 tural Adjustment Act, as amended, is amended to read as
9 follows:

10 "(b) (1) The Secretary of Agriculture is authorized
11 to establish, for the more effective administration of the
12 functions vested in him by this title, State and local com-
13 mittees, or associations of producers, and to permit coopera-
14 tive associations of producers, when in his judgment they
15 are qualified to do so, to act as agents of their members
16 and patrons in connection with the distribution of payments
17 authorized to be made under section 8 (1). The Secretary,
18 in the administration of this title, shall accord such recogni-
19 tion and encouragement to producer-owned and producer-
20 controlled cooperative associations as will be in harmony
21 with the policy toward cooperative associations set forth in
22 existing Acts of Congress, and as will tend to promote
23 efficient methods of marketing and distribution.

24 "(2) Each license issued by the Secretary under this
25 title shall provide that each licensee thereunder shall pay

1 to any authority or agency established under such license,
2 such licensee's pro rata share (as approved by the Secre-
3 tary) of such expenses as the Secretary may find will
4 necessarily be incurred by such authority or agency, during
5 any period specified by him, for the maintenance and func-
6 tioning of such authority or agency, other than expenses
7 incurred in receiving, handling, holding, or disposing of
8 any quantity of a commodity received, handled, held, or
9 disposed of by such authority or agency for the benefit or
10 account of persons other than such licensees. Any such
11 authority or agency may maintain in its own name, or in
12 the names of its members, a suit against any licensee for
13 the collection of such licensee's pro rata share of expenses.
14 The several district courts of the United States are hereby
15 vested with jurisdiction to entertain such suits regardless
16 of the amount in controversy."

17 SEC. 12. Subsection (e) of section 10 of the Agricul-
18 tural Adjustment Act, as amended, is amended by striking
19 out "rental or benefit payment" and inserting in lieu thereof
20 "payment authorized to be made under section 8 (1)".

21 SEC. 13. Section 10 of the Agricultural Adjustment
22 Act, as amended, is amended by inserting at the end thereof
23 the following new subsection:

24 "(i) The Secretary of Agriculture is authorized, in
25 order to effectuate the declared policy of this title and in

1 order to promote uniformity in the formulation, adminis-
2 tration, and enforcement of Federal and State programs
3 relating to the regulation of the production, handling, mar-
4 keting, or sale of agricultural commodities or products
5 thereof, to confer with and hold joint hearings with the duly
6 constituted authorities of any State or Territory, to cooperate
7 with such authorities, and to avail himself of services, rec-
8 ords, and facilities of such authorities.”

9 SEC. 14. The first sentence of subsection (a) of sec-
10 tion 12 of the Agricultural Adjustment Act, as amended, is
11 amended by striking out “ rental and benefit payments made
12 with respect to reduction in acreage or reduction in produc-
13 tion for market under part 2 of this title ” and inserting in
14 lieu thereof “ payments authorized to be made under section
15 8 (1) ”.

16 SEC. 15. Section 12 of the Agricultural Adjustment
17 Act, as amended, is amended by adding at the end thereof
18 the following new subsection:

19 “(d) There is authorized to be appropriated for each
20 fiscal year, in addition to other amounts authorized or appro-
21 priated under this title, an amount equal to 30 per centum of
22 the gross receipts from duties collected under the customs
23 laws during the period January 1 to December 31, both
24 inclusive, preceding the beginning of such fiscal year. Sums
25 appropriated in pursuance of such authorization shall be

1 maintained in a separate fund and shall be used by the
2 Secretary of Agriculture only to: (1) Encourage the ex-
3 portation of agricultural commodities and products thereof
4 by the payment of benefits in connection with the exporta-
5 tion thereof or of indemnities for losses incurred in con-
6 nection with such exportation or by payments to producers
7 in connection with the production of that part of any
8 agricultural commodity required for domestic consumption;
9 (2) purchase or lease, on behalf of the United States,
10 submarginal agricultural and grazing lands; and (3) make
11 payments, which shall not be considered rental or benefit
12 payments, in connection with acreage or production adjust-
13 ment of basic agricultural commodities. The Secretary shall
14 expend the amounts appropriated in pursuance of this sub-
15 section for such of the above-specified purposes, and at such
16 times, in such manner, and in such amounts as he finds and
17 prescribes as best effectuating the policy of restoration of
18 agricultural purchasing power as contemplated by section 2
19 of this title consistently with the fullest utilization of the
20 productive capacity of land which can be profitably culti-
21 vated and with the most rapid expansion of exportation of
22 agricultural commodities.”

23 SEC. 16. Section 12 of the Agricultural Adjustment
24 Act, as amended, is amended by adding at the end thereof
25 the following new subsection:

1 “(e) Amounts expended under this title which are
2 expended for payments authorized to be made under section
3 8 (1) and administrative expenses in connection with any
4 basic agricultural commodity, shall not be less than a sum
5 equal to the proceeds of the taxes levied under this title
6 with respect to such commodity. For the purposes of this
7 subsection: (1) Amounts collected and expended from taxes
8 the proceeds of which under this title are held for, or paid
9 for use in, any possession of the United States shall not be
10 included; (2) the amount of all refunds and abatements of
11 taxes shall not be included; and (3) hogs and field corn
12 may be considered as one commodity.”

13 SEC. 17. The first sentence of subsection (d) of section
14 15 of the Agricultural Adjustment Act, as amended, is
15 amended by inserting after “processors” a comma and the
16 phrase “producers, or both,”.

17 SEC. 18. The Agricultural Adjustment Act, as amended,
18 is amended by inserting after section 20 the following new
19 section:

20 “SEC. 21. (a) Whenever the current average farm
21 price of any agricultural commodity is less than the fair ex-
22 change value thereof, if the President has reason to believe
23 that any one or more articles are being imported or are likely
24 to be imported into the United States under such conditions
25 and in sufficient quantities to prevent such farm price from

1 equaling such fair exchange value and to render ineffective
2 any program or operation undertaken under this title, he
3 shall cause an immediate investigation to be made by the
4 Secretary of Agriculture or the United States Tariff Com-
5 mission, whichever he designates, to determine such facts.
6 Such investigation shall be made after such notice and hear-
7 ing and subject to such regulations as the President shall
8 specify.

9 “(b) If, after such investigation and report to him of
10 findings and recommendations made in connection therewith,
11 the President finds the existence of such facts, he shall by
12 order direct that the entry into the United States of such
13 article or articles shall, for such time as may be specified
14 by him, be permitted subject to (1) such terms and condi-
15 tions, (2) such limitations on the total quantities thereof
16 which may be imported, or (3) the payment of such com-
17 pensating taxes as he finds necessary to prescribe in order
18 that the entry of such article or articles will not prevent such
19 farm price from equaling such fair exchange value and to
20 prevent the entry of such article or articles from rendering
21 or tending to render ineffective such program or operation
22 undertaken under this title. Any compensating tax imposed
23 under this section shall be in addition to any tax imposed
24 under section 10(e) and the provisions of such section
25 shall apply thereto.

1 “(c) Any decision of the President as to facts under
2 this section shall be final.

3 “(d) Upon information of any order of the President
4 under subsection (b), the Secretary of the Treasury shall
5 permit entry of any article or articles specified therein only
6 in conformity with such order.

7 “(e) After investigation, report, and finding in the
8 manner provided in the case of an original order, any order
9 or provision thereof may be suspended or revoked by the
10 President whenever he finds that the circumstances requir-
11 ing the order or provision no longer exist, or may be modi-
12 fied by the President whenever he finds that changed
13 circumstances require such modification to carry out the
14 provisions of this section.”

15 SEC. 19. The Secretary of Agriculture is authorized
16 to use as much as he finds advisable of the funds appro-
17 priated by the second paragraph of Public Resolution Num-
18 bered 27, Seventy-third Congress, approved May 25, 1934,
19 to carry out section 6 of the Act entitled “An Act to amend
20 the Agricultural Adjustment Act so as to include cattle
21 and other products as basic agricultural commodities, and
22 for other purposes”, approved April 7, 1934, for experi-
23 mentation and efforts to eradicate Bang’s disease in cattle.
24 The sums made available for such purposes by this section
25 shall be available until December 31, 1937, and may be used

1 for all necessary expenses in connection therewith, including
2 the employment of persons and means in the District of
3 Columbia and elsewhere.

4 SEC. 20. Nothing contained in this Act shall invalidate
5 any marketing agreement or license in existence on the date
6 of the enactment hereof, or any provision thereof, nor any
7 act done pursuant thereto, either before or after the enact-
8 ment of this Act.

AMENDMENT

(IN THE NATURE OF A SUBSTITUTE)

Proposed by Mr. SMITH to the bill (S. 1807),
to amend the Agricultural Adjustment Act,
and for other purposes.

MAY 13 (calendar day, MAY 24), 1935

Ordered to be printed

Mr. WHEELER. The reason I asked the question was because of the fact that my understanding is that a suit has recently been started in the courts of Montana for the purpose of holding up that work, the contention being that the Government was without authority to go ahead to build that dam.

Mr. JOHNSON. This bill, if enacted, will cure that situation if the Montana project comes within its purview.

Mr. KING. Mr. President, may I inquire of the Senator whether the terms of this bill are so broad as that authority may be expressly or impliedly considered to have been granted by it to construct dams and reservoirs upon any stream in the United States?

Mr. JOHNSON. That is not the objective of the bill at all. It is intended to validate those projects where the decision referred to has interfered with the continuance of the work.

Mr. KING. Does the Senator believe that it does not operate in futuro and does not comprehend all streams which in the future may be regarded by the Federal Government as worthy of consideration and upon which the Federal Government may desire to construct dams and reservoirs? I would object, I will say very frankly to the Senator, to granting plenary authority to the Federal Government or the Department of the Interior or any other department to enter upon the streams of the United States at any time or at any place where they may desire without a special grant of Congress. If this is a general bill designed not only to validate past trespasses, if we may call them trespasses, but to grant prospective rights for invasion of the streams or to enter upon streams for the construction of reservoirs, I am opposed to it.

Mr. JOHNSON. It validates the constructions which have been undertaken.

Mr. KING. If the Senator is sure it is limited to that purpose, I shall make no objection. I do not approve of that policy, I will say frankly; but I shall not object to consideration of the bill if it is limited to that purpose.

Mr. JOHNSON. Let us read it and see exactly what it does. It reads as follows:

That for the purpose of controlling floods, improving navigation, regulating the flow of the streams of the United States, providing for storage and for the delivery of the stored waters thereof, for the reclamation of public lands and Indian reservations, and other beneficial uses, and for the generation of electric energy as a means of financially aiding and assisting such undertakings, the projects known as "Parker Dam" on the Colorado River and "Grand Coulee Dam" on the Columbia River are hereby authorized and adopted, and all contracts and agreements which have been executed in connection therewith are hereby validated and ratified, and the President, acting through such agents as he may designate, is hereby authorized to construct, operate, and maintain dams, structures, canals, and incidental works necessary to such projects, and in connection therewith to make and enter into any and all necessary contracts, including contracts amendatory of or supplemental to those hereby validated and ratified.

Sec. 2. All projects planned or undertaken to accomplish the purposes specified in section 1 for which allotments have been made pursuant to the provisions of title II of the act approved June 16, 1933, entitled the "National Industrial Recovery Act", are hereby authorized and adopted, and all contracts and agreements which have heretofore been executed in connection therewith are hereby validated and ratified, and the President, acting through such agents as he may designate, is hereby authorized to construct, operate, and maintain dams, structures, canals, and incidental works necessary to such projects, and in connection therewith to make and enter into any and all necessary contracts, including contracts amendatory of or supplemental to those hereby validated and ratified.

That is the language of the bill. It is perfectly plain, and the Senator can understand it perhaps even better than can I.

Mr. KING. I have never seen the bill and did not know it was to be presented for consideration. As a matter of fact, I did not know that such a bill was under consideration. As I have said, if it is limited only to those projects to which reference has been made, as explained by the Senator, I shall not object, although I am not in favor of the bill.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the amendment in the nature of a substitute offered by the Senator from South Carolina [Mr. SMITH].

Mr. SMITH. Mr. President, the amendment in the nature of a substitute which I have offered is to the original law. I presume Senators are familiar with the law as well as with the amendments proposed thereto. I have offered the text of the House bill in the form of an amendment in the nature of a substitute for the Senate bill.

Mr. NORRIS. Mr. President—

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Nebraska?

Mr. SMITH. I yield.

Mr. NORRIS. As the Senator knows, I am familiar with the Senate bill, but I am not familiar with the text of the House bill. I am wondering what the parliamentary situation will be if we adopt the text of the House bill, and what will be the effect on the proposed amendments recommended by the Committee on Agriculture and Forestry. Are they about the same?

Mr. SMITH. In my opinion, the text of the House bill is an improvement over the Senate committee proposal. I took occasion to interview the departments and they acquiesced in the House text.

Mr. NORRIS. I am glad to have that statement.

Mr. SMITH. Mr. President, there has been considerable comment in the press as to my attitude as chairman of the committee toward the amendments and much speculation as to my attitude not only toward those amendments but as to the law itself which the amendments are supposed to implement.

The attempt on the part of the administration to have enacted this legislation and to put it into operation is not in its essential features an emergency proposition. It is an attempt to do that which has been tried to be accomplished from time immemorial—namely, to provide some means by which the disorganized farmers may be made the recipients of a just proportion of the wealth which they produce.

The diversity of their financial standing, their mental equipment, their varied personalities, the difference in the things they produce, make it impossible for the farmers to organize. They never have organized. In the very nature of the case they cannot organize in the sense that industry organizes or in the sense that labor organizes. They are so widely scattered, so occupied individually, so segregated from their fellows, employ such varied equipment, and work under such differing conditions that it is impossible for them to organize.

A representative of one of the great packing houses came before our committee. He took up these amendments and discussed them; and I must say that in my opinion he was intellectually honest. He displayed intellectual integrity in discussing the amendments. From his standpoint as a packer, he had just cause to criticize the restrictions implied in the licensing feature and in the marketing agreements of the farmer. After he had argued the question and the amendments which pertained to his business he wound up by saying that when everything was said and done the law of supply and demand ultimately controlled the market.

I said to him, "I do not intend to question the operation of the law of supply and demand. Ultimately, it exacts its sanction"; but I asked him if he had considered the law of least resistance. I said, "You equip your plant. You invest your capital. You hire your employees and your technicians, such as you use. You calculate the finished product, the output of your plant, and what you must sell the finished units for in order to bring in a return sufficient to take care of obsolescence, pay dividends on your stock, and meet your financial obligations; and you find sales resistance which upsets your calculations, and there has to be a readjustment. Do you lessen the wages of your employees? No.

Do you lessen the salary you are paid as a technician? No. Do you lessen any of the fixed charges? No; you lessen the price of the finished product you sell, and you march through the back door and recoup out of the man who produces the livestock. You know you do that. It is the line of least resistance; and not only that but because of the inventive genius of this country you have been able to convert a product which is perishable in the hands of the cattle raiser so that it becomes imperishable when processed by you.

"The cattle raiser is subject not only to the law of least resistance but to the law of increasing and diminishing returns. When the cattle and the hog reach a certain stage, if not marketed they become corpses, and there is subtracted from their value a certain amount each day. Therefore, under that natural law, and also under the law of his disorganized condition, the cattle raiser is compelled to sell at your price. He is hedged about by the law of increasing and diminishing returns, the perishable nature of his product, and the law of least resistance."

Mr. President, I have studied this bill and these amendments. This may be a crude attempt, but it is an attempt on the part of the Government, in behalf of those who feed us and those who produce the raw material out of which we are clothed, to create some resistance in the markets in favor of the producer of the raw material.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. Will the Senator explain more in detail the difference between the original bill and the substitute?

Mr. SMITH. Does the Senator mean the original House bill or the Senate bill?

Mr. BORAH. I mean the Senate bill.

Mr. SMITH. The difference between the Senate bill and the amendment now pending?

Mr. BORAH. Yes; what are the changes?

Mr. SMITH. Mr. President, I thought I would explain that after stating my attitude toward these amendments. There are some of them which I think perhaps could be bettered by being amended; but I desire to state to the Senate that we have no right to fail to attempt to aid the producer of the raw material, who has no voice in fixing the price of the commodity he sells and no voice in fixing the price of the articles he buys.

We tried the Farm Board. It failed, not because the law itself was not a splendid piece of legislation, but because of its administration, and because of attacks from outsiders with whose business it interfered. For my part, I thought it was incumbent on me, as chairman of the committee, to state that I think it is our duty to make these marketing agreements enforceable by law, if carried out in justice and in fairness, and to restrict the exploitation of the producer of the raw material by organized industry.

There are some provisions in this measure which perhaps need modification; but I desire to state here and now that in the present state of our organized society it is not fair to leave the millions of those who produce raw material wholly at the mercy of those who process it for the benefit of the consumer; and the House provisions, modified as they are, I think are preferable to the Senate provisions.

In answer to the Senator from Idaho, I will now read the different sections and state how they differ from the provisions of the Senate bill.

Mr. KING. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. KING. Some of us perhaps have forgotten—at least, I have forgotten—the important provisions of the act to which this measure is supplemental. Before proceeding to the course just indicated, will the Senator state in a few words, or as many words as he desires, the nature of the amendments and the difference between the original act and the pending measure, and the additional powers which are sought to be conferred upon bureaucrats, as found in the new bill?

Mr. SMITH. Mr. President, in reply to the Senator from Utah let me state that I do not consider that any additional power is granted by these amendments. I will read the amendments as they occur in the text of the House bill and as they are related to the organic law. I will take them up in their order and read them, so that anyone having the original law and the amendments may understand how the House amendments differ from the Senate amendments, and how they modify the existing law.

Mr. BORAH. Mr. President, did I understand the Senator to say that these amendments confer no powers additional to those granted by the original law?

Mr. SMITH. Practically none at all.

Mr. BORAH. I wish the Senator would amplify that statement.

Mr. SMITH. Very well; I will.

Mr. McNARY. Mr. President—

Mr. SMITH. I yield to the Senator from Oregon.

Mr. McNARY. I have experienced some difficulty in the study of the House bill which has been offered as a substitute for the Senate amendments. The House bill is very complicated in comparison to the original act and the recent Senate bill proposing amendments. It refers to sections, subsections, paragraphs, and clauses to an extent which I find it very difficult to follow.

I am not so much interested in the Senate proposal, because I understand that in the present parliamentary situation that is eliminated, and so we have no reason to think about the amendments which the Senator from South Carolina reported from the Senate committee. What I am interested in is the effect the House amendments have upon the original law in the matter of its modification, alteration, or change.

I wish the Senator would arrange to have the original act printed in parallel columns with the House amendments, so that we could take up these sections, subsections, subdivisions, paragraphs, and clauses, and, by comparison, see just what we are doing in the way of changing the original act by this bill.

I was struck by the statement made by the Senator from South Carolina in response to an inquiry by the Senator from Idaho, that this bill of a dozen pages does not in any way modify the organic law.

Mr. SMITH. I did not say it did not modify it. I do not think it appreciably increases the power of the Secretary of Agriculture.

Mr. McNARY. Does it decrease the power of the Secretary?

Mr. SMITH. In some respects it does.

Mr. BORAH. Let us have information as to those respects.

Mr. SMITH. Very well; I will come to that in due time.

Mr. McNARY. Mr. President, I have no desire to obstruct or delay legislation. I am very anxious, as I think my whole attitude has shown, to terminate the session as quickly as possible. However, I like to legislate intelligently, and would it not be an intelligent thing to have the organic law printed in one column and the House amendment in another, so that we may at a glance know just what we are doing?

Mr. SMITH. I shall attempt, in the résumé of the proposed amendments I am about to present, to refer to the original law, so that as I come to each paragraph the provision of the original law may be read in connection with it. It is not as complicated as the Senator seems to suggest. There are a great many subdivisions and divisions lettered and numbered, and it is a little tedious; but, when we actually get down to it, it is not so very difficult to understand.

Mr. McNARY. Has the Senator prepared notes in order to carry out what he has just stated he would do, namely, give a comparison of the amendments with the present law?

Mr. SMITH. That is what I am trying now to do.

Mr. FLETCHER. Mr. President, let me ask a question as to the parliamentary situation. I understood on Friday that the Senator moved to substitute the House bill for the Senate committee bill.

Mr. SMITH. Yes.

Mr. FLETCHER. Is that motion still pending?

Mr. SMITH. The motion is still pending, and I am addressing myself to the motion.

Mr. FLETCHER. I think the Senator ought to have a chance to proceed.

Mr. SMITH. I desire to proceed. Let us take the first amendment. Section 1, subdivision (a) of House bill 8052 does not appear in our bill, but that is neither here nor there. It is a part of the so-called "Shipstead amendment." The Senator from Minnesota would alter the method of calculating the parity price and increase the rate of processing taxes so as to take account of increased interest payments on farm indebtedness and increased tax payments on farm real estate. This amendment may be considered to raise parity standards by approximately 5 percent.

The Senator from Minnesota [Mr. SHIPSTEAD] called the attention of the Department and of the Senate committee to the fact that in fixing parity prices they had not considered the interest the farmer had to pay on mortgage indebtedness or his taxes, and therefore, when they were figuring up his costs those elements of cost should be included in determining the parity price. I do not think anyone would object to that.

Mr. McNARY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Oregon?

Mr. SMITH. I yield.

Mr. McNARY. Is the Senator now reading from the language found on page 1, lines 4 to 10, inclusive?

Mr. SMITH. If the Senator will turn to House bill 8052, page 1, beginning with line 3, he will find this language:

That (a) the first sentence of subsection (1) of section 2 of the Agricultural Adjustment Act, as amended, is amended by inserting before the period at the end thereof a semicolon and the following: "and in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments, and tax payments during the base period."

Mr. McNARY. Will not the Senator illustrate that proposition?

Mr. SMITH. The Senator from Minnesota came before the committee and said that in calculating the parity price there had been left out the amount farmers had to pay in the form of interest during the base period when their real estate was mortgaged, and the amount of taxes; that those elements of their expense had been left out of the calculation of the parity price.

Mr. McNARY. Would that affect the general principle of payment of interest and taxes, or would it apply solely to each specific farmer?

Mr. SMITH. It would apply to the general parity price. The average of such expenses in the form of interest on mortgages and taxes is easily ascertainable for each section of the country.

Mr. McNARY. Suppose one farmer carried indebtedness on his farm of \$10,000 and another indebtedness of \$3,000. Would the one having a mortgage on his place of \$10,000 receive larger processing taxes than the one with the \$3,000 mortgage?

Mr. SMITH. Oh, no.

Mr. McNARY. I want to know how it would work.

Mr. SMITH. It would be impossible to follow out each one; but in calculating the price current for the thing the farmer sold, whether wheat or cotton or hogs, the amount of taxes paid would be estimated in the parity price. It may cost me more to raise wheat than it costs my neighbor, and may cost me more to raise cotton than it costs my neighbor, but the parity price is uniform. We could not pass a law which would adjust itself to the varying and incidental costs of production.

Mr. McNARY. This is what I have in mind. When we considered the original Agricultural Adjustment Act it was provided that the parity price should be the difference be-

tween the current market price and the base period price, the base period being 1909 to 1914.

Mr. SMITH. That is correct.

Mr. McNARY. Now, the Senator has introduced another factor, namely, what does this person or that pay in the way of interest and taxes?

Mr. SMITH. But the Senator mistakes the object of having a parity price fixed. The original law provided that the return to the farmer should be equal to what he had to pay. We left out what he has to pay in the form of taxes and in the form of interest, and therefore we have incorporated those costs, just as we incorporated the average price he had to pay during the base period.

Mr. McNARY. Perhaps I do not make myself clear. In the old law, with which I am conversant, it was provided that the parity price should be reached by figuring the base period price and the current market price, the two things wholly discoverable at any particular time.

Mr. SMITH. Yes.

Mr. McNARY. Now the Senator has introduced another factor, taking into the calculation interest and taxes. Do the interest and taxes apply to each farmer, or to a group of farmers, and how are the facts ascertained?

Mr. SMITH. In fixing the basic price and the current price there was calculated so much for wheat and so much a pound for cotton as a just return base in the particular period, the average price the farmer received, but the parity price during that period was not made high enough to take care of the various factors which were pointed out by the Senator from Minnesota.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. ROBINSON. The difficulty which arises under this amendment is involved in the calculation which the Department will necessarily have to make in order to arrive at what constitutes the tax and what constitutes the interest payments which must be taken into consideration in fixing the parity price. Manifestly it would be impossible to consider the tax paid by each individual farmer and the interest paid by each individual farmer, because some farmers pay no interest whatever and some lands are taxed very much higher than are other lands.

Mr. SMITH. Certainly.

Mr. ROBINSON. So that there is involved a complicated problem of arriving at an average.

Mr. KING. Mr. President, will the Senator yield?

Mr. SMITH. I will yield in a moment, but before I yield I read from the report of the House committee, where it is said:

The present method of calculation is composed of an index of prices of goods which farmers buy in relation to the pre-war level and does not cover expenditures for taxes and for debt service. At the present time taxes per acre and mortgage interest per acre are probably about 160 to 170 percent of the pre-war level.

As the Senator from Arkansas has said, it would be impossible to go into each individual case, but it would be necessary to arrive at an aggregate; and then, in whatever benefit payments made it would be necessary to figure the total the farmer must pay and use that in determining the price the Department is attempting to get for him.

Mr. KING. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. KING. I think the statement made by the able Senator from Arkansas removes some of the uncertainty which has existed in my mind; but, in order that I may be assured, may I invite attention to a situation which perhaps, by concrete example, may clarify the matter?

Take, for instance, the State of Pennsylvania. I am somewhat familiar with farmers there. Most of the farmers there have no obligations whatever upon their property. Perhaps only 40 percent of the farms in the United States are mortgaged. Assume for the purpose of my illustration that the farmers in the State of Pennsylvania have no mortgages at all, and their taxes are lighter than are those paid by farmers in the State of New York or in the State of South

Carolina. Are we to lump together all the interest charges upon all the farmers who have mortgages upon their farms—all the interest which they have to pay—and then, assuming those charges amount to, say, a billion dollars, raise the parity price \$1,000,000,000, and give the farmers of Pennsylvania or any State where they have no indebtedness and where they have light taxes the benefits by reason of throwing into one pot all the indebtedness of farmers throughout the United States?

Mr. SMITH. The Senator from Utah is too good a lawyer to question the fact that we cannot legislate for exceptions. We have to have general rules, and there are always inequalities under any of them. According to the terms of this bill, the processing tax on wheat applies to the wheat grower, on cotton to the cotton grower, and so forth. It is not a processing tax for the benefit of all the farmers, but a processing tax, or an adjusted compensation, if I may use that obnoxious word in this body, for the farmers in the regions in which a given commodity is produced. There is one processing tax applicable to wheat, one to hogs, one to each of the basic commodities, but they are applied according to the pre-war base parity.

Mr. KING. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. KING. Then, if I understand the Senator—and I agree with him that we cannot legislate to meet exceptions—the bill does mean, however, that those farmers who have no indebtedness, who have no interest to pay, who have light taxes, are going to receive the benefits which result from the augmentation of the aggregate amount which goes to establish the basic price.

Mr. SMITH. Does the Senator think they will seriously object?

Mr. KING. No; they will not, of course; but does the Senator think that is fair and just?

Mr. SMITH. I think it is as fair and just as it can be made.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. ROBINSON. What will probably happen will be that a tax level compared with the basic period tax level will be arrived at, and an interest level will be arrived at comparable with the pre-war or basic period level; and no effort, of course, will be made to work out a tax level based on the amount that each individual farmer pays. That would be impossible. An index figure will be arrived at. It will not be accurate, but it will be approximately accurate.

Mr. SMITH. I call the attention of Senators to the fact that a going concern does not pay taxes; it simply charges them to the consumer. It does not pay interest; it charges it to the consumer. Every Senator knows that the farmers of this country pay the interest and pay the taxes. There is nobody below them to whom they can pass the buck. This bill is an attempt to incorporate into the agricultural program some plan by which the taxes which the farmer pays, and the interest which he pays, shall be shared by those for whom he produces the raw material.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GEORGE. I should like to ask a question, because this bill is a very important one, and it is important to understand it.

Under the provisions of the bill it is simply intended to give to the Secretary of Agriculture the power to increase the parity price. Is not that all?

Mr. SMITH. That is all.

Mr. GEORGE. In other words, it is an additional amount between the fair market or the market value and the parity price, as fixed in the original act by which the Secretary of Agriculture would be empowered to increase the amount of the tax which he may impose upon the product?

Mr. SMITH. That is right.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McNARY. The Senator from Georgia has made no new discovery. That is patent on the face of the bill. I

am questioning the practicability and workability of the provision. I wish to know what the mechanics is. I do not desire to see anything in this bill which will complicate its operation or embarrass its administration. Of course, we know what the purpose is.

Mr. SMITH. The purpose is to increase the parity price of each commodity in accordance with the average interest and taxes the farmers paid during the base period.

Mr. McNARY. That is very, very simple indeed; but the Senator has not as yet explained how it is going to be worked out, or whether it is practicable. We have not as yet had any analysis of it at all. It is very easy to make a general statement of that kind, but how is it going to be done? I should like to have the Senator give an illustration.

Mr. SMITH. Suppose the parity price of wheat should be determined at 98 cents a bushel, but that figure should be found not to be adequate because it did not take care of the items of expense, and the parity price should be 98½ cents or 98¾ cents. That is an illustration of how it would work.

Mr. McNARY. Take the case of a man who has a farm without any mortgage on it, whose taxes are lower than those of a farmer in another community. Is it fair to give him a greater benefit than in the case of the man who has a mortgage on his farm, and a higher tax to pay?

Mr. SMITH. The only way I can answer that question is to answer it as I answered the question of the Senator from Utah [Mr. KING]. Such cases are so infinitesimally few that the Senator need not concern himself with them.

Mr. McNARY. That may be so in South Carolina.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. SHIPSTEAD. In the original Agricultural Adjustment Act there was written into the bill the formula to be followed in determining the parity of the agricultural dollar with the industrial dollar, with the objective in view of getting those two dollars as near together as could be done to achieve the relation which existed from 1909 to 1914. Certain factors were to be taken into consideration in figuring out the parity. Those factors were enumerated in the bill. After the bill had been passed, in a meeting of the Agricultural Committee the fact was called to the attention of the Secretary of Agriculture that there had been a change in two items in the cost of production of agricultural commodities—the greatly increased amount of mortgages on farm lands and the greatly increased taxes. These two items had not been included in the category of factors which were to be taken into consideration.

When that point was called to the attention of the Secretary, he said in the committee—and it is a matter of record—that he thought the omission of those two items was a mistake. He said they should have been included.

As a result of that testimony, we adopted an amendment substantially identical with the first section of the pending bill. The amendment was agreed to unanimously in both the House and the Senate a year ago. However, the President was advised that it was tax legislation, and, being a Senate bill, he felt compelled to veto it. The question now arises in my mind, if we should pass this bill as a Senate bill, should we not meet that objection again?

Mr. SMITH. We are now considering the House bill.

Mr. SHIPSTEAD. The House bill is now before us?

Mr. NORRIS. That is the one we are considering.

Mr. SHIPSTEAD. I thought this was a separate amendment. I was called from the Chamber when the discussion began, and I did not hear what has taken place.

Mr. SMITH. Now, Mr. President, I desire to take up the next amendment.

Mr. GORE. Mr. President—

The PRESIDING OFFICER (Mr. MINTON in the chair). Does the Senator from South Carolina yield to the Senator from Oklahoma?

Mr. SMITH. I yield.

Mr. GORE. There is one point I should like to have the Senator clear up for my benefit.

The Senator from Arkansas [Mr. ROBINSON] stated that under the proposed measure a new tax rate would be worked out as compared with or as contrasted with the tax rate which prevailed during the base period. Taxes undoubtedly have increased, and I can see some point in that suggestion; but interest rates are lower now than they were during the base period 1909 to 1914, each year of which was prior to the establishment of the Federal land-bank system. During that period interest rates were much higher than they are now. So I do not quite see the point of including the item of interest in this provision when interest rates now are less than they were then.

Mr. SMITH. I presume those who calculate the tax will give due consideration to what extra burden has been placed upon the farmer. If it appears that the interest rate is lower, of course, that will not be included, but in case it is higher it will be included. If taxes are higher and are an increased burden, that question will be considered.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. ROBINSON. It is probably true, as I was just about to state, that the prevailing interest rate is lower now than it was during the base period, but it is also true that the aggregate amount of the indebtedness has increased since the base period, and, as I said before, it will involve a somewhat complex computation; but an interest-payment level may be arrived at in the nature of an index figure showing the amount of interest that is paid as compared with that which was paid during the base period.

I must recognize the difficulties that inhere in a computation of that nature. Nevertheless, it is practicable to work it out to comparative accuracy. If the total effect of the computation respecting interest is to reduce the level as compared with the prewar period constituting the base period, the processing tax would be reduced thereby. On the other hand, it would be increased by the new tax level which is arrived at in comparison with the prewar tax level or the base period tax level. No one can tell exactly what the total net result would be as affecting the processing tax; but the question that is to be determined by the Senate is whether these elements, taxes and interest paid on farm mortgages, are fairly to be taken into consideration in arriving at the parity price.

Mr. SMITH. That is all.

Mr. ROBINSON. That is the question.

Mr. GORE. That is the point I was trying to develop. The Senator from Arkansas in his first statement said it was a question of arriving at a new rate as compared—

Mr. ROBINSON. Not necessarily a rate, but a tax level.

Mr. GORE. I think the Senator used the word "rate."

Mr. ROBINSON. No; I did not; I used the words "tax level." It would involve, of course, a comparison of interest rates and tax rates.

Mr. GORE. What I was trying to get at was whether it was a question of rates or levels now as compared to the base period or whether it is a question of the total interest burden borne by the farmers in general now as compared with the burden borne by the farmers in the base period.

Mr. SMITH. I think the whole question, Mr. President, was expressed by the Senator from Arkansas, for it is obvious that if the farmer's dollar is to be on a parity with the dollar of industry, and it is found that the charge for taxes—let us use that as an illustration—is now so much greater than it was during the base period that when subtracted from his income it reduces the purchasing power of his dollar, that factor should be computed in the arriving at parity price.

Mr. GEORGE. In other words, Mr. President, if I understand correctly, the Secretary of Agriculture is of the opinion that the provision in the original act was not sufficiently broad to include the taxes paid as articles which the farmer must buy. Now it is proposed to add to the articles which the farmer must buy in arriving at the parity price the items of interest and taxes.

Mr. SMITH. Which he purchases just as he purchases any other goods.

Mr. GORE. Mr. President, undoubtedly the interest rate is less now than it was during the base period, but the mortgage indebtedness is greater now than it was during the base period. Forty-two percent of the farmers now have their farms mortgaged, according to the last census, while 58 percent of the farmers do not have their farms mortgaged. Would not this element included in the pending amendment operate as a bounty to the 58 percent of farmers who have no mortgage indebtedness at all?

Mr. SMITH. It might, but what are we going to do with the 48 percent who are about to pass out?

Mr. GORE. That is the point I want to get at; namely, if there is some way to take care of the farmers who are entitled to it. Assuming that the element referred to ought to be included at all, is there any way to accomplish that result?

Mr. SMITH. That is getting back to the share-the-wealth plan of the Senator from Louisiana [Mr. LONG]; that is bringing us all down to the same level.

Mr. GORE. Perhaps that is so.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Minnesota?

Mr. SMITH. I yield.

Mr. SHIPSTEAD. As I understand, only part of the taxes and interest taken into consideration in calculating the parity of the agricultural dollar is the increase, if any, in those items.

Mr. SMITH. Over the base period.

Mr. SHIPSTEAD. Yes; over the base period.

Mr. SMITH. That is correct.

Mr. SHIPSTEAD. I wonder if this thought does not apply, for instance, in the case of cotton: Referring to the difficulty of some farms being mortgaged and others not being mortgaged; take, for instance, the benefit payments paid for reduction of acreage in the case of cotton. Some acres are not so fertile as others; some land may produce a bale per acre while it may require 2 or 3 acres of other land to produce a bale; but the farmers are paid the same price. It might be said that that is paying a bounty to the farmer who is a poor farmer, who has poor land, and raises an inferior grade of cotton; but in order to have uniformity of legislation they are all paid the same price per acre for retiring acreage. Of course, the man who is a poor farmer and has very poor land, if he gets as much per acre for such land as the man who has kept his farm in fertile condition and is a good farmer and raises good cotton, it might be said that that places a penalty upon the good farmer; but in order to have uniformity of legislation or in order to have any legislation at all, it seems to me that those things cannot be taken into consideration if we are going to have this kind of legislation.

Mr. SMITH. I may say, by way of explanation to the Senator, that when they are estimating the benefit payments the farmer indicates his production per acre, and they pay him the same price per pound as is paid to others; so that the difference in value of the land productivity is taken care of, because there is a uniformity in the price per pound, and they ascertain how many pounds the farmer has made on a given acre.

Mr. ADAMS. Mr. President—

Mr. SMITH. I yield to the Senator from Colorado.

Mr. ADAMS. I desire to make an inquiry to ascertain if I understand the amendment correctly. As I read it, it is proposed to distribute the aggregate interest payments of all the farmers over the entire area of the productive land, regardless of whether the farms are mortgaged or not. In other words, it is not based upon the rate of interest; it is not based upon the total amount; but it is designed to reflect the current interest payment per acre. In other words, if today 42 percent of the farms are mortgaged and 30 percent were mortgaged at the base period, the problem will be worked out upon the aggregate payment of interest, regardless of the rate, distributed over the entire farming area, because what it is sought to ascertain is a basis; that is, a certain unit of a farm commodity in 1909 would purchase a certain quantity

of those things which the farmer bought, and it is desired to give to him today the same purchasing power for that unit which he produces. It is figured that the farmers' aggregate payments of interest and taxes—that is, of all farmers—have reduced to a certain extent today his unit purchasing power, and the effort is being made to correct that deficiency in purchasing power.

Mr. SMITH. Yes; that is all.

Mr. FLETCHER. Mr. President—

Mr. SMITH. I yield to the Senator from Florida.

Mr. FLETCHER. Mr. President, I think there is a great deal of force in the suggestion made by the Senator from Oklahoma [Mr. GORE]. In the base period the interest rate paid by the farmers of the country was all the way from 8 to 20 percent. When the Farm Loan Act was passed in the year 1916 the interest rate became from $4\frac{1}{2}$ to 5 percent. It was estimated at that time that the farmers of the country would save \$450,000,000 a year in interest alone after the passage of that act. So after 1916 the farmer has been paying much less interest than he paid prior to that time, even though his mortgages have increased. I doubt very much if he would benefit by the arrangement planned in this bill.

Mr. SMITH. Mr. President, that suggestion answers itself; because if in calculating the difference between what the farmer had to pay during the base period in buying interest the Department found that the rate was higher then than now, it would be left out; but in the case of taxes, if it is found that the farmer is paying more then than now, in order to equalize his dollar with the dollar during that period, that extra expense must be taken into consideration.

Mr. GORE. Mr. President—

Mr. SMITH. I yield to the Senator from Oklahoma.

Mr. GORE. I think the explanation given by the Senator from Minnesota is not quite in accordance with the practice of the Department. He stated, in order to secure uniformity of rental payments, that the farmer who had poor land was paid as much as the farmer who had good land, notwithstanding the difference between the quality of the land; that, in the interest of uniformity, equal payments were made. I do not understand that to be the rule or the practice.

Mr. SMITH. It is not.

Mr. GORE. The production records of each tract of land are taken into account, and benefits or rental payments are based on those records, the rule being one of equity rather than of uniformity, I should say.

Mr. SMITH. The facts are easily ascertainable.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. SHIPSTEAD. I am glad to be corrected as to the error. I assumed that benefit payments for cotton land were made according to the region where the crop was produced, as they are made in the case of corn.

Mr. SMITH. No. Each individual farmer is contacted, his record per acre for 5 years is taken, and the pounds per acre are considered as a basis of his benefit.

Mr. SHIPSTEAD. I am glad to stand corrected. So far as benefit payments to corn growers are concerned, they are figured out by regions. A farmer in Illinois receives more than a farmer in Minnesota; but that is because he produces more. However, the farmers in Minnesota get the same general price, whether or not one produces more corn than another. I assumed that the payment of cotton acreage was based upon the same formula.

Mr. SMITH. Mr. President, if I may recur to the next amendment, I will say to those who are interested in section 1 (b) of House bill 8052 that it makes the base period for wool and mohair 1919 to 1929 instead of 1909 to 1914.

Mr. McNARY. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Oregon?

Mr. SMITH. Certainly.

Mr. McNARY. What was the reason why wool and mohair were inserted and incorporated in this amendment? Did any wool growers appear before the committee?

Mr. SMITH. I really should like to state that the amendment was inserted in the House. I do not recall whether

we had any of the processors or growers of wool before us, but I understand that the House inserted the amendment.

Mr. McNARY. Is the policy and purpose of Congress to be that this shall be its attitude regarding the insertion of commodities, the inclusion of which is not sought by the producers thereof?

Mr. SMITH. I am not in a position to state what occurred in the House, but I do not recall that any wool producers or processors appeared before the Senate committee. I do not know what occurred in the House.

Mr. WHITE. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Maine?

Mr. SMITH. I yield.

Mr. WHITE. The provision is, however, put in the bill on the basis of testimony offered elsewhere rather than before the Senate committee?

Mr. SMITH. This is the text of the House bill which we are discussing.

Mr. WHITE. Can the Senator tell us why the post-war period was taken rather than the period from 1909 to 1914, which is the base period for everything else?

Mr. SMITH. The testimony incorporated in the House report was to the effect that the price of wool and mohair at that period was extremely low, far below the parity of the basic price.

Mr. WHITE. Is it not true, as a matter of fact, that using the post-war period of 1919 to 1929 gives a price pretty nearly 100 percent above the price for many years in the past? Is it not a higher price than at least from 1895 on?

Mr. SMITH. It may be, but the basis upon which it was calculated was what the return would be to the producer of these two articles from 1909 to 1914 as compared to what was the return for wheat and cotton and cattle. It was found that the returns for those articles were far below that average base.

Mr. WHITE. Was any data given to the Senate committee which would justify an approximately 100 percent increase, as I understand will be the result of this provision?

Mr. SMITH. I do not think the percentage would have anything to do with trying to ascertain what would be the proper period to take in order to determine the purchasing power of the wool producer's dollar. After considerable search it was found that the ante-war period named approximated the post-war period for the other articles. That is my information. Whether it is a 100-percent increase or 50 percent or 200 percent, the object was to get the period which would be nearest to approximating the purchasing power of the producer's dollar.

Mr. WHITE. The practical result is that it is increasing the price of wool to the manufacturer by nearly 100 percent, I understand.

Mr. SMITH. As I said in my opening remarks, the object of the bill is to try to secure for the producer of the raw material a return comparable to what he has to pay for the articles which he buys.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. SMITH. Certainly.

Mr. VANDENBERG. Would not the Senator agree that it is possible artificially to put these prices so high that manufacturing users are inevitably driven to substitutes?

Mr. SMITH. As I understand the purpose of the bill, wherever there is a danger of that happening, a compensating tax is placed upon the competing article so as to keep them on a parity.

Mr. VANDENBERG. So that the authority under the bill finally seeps out into almost any undefined field of trade in the Nation?

Mr. SMITH. Yes; if that undefined field of trade directly and pertinently affects the price of the product, the basic article.

Mr. VANDENBERG. Let us personify the point. Wool and mohair are used to a large extent in connection with the production of automobiles, let us say, in the upholstery. By taking the post-war period and determining that as the base price for wool and mohair, according to the statement just

made by the Senator from Maine [Mr. WHITE] we would increase the cost of wool and mohair in the production of an automobile about 100 percent. My expectation would be that the automobile manufacturer would immediately search for a substitute, and he is very effective usually in seeking substitutes. He has produced some amazing substitutes in many fields.

As I understand the Senator from South Carolina, whatever that substitute might be which may be subsequently discovered, though unknown to us today, it would fall within the jurisdiction of a compensating tax.

Mr. SMITH. Yes; just as the Senator's party applied the same principle exactly in its high protective tariff policy—

Mr. VANDENBERG. Oh, no!

Mr. SMITH. Whereby they placed a compensatory tax on all competing articles so the highly protected commodities had the right-of-way.

Mr. VANDENBERG. There is the very substantial difference that, up to within a few months, we have at least permitted Congress to write the tariffs, whereas in this instance it is proposed to permit the great Secretary of Agriculture to write his own tariffs as he sees fit at any time.

Mr. SMITH. I do not know; but wherever there happened to be a competing article a compensatory tax automatically went on it under the law enacted by the Senator's party. When we come here to try to do for the farmer what the Senator's party so abundantly did for the manufacturer, we begin to hear it said that the authorities can go into all sorts of undefined territory. It is undefined until it defines itself as a serious competitor of the article being produced.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. LEWIS. With the consent of the Senator from South Carolina, I take the liberty of addressing an interrogatory to my neighbor and colleague, speaking of the State of Michigan, to the Senator from Michigan [Mr. VANDENBERG], in view of his observation to the Senator from South Carolina as to mohair and wool and the statement of the able Senator from Michigan that the operation of this measure, as I gather, means an increase of price to all manufacturers. Did the able Senator from Michigan mean all manufacturers using any commodity covered by this bill, or did he mean any manufacturer that has to do only with mohair and wool?

Mr. VANDENBERG. I am afraid I did not follow the Senator's question. I am sure it is my fault.

Mr. LEWIS. Oh, no. It is possible there is something involved in my sentence.

When the Senator from Michigan stated a moment ago to the Senator from South Carolina that the operation of the bill meant an increase to the manufacturer, following the remarks of the Senator from Maine [Mr. WHITE], did the Senator from Michigan mean to intimate that as to every commodity covered by the bill it means an increase to the manufacturer having to do with such commodities, or did the Senator limit himself to mohair and wool, to which he referred?

Mr. VANDENBERG. I am discussing mohair and wool at the moment, and I think as we come further down into the bill we shall discover there is the same unlimited jurisdiction in respect to compensatory taxes upon substitutes throughout the entire scheme.

Mr. LEWIS. Is it the idea of the Senator from Maine and the Senator from Michigan that the operation of the bill, generally speaking, will increase the prices to the manufacturer, which necessarily would reflect themselves upon the consumer?

Mr. VANDENBERG. That would be my view. I have no quarrel with that insofar as it is necessary to provide a reasonable cost of production to the farmer. I quite agree with the Senator from South Carolina that that is absolutely essential. I am simply inquiring into the physical fact whether the Senator from South Carolina may not so zealously seek to do that thing that he may drive the manufacturer to seek a substitute and thus nullify the purpose we are trying to accomplish.

Mr. LEWIS. I thank the Senator from South Carolina.

Mr. SMITH. I call the attention of the Senator from Michigan to the fact that all these amendments seek to do, according to the proponents of the bill, is to fix the purchasing power of the farmer's dollar at exactly the same point as the purchasing power of the dollar of the man whose product he has to buy. None of us could quarrel with that. It may be necessary to do some very startling things in order to bring that about; but would we not prefer to do the very radical things necessary, rather than to leave the farmers in the defenseless and helpless condition in which they now find themselves? That is the object of the measure before us today, and that is the matter we now have to consider.

It is notorious that, so far as the farmer is concerned, he never knows what he is going to get for his product. He has no voice in the price of what he has to sell. He has no voice in the price of what he has to buy. The Government now is attempting to step in and take the place of an organization, and, in justice and equity, say to the farmer, "We are going to try so to organize the marketing process that you shall receive a just return for the products you contribute to organized society."

Mr. AUSTIN. Mr. President, will the Senator yield for a question?

Mr. SMITH. I yield.

Mr. AUSTIN. May I call the Senator's attention to page 7, lines 16, 17, and 18?

Mr. SMITH. Will the Senator bear with me for a little while? I desire to read through the proposed amendments, so that each Senator may be familiar with what they are, and to what part of the bill they pertain.

Mr. AUSTIN. Very well.

Mr. CAREY. Mr. President, will the Senator yield for a question?

Mr. SMITH. Yes.

Mr. CAREY. As I understand, the object of the amendment affecting mohair and wool is to make them basic commodities.

Mr. SMITH. That is correct.

Mr. CAREY. They will be subject to a processing tax?

Mr. SMITH. Yes.

Mr. President, section 2 (a), the next amendment of House bill 8052, is purely a technical change. It makes no change in the law.

Mr. McNARY. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Oregon?

Mr. SMITH. I yield.

Mr. McNARY. My attention has been distracted a great many times. Before leaving the subject of wool and mohair, is the base period for ascertaining the parity price for wool and mohair changed from the base period for the other commodities mentioned in the original act?

Mr. SMITH. To arrive at the base period, the years had to be ascertained when the prices received for the units of wool and mohair most closely approximated the parity of the other commodities during the pre-war period. That is the reason why the post-war period years were adopted, because the pre-war prices for these two articles were so very low that they were just impossible. Therefore, in order to get anything like parity, it was necessary to search for years that really represented an equitable base period. If the pre-war period had been accepted as the base, it would not have been any benefit at all to the wool or mohair grower. The bill, therefore, takes the years from 1919 to 1929.

Mr. BYRD. The same years as in the case of tobacco.

Mr. SMITH. In this case the post-war period has been substituted for the pre-war period.

Mr. WHITE. And in so doing, a period has been selected when wool was higher than it has been within a period of 40 years or so.

Mr. SMITH. It is not a question of how high wool has been. It is a question of whether the purchasing power of the wool grower was on a parity with that of the man whose product he had to buy. An effort has been made to ascertain what period that was; and there has been taken the post-war period from 1919 to 1929 as a time when the prices

of wool and mohair were approximately on a parity with the prices of corn and meat and cotton and wheat in the pre-war period.

Mr. President, I now come to sections 2 (b) and 2 (c) of the bill we have before us. They are identical with sections 1 and 2 (a) of the Senate bill, and simply substitute the word "production" for the word "reduction", and put in the word "adjustment." The reason for that is that it was found that in certain regions no reduction might be needed, but an increase; and, regionally, it was desired to have the power to adjust rather than to just to have the word "reduction" used.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BYRD. I should like to ask the Senator if that would permit a benefit payment to a farmer who increases his crop as well as to the one who reduces his crop?

Mr. SMITH. For certain purposes of the bill that will be found to be true, and I will show the Senator the reason when we get to it.

Section 2 (d) of House bill 8052 does not appear in the Senate bill. That does not concern us. It amends section 8 (1) of the Agricultural Adjustment Act by empowering the Secretary to make, in addition to rental or benefit payments for acreage adjustment, which are already authorized in section 8 (1), payments on any basic commodities for expansion of domestic or foreign markets, for removal of surpluses, and in connection with the production of that part of a commodity required for domestic consumption. The real object of this section is to authorize and require the levy of a processing tax in order to finance the making of such payments. In other words, the processing tax now results in an extra price for the wheat and cotton consumed here. It is now proposed to attempt a payment on the exportable part, and this is what this provision seeks to do.

Mr. BYRD. Mr. President, I should like to ask the Senator from South Carolina whether his analysis now refers to Senate bill 1807 or to the present law.

Mr. SMITH. I am referring to the House amendment.

Mr. BYRD. The Senator is speaking of the differences between the two bills. Is he speaking of the differences between the House bill which has been offered as a substitute and the old Senate bill 1807, or is he speaking of the difference between this bill and the present legislation?

Mr. SMITH. I am speaking of the differences between this bill and the present legislation, because I take it that the Senate will agree to the substitution of the House bill for the Senate bill.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. VANDENBERG. Do I understand that the paragraph which the Senator has just described is an approach to the two-price system for agricultural commodities?

Mr. SMITH. It is an approach to an effort to eliminate the two-price system.

Mr. VANDENBERG. No; on the contrary, is it not substantially the theory of the old McNary-Haugen bill, which is a two-price system—a high price at home, and whatever price can be obtained abroad?

Mr. SMITH. No, no. The old McNary-Haugen bill tried to make the price uniform by the payment of rebates on all exported articles, so that the price to the American producer would be uniform.

Mr. VANDENBERG. Yes; but by two-price system I mean a higher price in the home market than abroad.

Mr. SMITH. But compensating for the lower export price.

Mr. VANDENBERG. Exactly. This is an approach to the two-price system as I now describe it?

Mr. SMITH. Yes; as the Senator now describes it.

Mr. VANDENBERG. And that is substantially the McNary-Haugen theory as we used to understand it; but I assume that this language would not permit the application of an equalization fee.

Mr. SMITH. Oh, no.

Mr. WHITE. Mr. President, will the Senator recur to subparagraph (c), at line 14, and explain to me just what that seeks to accomplish? I understand that it permits the Government to make rental payments or benefit payments, not alone in cash but in commodities of other kinds.

Mr. SMITH. The bill specifically permits the Secretary to pay the wool producer in wool. He cannot pay him in any other kind of commodity. Later on in the bill that is specifically defined.

Mr. WHITE. It proposes to insert these words:

Or to be made in quantities of one or more agricultural commodities acquired by the Secretary of Agriculture pursuant to this title.

Mr. SMITH. Yes.

Mr. WHITE. I thought that was broad enough to permit the Secretary to make the payment in any one of the many agricultural commodities in the possession of the Government.

Mr. SMITH. No. The bill later on—I shall come to that directly—specifically provides that where payment in kind is made, it has to be in kind to the producer of the particular article. For instance, in lieu of cash payment for the wool producer, he may be paid in wool; the cotton producer may be paid in cotton; the corn producer may be paid in corn. The bill later on specifically defines that.

Mr. WHITE. These are matters with which I am not familiar; but why should the cotton producer, who produces cotton that he wishes to sell, desire to be paid in cotton, the very crop of which he is undertaking to dispose?

Mr. SMITH. To get rid of the surplus. He takes that in lieu of production.

Mr. BYRD. What would the cotton producer do with cotton?

Mr. SMITH. He would use it in lieu of production, just as he did under the law we passed which Mr. Hoover failed to sign.

Mr. BYRD. He could not eat it. He would have to sell it; would he not?

Mr. SMITH. He would keep it in lieu of production next year. It is the only method we can find that will take care of overproduction. For instance, suppose we were to produce so much wheat that we would have practically a 2-year supply: Instead of sacrificing the whole thing, under this bill when the price got down to a point where it meant starvation and ruin for the wheat grower, the Government would be authorized to purchase wheat and resell it to the farmer in lieu of next year's production, so that the speculator would not get the benefit of the farmer's acreage reduction, but the farmer would get the benefit of it.

Mr. BYRD. Does the Senator think that the farmer would rather have cotton than cash?

Mr. SMITH. Thousands would, and I would, if in taking cotton I could borrow on it and substitute it for next year's production. When the price goes up I have made a crop, virtually speaking, without producing.

Mr. BYRD. Suppose the price does not go up?

Mr. SMITH. If the price does not go up it is not profitable for me to make a crop.

Mr. BYRD. In other words, the Senator thinks the farmer would rather have a hundred dollars' worth of cotton than to have a hundred dollars in cash?

Mr. SMITH. That is the option.

Mr. BYRD. I understand it is optional with the Secretary of Agriculture.

Mr. SMITH. No; it is optional with the farmer, under this bill.

Mr. HATCH. Mr. President, a question was propounded a few moments ago regarding wool and mohair, and I did not understand the answer. There has been some opposition in my State to this amendment, and I think there is a misapprehension about it. I desire to ask whether the bill changes anything concerning the wool and mohair industry except the base period. Is that the only effect it would have?

Mr. SMITH. It puts them under license.

Mr. HATCH. Permits the industry to be licensed?

Mr. SMITH. Yes.

Mr. HATCH. It does not make wool and mohair basic commodities?

Mr. SMITH. No.

Mr. VANDENBERG. Mr. President, I am sure the Senator from New Mexico is seeking to clarify the situation.

Mr. HATCH. I am seeking information.

Mr. VANDENBERG. In reply to previous questions, I understood the Senator from South Carolina to tell the Senator from Wyoming a few moments ago that this does make wool a basic commodity and that it does permit the levying of a processing tax on wool.

Mr. SMITH. It permits the levying of a processing tax on wool, but it puts the two products in that class because the base period is a different one.

Mr. VANDENBERG. I understand the difference in periods, but this does grant the power to make wool a basic commodity and assess a processing tax against it. Is not that correct?

Mr. SMITH. Not under this bill.

Mr. VANDENBERG. Was not that the Senator's statement to the Senator from Wyoming a little while ago?

Mr. SMITH. Let us look on page 6 of the House text, under section 4, line 17, where it is provided:

Except in the case of milk and its products, tobacco, and sugar beets, no license issued under such clause (3) shall be effective with respect to any commodity (or product thereof) which on April 1, 1935, is defined, under section 11, as a basic agricultural commodity, nor shall any such license be effective with respect to any nonbasic agricultural commodity (or product thereof) except wool, mohair, fruits, and vegetables.

Those are nonbasic.

Mr. CAREY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. CAREY. Why would they set up a base period if it were not for the thought of the processing tax? The base period is set up so that a price may be fixed on any commodity.

Mr. SMITH. Let me explain to the Senator. Wherever a product is considered a basic commodity no license whatever is applied to it. The producer is remunerated by the processing tax. Where it is taken out of the class of basic commodities, then the processors and distributors are licensed, and they have trade or marketing agreements.

Mr. CAREY. The Senator is talking about a different part of the bill. Under the bill, as I read it, wool becomes a basic commodity and subject to the processing tax. I do not say that a wool dealer or producer would be licensed.

Mr. SMITH. Under the terms of the House text the wool is removed from the operation of the processing tax, and processors and distributors are put under a license in accordance with marketing agreements arrived at by the producers.

Mr. CAREY. A base price is set up, and how could that base price be obtained if there were not a processing tax to raise the price? How would it be done?

Mr. SMITH. I presume that through the licenses, and marketing agreements of the producers, they will be allowed a price equal to the base price. But wool has been taken out on the ground, it is said, that there are so few purchasers and producers of wool that it has been wholly impossible to levy a processing tax with any degree of success.

Mr. CAREY. I cannot understand the mechanics, because on any other commodity, under this measure, there will be a processing tax and the producer will be paid the difference. If they are not agricultural commodities, where will the money come from to raise the price?

Mr. SMITH. I understand from the Department that through the marketing agreements there would be fixed a price at which the producers would sell, and the processors and distributors would be required, under their licenses, to pay that price.

Mr. CAREY. Suppose there were no market demand for the wool, and suppose the price should be so high that wool would come in from abroad?

Mr. SMITH. Under the marketing details, all those things are worked out under the marketing agreements.

Mr. CAREY. This is price fixing, then.

Mr. SMITH. It has those features in it, yes; just as the manufacturer has to fix his price in order to take care of overhead.

Mr. CAREY. In other words, the Department will say, "You must have so much for wool, and we will fix the price."

Mr. SMITH. It approximates that; yes. That is frank.

Mr. O'MAHONEY. Mr. President, if I understand correctly, it does not go that far.

Mr. SMITH. It approximates that.

Mr. O'MAHONEY. If a marketing agreement is made, its objective, of course, will be to raise the price.

Mr. SMITH. To the parity.

Mr. O'MAHONEY. And this provision is designed to substitute, as a guide for the Secretary in entering these marketing agreements, the price from 1919 to 1929, after the war, for the extremely low price range of the pre-war period.

Mr. SMITH. Yes; it is just to bring the price to the parity.

Mr. O'MAHONEY. As I read the language to which the Senator has just alluded, it seems to be a very clear declaration that wool, mohair, fruits, and vegetables are not basic commodities.

Mr. SMITH. That is correct.

Mr. O'MAHONEY. And not only is that true but in the report which was filed by Mr. JONES, from the Committee on Agriculture in the House of Representatives, I find, on page 6, this statement referring to the new licensing provision:

They cannot apply to any basic agricultural commodity (or its products), as now defined, except that they can apply to milk and its products, tobacco, and sugar beets.

That is a list of basic commodities.

Mr. SMITH. Things which were basic commodities.

Mr. O'MAHONEY. And still are.

Mr. SMITH. Yes; in a way.

Mr. O'MAHONEY. Then we read the next sentence:

Nor can these licenses apply to any nonbasic agricultural commodity or product thereof except wool, mohair, fruits, and vegetables.

In other words, here is a distinct statement in the report affirming the language of the bill that wool, mohair, fruits, and vegetables are nonbasic commodities.

I wanted to ask the chairman of the committee this question: Is my understanding correct that there is no provision in the bill now before us amending that section of the Agricultural Adjustment Act which names the basic commodities?

Mr. SMITH. That is correct.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BYRD. It is unquestionably true that wool and mohair and fruits and vegetables are not made basic commodities, but I should like to correct the statement of the Senator from South Carolina when he said that no license can be issued for basic commodities, because limitations on page 6 refer to clauses 2 and 3, and there is another licensing section known as clause 1 which would be made effective. There are three separate and distinct licensing clauses in the bill, 1, 2, and 3, which provide a universal licensing system for all farm products and competing products if the Secretary desires to put it into execution.

Mr. HATCH. Mr. President, the particular section referred to by the Senator from Virginia only authorizes licensing in cases of unfair practices.

Mr. BYRD. Let me answer that suggestion. Not only unfair practices, but the effectuation of the declared policy of the act, which is to restore normal economic conditions in agriculture.

Mr. SMITH. The Senator from Virginia understands that on page 4, line 23, this language is used:

To eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy.

Mr. BYRD. Let the Senator read a little further, "and the restoration of normal economic conditions" to agriculture.

Mr. SMITH. I understand, but that is just the sequence of the unfair practices. If there are fair practices, then the processing tax applies and no license shall be applied, and the Senator will find further on in the bill a provision that there must be due diligence in ascertaining what are unfair practices.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BANKHEAD. In answer to the Senator from Virginia, I wish to call attention to the fact that this is limited to unfair practices. It reads:

To eliminate unfair practices or charges that prevent or tend to prevent the effectuation—

And so forth.

Mr. SMITH. I said it was predicated on that.

Mr. BANKHEAD. Unfair practices only.

Mr. SMITH. I wish now to consider the next amendment. Section 3 of H. R. 8052 corresponds to section 2 of Senate bill 1807. In the House bill it has been altered to conform to the changes heretofore referred to, which authorize the levying of processing taxes in connection with the expansion of markets and removal of surpluses of agricultural commodities.

Mr. ROBINSON. Mr. President, may I ask the Senator where the amendment appears in his amendment in the nature of a substitute?

Mr. VANDENBERG. On page 3, line 14.

Mr. SMITH. As I said, the House bill has been altered to conform to the changes heretofore referred to, which authorize the levying of processing taxes in connection with the expansion of markets and removal of surpluses of agricultural commodities. The major result of these alterations is to deprive the administration of the authority which it has under the present act to expand domestic and foreign markets for and remove surpluses of nonbasic commodities.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McNARY. As much as I should like to have done so I have not been able to follow the Senator consecutively, on account of interruptions. Did the Senator discuss the amendment on page 2 to strike out the word "reduction" and to insert in lieu thereof "adjustment?"

Mr. SMITH. The Secretary of Agriculture and his assistants claim that in the operation of the law they already have found that it might be necessary, in place of reducing, to increase, or to adjust the conditions, rather than be restricted by the word "reduction."

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GEORGE. Where it is found necessary to increase production, is it not reasonable to expect that the price of the commodity, the production of which needs to be increased in order to supply a market demand, will enhance, without putting it in the power of the Secretary of Agriculture to pay benefits to a farmer either to reduce or to increase his production? Are we now abandoning the whole theory on which the Agricultural Adjustment Act was first promulgated, and making the Secretary of Agriculture the complete guardian of the farmer, paying the farmer when he needs to have him increase, and paying him when he desires him to reduce?

Mr. SMITH. I shall enter into the philosophy of this measure only to the extent of saying that the farmer has not been able to do those things for himself up to the present time. However, in answer to the Senator from Georgia, I will say that I think what they have in mind is that there are certain commodities, perhaps, which may be advantageously used in export, but the price of which might not be up to the parity; and the Senator will find in this bill that an effort is made to incorporate some of the features of the McNary-Haugen bill namely, the adjustment for the farmer on his exported commodities as well as paying a farmer on his domestically consumed commodities.

Mr. GEORGE. I appreciate that and I think I thoroughly understand that. However, that has not anything to do, as I see it, with this provision.

The bill proceeds on to two theories. There is a conscious, definite, well-defined purpose to make it possible for the Secretary of Agriculture to increase the processing tax, to impose and collect more taxes to pay out greater benefits, and he is desirous of being relieved of all restrictions, so that he can pay out the proceeds of that tax to increase production or reduce production, or to reduce acreage or to increase acreage. It is the purpose to give him a perfectly free hand, as I understand. The amendment is difficult to understand as it is drawn, but undoubtedly that is what is meant; and I cannot interpret it in any other way. It has not anything to do with export, as I understand it.

Mr. SMITH. Mr. President, I think the basic principle underlying it is an adjustment of our production to whatever volume our export and domestic consumption may require.

Mr. GEORGE. I grant that; but the Agricultural Adjustment Act was predicated upon one thought and one theory and one fact, which is that we were accumulating and had accumulated surpluses in this country to the point where the market price had broken down. We had accumulated them in the domestic market, and, of course, our domestic price went down. So an effort was made to devise some means by which we could control the production so as to raise the parity price. In the meantime the power to impose a tax was given to the Secretary of Agriculture, and the power to pay benefits was given to the Secretary of Agriculture, to induce reduction in acreage or reduction in production. Now we throw it wide open, so that the Secretary of Agriculture may do much as he pleases with the money raised through the taxes which he imposes.

Mr. SMITH. I desire to call the Senator's attention to the fact that getting rid of the surplus, which was one of the potent causes in breaking the price, is only one of the objectives which have been sought by the Government since I have been a Member of the Senate, namely, devising some plan, some way, somehow by which the farmer would not be at the mercy of an uncontrolled market.

Mr. VANDENBERG. Mr. President, will the Senator yield for a further question?

Mr. SMITH. I yield.

Mr. VANDENBERG. Does the word "reduction" have to be changed to the word "adjustment" in order to justify the approaching wheat policy, which continues the reduction benefits without requiring any reduction in order to obtain the benefits?

Mr. SMITH. I think perhaps that is one of the objects in view.

Mr. VANDENBERG. That is the new adjustment which the Senator has in mind.

Mr. SMITH. The Senate report says:

In connection with many of the commodity benefit programs, it has frequently been found desirable to require a larger reduction in acreage from the base period during the first year covered by such programs than is required during the second or later years. Thus, while the provisions with reference to the later years require a reduction in acreage in comparison to that which obtained during the base period, they allow an increase in acreage over that which is permitted during the first year of the reduction program.

So that is just along the line to which the Senator has called my attention; and I presume the price which the farmer is to receive must be the level of the market, or it must be supplemented by funds derived from a special tax or from the regular income received by the Government.

Mr. VANDENBERG. However, is not the Senator from Georgia precisely correct when he says we are departing from the original purpose of the act when we now propose to license benefit payments without requiring any reduction in return for those benefit payments?

Mr. SMITH. It may be as necessary to increase production for a definite and specific purpose, for the benefit of agriculture, as it was to decrease production.

Mr. VANDENBERG. I am not inquiring into the justification for it. I simply am asking whether we are not departing entirely from the original formula.

Mr. SMITH. I do not think the original intent was for the purpose of reduction alone. We started out, under the Hoover administration, to try to bring about some kind of an organization which would insure a reasonable price to the producer. Now, if it is found that in some instances an increase of production is desirable, for whatever purpose it is required, it might be necessary that the grower be compensated.

Mr. VANDENBERG. What is the theory upon which benefits are paid to wheat farmers without requiring any reduction in acreage on their part? What theory defends that procedure?

Mr. SMITH. I did not know of any difference until now.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BANKHEAD. I am glad to have the Senator yield at just this moment, because of the argument of the Senator from Georgia [Mr. GEORGE] and the Senator from Michigan [Mr. VANDENBERG].

The original act, as we all understand, used the word "reduction." What is the base upon which the reduction is to be made? Under the language of the act we could not make any change and pay any benefit payments unless a reduction had been made over the preceding year. A base is established, as in 1934; and then we come to 1935, and we do not make a reduction, but authorize an increase in acreage. Under those circumstances, at least it is questionable whether we can make benefit payments without making a reduction over the fixed period.

In the case of wheat we had a period of reduction which was fixed, based on previous experience. Then came the drought. Then came in large measure the disappearance of the surplus. The provision in this measure authorizes the payment of benefits without requiring a further reduction of acreage, or without requiring at least the same reduction previously provided, though there are those who contend that under the language of the original act there can be no benefit payment without a reduction over the previous reduction. The word "adjustment" eliminates that questionable phase or that construction.

Besides, we must bear in mind, in answer to the question of the Senator from Michigan, that there will be two methods under this program. The one objective is to secure a parity price. That is the declared policy of the act. There are more ways, Mr. President, to accomplish that result than merely by resorting to a reduction in acreage in order to make applicable the law of supply and demand. The other method, the one authorized by this bill, is in addition to the reduction in acreage, namely, the payment of benefit payments to help lift the price of the agricultural commodity above the level to which it is lifted by the acreage reduction.

We may not do so merely by an acreage reduction in the case of cotton. In that instance we know that we have not adjusted the supply to the reasonable requirements of the market. Therefore a mere reduction in acreage in itself in 1 year, in 2 years, or even 3 years may not adjust the supply to the demands of the market. So the original act contemplated and authorized benefit payments in addition to the payment of acreage rental under a reduction program.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. TYDINGS. I was wondering if the Senator from Alabama had finished. If so, I wish to ask the Senator from South Carolina a question.

Mr. BANKHEAD. I have concluded.

Mr. TYDINGS. I did not wish to interrupt the Senator from Alabama.

Mr. BYRD. Mr. President—

Mr. SMITH. I yield to the Senator from Virginia.

The PRESIDING OFFICER (Mr. LEWIS in the chair). May the Chair suggest that Senators desiring to interrupt address the Chair so that the Chair may ask the Senator having the floor to which Senator he desires to yield?

Mr. SMITH. I yield to the Senator from Virginia to ask a question of the Senator from Alabama.

The PRESIDING OFFICER. The Senator from South Carolina yields to the Senator from Virginia.

Mr. BYRD. I should like to ask the Senator from Alabama if in his judgment the change from the word "reduction" to "adjustment" would permit the payment to a farmer directly for increasing his crop, whatever that crop might be?

Mr. BANKHEAD. I think it would authorize the payment of benefit payments if that were necessary to help give the farmer a parity price for his crop.

Mr. BYRD. Will the Senator explain how the price of a particular commodity can be increased by increasing its production?

Mr. BANKHEAD. If the benefit payments are related to and added to the price for that production it indirectly gives the farmer an additional price.

Mr. BYRD. But that is not the conception of the act, is it?

Mr. BANKHEAD. I think so. That is just the argument I have made, that it authorizes not only payment for acreage reduction but, where that is not sufficient to give the parity price, it authorizes also benefit payments in addition thereto. One is rentals and the other benefit payments. They are both authorized.

Mr. BYRD. Then, it is the policy of the Department of Agriculture to pay farmers for increasing their crops, if it is necessary to do so in order to obtain the parity price?

Mr. BANKHEAD. I do not think an increase in the crop ever increases the price.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. SMITH. I do.

Mr. TYDINGS. I understand the Supreme Court now is passing on the N. R. A.; I do not know what the decision is; but I am wondering if the N. R. A. Act, particularly its intrastate features, should be declared unconstitutional, how far that same philosophy would make unconstitutional this bill as it is now conceived.

Mr. SMITH. I think the difference between this bill and the N. R. A. law is that this is largely voluntary; it provides for contracts between certain parties and the Government.

Mr. TYDINGS. Let me interrupt the Senator, if I may. As I understand, the Secretary of Agriculture is given the power to license in certain categories and under certain conditions. If he is given that power, and he should refuse to license a particular farmer dealing wholly in intrastate business—

Mr. SMITH. The Senator means a processor and not a farmer.

Mr. TYDINGS. That is correct; yes. In that case if the N. R. A. should be held to be unconstitutional because of its intrastate provisions, would not the same objection apply to the pending measure?

Mr. SMITH. I do not think this bill would be valid. I do not think the Secretary under the law could arbitrarily license any man doing wholly an intrastate business.

Mr. TYDINGS. That answers my question. Then, as I understand the Senator's conception of this bill, the licensing power will affect only producers or processors who are engaged in interstate commerce.

Mr. SMITH. Necessarily.

Mr. TYDINGS. That is the conception of the bill?

Mr. SMITH. I think so.

Mr. BYRD. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. SMITH. First, let me define clearly the distinction, and then I will yield. I do not think we have any right or power to interfere with business transactions wholly intrastate. I do not think there is any way for us to reach them. The only approach of which I know was in stretching the commerce clause in the railroad cases, where the Interstate Commerce Commission declared that a railroad wholly intrastate might indirectly affect interstate commerce, and therefore would be subject to rates, fares, and charges as a road that was interstate. But there will be found in the

proposed amendment a clause setting forth almost the identical language that was used in the case of the railroads, namely, "affecting or modifying in any way interstate commerce."

Mr. TYDINGS. Mr. President, may I ask the Senator another question?

Mr. SMITH. Yes.

Mr. TYDINGS. In certain parts of Maryland there are a great many milk producers. They generally supply not only Washington but Baltimore, of course. Suppose the Secretary of Agriculture, under some marketing agreement, should define an area, as provided in this bill, which would allow, we will say, shippers of another State to ship milk into Baltimore under certain conditions. I do not see how he could regulate in any way the business of the shippers who produce milk in Maryland and sell it in Baltimore.

Mr. SMITH. Neither do I.

Mr. TYDINGS. So that the same criticism which was made as to the difficulty of enforcing the N. R. A. would apply, namely, that there would be one class of people supplying milk unregulated while the other class of people who were outside the State would be regulated.

Mr. SMITH. My idea of this bill, reading the text, is that those located within the territory described by the Senator would enter into a marketing agreement, and then the interstate shipper who wanted to avail himself of that market would have to subscribe within that zone to the agreement perfected by those in the vicinage where the business is carried on.

Mr. TYDINGS. But the Senator will concede, will he not, that the Secretary of Agriculture has nothing to do with an agreement made between the producers and the distributors of a commodity all within a State?

Mr. SMITH. Certainly; except voluntarily. If they set up a marketing agreement, then the processor who has interstate relations can be licensed in order to make him carry out and effectuate the policy of the marketing agreement entered into by all the milk producers. That is the object of this bill.

Mr. TYDINGS. Mr. President, let me say to the Senator from South Carolina that I have just been advised that the Supreme Court generally has held the whole N. R. A. to be unconstitutional, and I take it for granted that information is accurate. If that be true, it strikes me that we have to a large extent the philosophy of the N. R. A. insofar as intrastate control is concerned written into the pending bill, because there is no exception made in the bill which I hold in my hand as to intrastate commerce.

Mr. SMITH. If the Senator will read carefully the provisions for marketing agreements, he will find they are entered into as a form of voluntary contracts.

Mr. TYDINGS. Suppose 70 percent of those interested voted to become parties to one of these voluntary contracts and 30 percent vote not to do so, and the business is all intrastate, what can the Secretary of Agriculture do about it?

Mr. SMITH. I do not think he can do anything about it.

Mr. TYDINGS. What good will an agreement do if it does not apply to everybody?

Mr. SMITH. I think if the marketing agreement shall be demonstrated to be beneficial, others will seek to enter into it. All that I can say is, as the Senator from Maryland and every other Senator here knows, that if the business is conducted wholly within a State—if, in other words, it is intrastate—we cannot do anything with it by Federal law. That is all there is to it.

Mr. TYDINGS. Then there is nothing in this bill which provides that any such thing can be done?

Mr. SMITH. No; and if there were, the provision would be just idle words.

Mr. BYRD. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. SMITH. I yield.

Mr. BYRD. I am very much interested to learn what the Senator has said with respect to the intrastate feature; but, as a matter of fact, this bill has new language in it which

the original legislation did not contain. I refer to the words "in competition with or so as to burden, obstruct, or in any way affect interstate or foreign commerce."

Mr. SMITH. I just called attention to that.

Mr. BYRD. Then, if reference be made to the report of the House committee, it will be found that it is intended to control intrastate shipments where intrastate shipments affect interstate shipments.

Mr. SMITH. Yes; that is the language that was used.

Mr. BYRD. In other words, the effort has been made to control intrastate shipments just as completely as it is possible by law to control interstate shipments.

Mr. SMITH. As Chairman of the Interstate Commerce Committee, I did not subscribe at the time to the absurd length to which they went in interpreting the law to which I have referred, nor do I subscribe to it now; but where the intrastate condition does affect the interstate condition it ought to be subject to the same regulation as is the interstate. If the Senator means to define where one begins and the other leaves off, it is all right.

Mr. BYRD. In other words, if it does affect interstate commerce, it would be controlling intrastate commerce, if the amendment should be constitutional.

Mr. SMITH. If intrastate commerce affects disastrously interstate commerce, it then becomes subject to the interstate commerce law because it is affecting the instrumentalities of the Federal Government.

Mr. BYRD. I understood the Senator stood upon the principle that we should not control intrastate commerce.

Mr. SMITH. I do.

Mr. BYRD. This amendment certainly attempts to control it.

Mr. SMITH. I do not like the language here any more than I liked it in our Transportation Act, but I maintain that if an intrastate business in its relation to interstate business is affecting interstate business disastrously, then by the very terminology used it is interstate and is no longer intrastate. For instance, in the child-labor law it was attempted to forbid the shipment in interstate commerce of any goods from a factory which employed child labor. The Supreme Court held that it was not vested with an interstate interest until it was actually offered in interstate transportation. The Senator and I can conceive of conditions where an intrastate transaction may be for the purpose of affecting interstate business. In that case, the moment it does affect interstate business, and it can be substantiated that the intrastate business is affecting disastrously interstate business, it immediately becomes invested with an interstate character.

Mr. BYRD. There could not be any broader language than that which is contained in the amendment, because it says:

In any way affects interstate or foreign commerce.

That is all the territory it is possible to include. It is all included in that language.

Mr. SMITH. I do not know but that a fair interpretation of that language would be permissible, such as "or affecting interstate commerce."

Mr. BANKHEAD. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Alabama?

Mr. SMITH. I yield.

Mr. BANKHEAD. On this point I beg to call the Senator's attention in a very direct way to two decisions of the Supreme Court of the United States.

In *Stafford v. Wallace* (258 U. S. 495), which was a grain futures case, the Supreme Court sustained the provisions of the packers and stockyards act which, among other things, regulated practices and charges of commission merchants and dealers. In *Chicago Board of Trade v. Olsen* (262 U. S. 1), the Court sustained the constitutionality of the grain-futures act regulating futures contracts on the boards of trade. In both cases the transactions regulated were entirely intrastate in character. The legislation was sustained, however, on the grounds that the conduct regulated bur-

dened and affected interstate commerce in wheat and livestock. In the *Stafford* case the Supreme Court announced the principle as follows:

* * * Whatever amounts to more or less constant practice and threatens to obstruct or unduly to burden the freedom of interstate commerce is within the regulatory power of Congress under the commerce clause, and it is primarily for Congress to consider and decide the facts of the danger and meet it.

Another case was *United States v. Ferger* (250 U. S. 199), where, in upholding the constitutionality of a Federal act making it a crime to utter counterfeit bills of lading purporting to represent interstate shipments, the Court said:

Thus both in the pleadings and in the contention as summarized by the court below, it is insisted that as there was and could be no commerce in a fraudulent and fictitious bill of lading, therefore the power of Congress to regulate commerce could not embrace such pretended bill. But this mistakenly assumes that the power of Congress is to be necessarily tested by the intrinsic existence of commerce in the particular subject dealt with, instead of by the relation of that subject of commerce and its effect upon it. We say "mistakenly assumes", because we think it clear that if the proposition were sustained it would destroy the power of Congress to regulate, as obviously that power, if it is to exist, must include the authority to deal with obstructions to interstate commerce and with a host of other acts which, because of their relation to and influence upon interstate commerce, come within the power of Congress to regulate, although they are not interstate commerce in and of themselves.

Mr. SMITH. It is not necessary for me to go any further into that question. The application of the principle in the railroad case was carried to an absurd extent in affecting a railroad wholly within a State. In other words, the application of that policy practically nullified all State railroad commissions.

Mr. BORAH. Mr. President—

Mr. SMITH. I yield to the Senator from Idaho.

Mr. BORAH. The Shreveport case was referred to. The Supreme Court rendered an opinion in the Wisconsin case in which they distinguished the Shreveport case so as to limit the incident in which the intrastate business substantially interfered with the actual regulation of interstate commerce. In fact, the Shreveport case does nothing more than apply perfectly well-established principles to a particular state of facts. It in no sense holds that interstate commerce is subject to the control of regulation of Congress, unless as has always been true, it so interferes as to prevent the regulation of interstate commerce.

Mr. SMITH. Yes; but it went further. The policy, which was never, so far as I know, adversely passed upon by the Supreme Court, was that the revenues from interstate commerce were affected by the charges on intrastate commerce, and, therefore, they had a right to go within the States.

Mr. BORAH. I should like to see such a decision if one has been rendered.

Mr. SMITH. I said the Supreme Court never has passed upon that question so far as I know, and yet it is practiced by the Interstate Commerce Commission.

Mr. BORAH. Of course, if we are going to say that they have control of anything which affects interstate commerce, we must remember that all intrastate commerce affects interstate commerce. It is not sufficient that it shall affect interstate commerce, but it must affect it in such way as to interfere with the power to regulate interstate commerce before it becomes subject to control.

Mr. SMITH. That is my interpretation of what is meant by this very language. That was my idea when the Interstate Commerce Commission held that if it affects it, it ought to be made manifest that it was adversely affecting or obstructing interstate commerce. I take it that the administrators of the provisions of the bill would be subject to that very kind of conclusion. I would expect them to be. I change that expression. I hope they would be.

Mr. BORAH. Does the Senator say he expects it?

Mr. SMITH. No; I do not expect anything these days. I have gotten clear beyond that point now.

Mr. BORAH. The true rule is that Congress has the power to regulate interstate commerce, and it has no other power. If, in its effort to regulate interstate commerce, anything gets in its way, in the way so as to interfere with in-

terstate commerce, it may remove it, but wholly for the purpose of exercising the power to regulate interstate commerce.

Mr. SMITH. That is true. I think that is sound, and I think that is the intent and purpose of this amendment, because in the interlacing of all business now, in the highly standardized condition of our organized society, the Senator knows and I know that there can be operated within a State things which would violently affect interstate commerce.

Mr. BORAH. Certainly; and when they do violently affect it, Congress may regulate that violence so as to remove it.

Mr. SMITH. Exactly. This bill gives someone the power to do that, and the courts are still here. If an attempt is made to go beyond those things that do affect interstate commerce so as to obstruct it, so as to make it inoperative, or so as to modify its operation, surely the courts are here to determine the matter.

Mr. BORAH. Yes; and they have just done so.

Mr. SMITH. Yes; so I hear.

Mr. BORAH. I expect to discuss this matter later, so I will not interfere with the Senator.

Mr. BYRD. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. SMITH. I yield.

Mr. BYRD. Before the Senator leaves the ever-normal granary plan I should like to ask him a question about it. I do not think he has explained it fully. I should like to know to what extent it is anticipated that the Government will become the owner of large quantities of agricultural products.

Mr. Chester Davis said in his testimony that it is further recognized that the Government is likely to come into possession of substantial amounts of commodities, especially when a season of high yields, when loans are made, is followed by another season of high yields. As I recall, the Democratic Party and the Democratic platform severely condemned Mr. Hoover and the Republican Party because they purchased agricultural products. Is it the information of the Senator that it is the policy of the Department of Agriculture to hold large quantities of agricultural products, to be taken in through loans, I may say, that are made on such products in excess of the market value?

Mr. SMITH. Mr. President, I think there might come a time when that would be a very beneficial policy on the part of the Government, especially since we have launched out upon finding employment for people, creating jobs. I think it is very essential that when the price of our standard agricultural products manifestly falls below the cost of production the Government shall be able to acquire these products and substitute them in lieu of production. Whenever there is a surplus and the price goes below the cost of production, I think it would be pretty good policy to have established a reservoir into which the product could find its way for the benefit of the producer, and then be resold to him in lieu of production. When the season, over which the producer has no control, produces a greater amount than ordinarily is needed, instead of the speculator taking advantage of it and becoming the beneficiary, I think the Government could very well step in.

Mr. BYRD. The Senator a short while ago stated that no producer or farmer could be compelled to take a commodity in kind unless he voluntarily agreed to do so. I should like the Senator to show me that provision in the bill.

Mr. SMITH. It is implied rather than expressed.

Mr. BYRD. I made the statement that the Secretary of Agriculture absolutely controlled the matter. The Senator denied it, and said that a farmer could not be compelled to accept cotton for raising less cotton.

Mr. SMITH. I do not think he can.

Mr. BYRD. Where in the bill is it provided that the Secretary of Agriculture may pay a farmer in kind, without his consent, instead of paying him in cash?

Mr. SMITH. Under the form of the farmer's contract, he can specify his option.

Mr. BYRD. The Secretary can write any kind of a contract he wishes to write.

Mr. SMITH. And the farmer can reject any contract.

Mr. BYRD. The Senator knows that the farmer is not going to reject a contract with respect to getting benefit payments, so the entire matter is in the control of the Secretary of Agriculture.

Mr. SMITH. The Senator from Virginia has contradicted himself. If a farmer does not want payment in kind, but wants payment in money, and says, "I refuse to sign except for payment in money", and another farmer says, "I will take payment in kind", they are both at liberty to do so.

Mr. BYRD. The Senator well knows that the Secretary of Agriculture may prepare a contract in which he may say that benefit payments are to be made, not mentioning how, and the farmers will sign the contracts, because that is the only way in which they can get any benefit payments at all. The contention I make, and what I desire to have made clear, is that if it is the policy of the Government to pay the farmers in cotton, for example, instead of in cash, that can be done without the consent of the individual farmers.

Mr. SMITH. I do not think so.

Mr. BYRD. What is in the bill to prevent it, and will the Senator agree to an amendment to prevent it?

Mr. SMITH. What is in the bill is the refusal of the farmer to sign the contract.

Mr. BYRD. If he refuses to sign, then he will get nothing.

Mr. SMITH. Exactly; if he prefers having nothing to having cotton.

Mr. BYRD. That places the farmer in a very awkward position. If the Senator says the farmer should have the choice as to whether to receive cash or cotton, why not write into this proposed law an amendment to that effect?

Mr. SMITH. If the Senator will prepare such an amendment, I shall be very glad to have it incorporated in the bill, so as to make it distinct and clear that the farmer can receive payment in kind or in cash.

Mr. BYRD. The House bill authorizes the Secretary to pay the benefit either in kind or in cash.

Mr. SMITH. Yes. His contract would depend upon whether he was paid one or the other. Therefore the Secretary has to be authorized to do either. If he were restricted to cash, he could not pay in kind. If he were restricted to kind, he could not pay in cash; but he is authorized to pay in cash or in kind, as the farmer elects to take one or the other. If, however, the Senator desires an amendment to the effect that the farmer may accept cash or kind, I shall be very glad to have it incorporated in the bill.

Mr. BYRD. That is not the amendment I desire, Mr. President. I desire an amendment that a farmer shall not be compelled to accept payment in kind unless he so desires.

Mr. SMITH. I say, if the Senator from Virginia will write an amendment providing that the option shall be left with the farmer as to whether he shall accept payment in kind or in cash, I shall be very glad to accept it.

With respect to section 4, except for the fact that the House bill has paragraphed its amendments, the language is identical in both bills through line 16, on page 6, of the House bill, and the end of the sentence in line 1 on page 5 of the Senate bill.

Mr. BYRD. Mr. President, the Senator is now referring to section 4?

Mr. SMITH. Yes.

Mr. BYRD. It is my understanding that the Senator is comparing this bill not to the former bill but to the existing legislation?

Mr. SMITH. That is what I am doing.

Mr. BYRD. I think the Senator should make clear, as I suppose he will, that as compared to existing legislation the bill adds these words:

In competition with or so as to burden, obstruct, or in any way affect—

Mr. SMITH. Yes.

Mr. BYRD. Those are new words, which are not in the existing legislation with regard to licensing.

Mr. SMITH. Let me find that provision in the original law.

Mr. BYRD. It is at the bottom of page 7, section 3, of the original law.

Mr. SMITH. The original language says:

To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity.

No; this language is new, and it is in accordance, as I said a moment ago, with the language that was incorporated in the Transportation Act.

Mr. BYRD. I am not a lawyer, and neither, as I understand, is the Senator from South Carolina.

Mr. SMITH. No.

Mr. BYRD. But, in the Senator's opinion, does not this provision tremendously strengthen the licensing clause, because it says?—

In competition with or so as to burden, obstruct, or in any way affect, interstate commerce.

Mr. SMITH. Oh, yes; unhesitatingly, I think so. I think it gives the Secretary the power, wherever he finds intrastate business burdening or affecting interstate business, so to declare.

Mr. BYRD. Let us take a concrete example. Suppose, for instance, a man raised a thousand baskets of strawberries, and sent them into a nearby city that happened to be within his State. That would be affecting interstate shipments of strawberries, because strawberries would be shipped into that city from out of the State. Is not that correct?

Mr. SMITH. I do not know that that could be considered as burdening or affecting interstate commerce. It would be so entirely within the right of an individual in a State, or a community within a State, that I do not think it could be so considered.

I cannot think of an illustration just now, but I presume there are plenty of intrastate transactions that do burden and obstruct interstate commerce. The Senator and I, in passing this legislation, if it shall pass, are going to leave to the courts and to the common sense and discretion of the Secretary of Agriculture and his assistants—I said "the common sense and discretion"—the extent to which this will go.

Mr. BYRD. But, regardless of that, there are certain fundamental principles on which the Senator and I should still stand.

Mr. SMITH. There are, and I stand on them.

Mr. BYRD. Would not the Senator be willing to modify that language? It now reads, "in any way affect." No language could be stronger than that—"in any way affect." It does not say that the handling of the commodity shall injure, necessarily, but that it shall "in any way affect interstate or foreign commerce."

Mr. SMITH. Mr. President, I think perhaps the language "in any way affect" is rather too liberal. I frankly admit that. If the language could be so framed as to indicate that the transaction must interfere with or obstruct interstate commerce, it would be better for us all.

Mr. BYRD. Will the Senator consider an amendment along that line?

Mr. SMITH. I will.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER (Mr. KING in the chair). Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. I have before me the opinion of the Supreme Court rendered today, some paragraphs of which bear directly on this matter. It says:

In determining how far the Federal Government may go in controlling intrastate transactions upon the ground that they "affect" interstate commerce, there is a necessary and well-established distinction between direct and indirect effects. The precise line can be drawn only as individual cases arise.

In other words, when we use the words "interstate commerce" it does not add anything to the law to add to it the words "any commerce which affects interstate commerce", because each case must be determined as it arises, and the Court will determine for itself whether a given transaction affects interstate commerce to such an extent as to interfere with the regulation of interstate commerce.

In other words, if the term "all matters in interstate commerce" were employed, the idea would be expressed just as fully as by the use of the additional term which is inserted.

Mr. SMITH. Mr. President, as I said to the Senator, it is going to be left, as the National Recovery Act was left, to the final decision of the Court, and each individual case arising will be determined by the degree to which it does interfere with interstate commerce.

Mr. BORAH. When it gets before the Court the fact that we have used the term "and affects interstate commerce" will add nothing to the strength of the law.

Mr. SMITH. I agree with the Senator. I think that is correct.

Mr. VANDENBERG. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Michigan?

Mr. SMITH. I yield.

Mr. VANDENBERG. In connection with section 4, which the Senator has been explaining, may I inquire what latitude is involved in the licenses which are to be issued to processors? Can the Secretary of Agriculture control all phases of the processor's business and operation under the licenses?

Mr. SMITH. What does the Senator mean by "all phases"?

Mr. VANDENBERG. I was challenged by a circular which comes to hand from the law committee of the American Newspaper Publishers Association, for example, which says that under this authority the Secretary of Agriculture can pass upon all the advertising campaigns of a processor, that he can decide that a processor is not entitled to include advertising expense within a legitimate market price. Does the Senator believe that the power to license a processor is an all-inclusive power, which the Secretary can use in respect to all of the activities of the processor?

Mr. SMITH. As I contemplate it, if we attribute to the Secretary of Agriculture and his assistants common decency, we would think that he would license processors for the purpose of carrying out the marketing agreements entered into by producers, and beyond that, have nothing to do with his license restrictions.

Mr. VANDENBERG. I do not want the Senator to leave me in the position of having suggested that the Secretary would go beyond common decency. In the Secretary's view of the ordered and regimented society, which he conscientiously believes, apparently, to be essential to the welfare of American life, he might decently, from his viewpoint, go infinitely further than the able Senator from South Carolina would want to go.

Mr. SMITH. I may explain the object as I see it. Let us assume a marketing agreement entered into by producers. They go into the details and have a meeting with the processors, which I understand has been done in nearly every case; and they work out a program, as was done in the case of tobacco, by which the processor or distributor conforms to the terms of the marketing agreement entered into by the producers. He has to pay them a certain price, or come within certain rules. What he does with the product after he gets it, or how he goes about disposing of that which he has brought from the producer is, as I understand, beyond the purview of license. That enters into another phase which does not concern the producer and the processor and distributor. The object here is to get for the producer, as near as may be, a just return for what he sells in terms of what he buys, and beyond that there is no concern.

Mr. VANDENBERG. I understand that to be the objective.

Mr. SMITH. Yes.

Mr. VANDENBERG. But textually I am asking the Senator whether, under the language which he is asking the Senate to approve, the license which the Secretary of Agriculture can put upon any processor is a license so broad that he can virtually exercise any power or authority he wants to over the processor in respect to the merchandising of the particular commodity which is processed.

Mr. SMITH. No; I do not so understand. In the first place, I do not think the Secretary of Agriculture would want to burden himself with following up what the processor does after he has conformed to the contract implied in the license and in the marketing agreement.

Mr. VANDENBERG. Suppose the Secretary of Agriculture should move on to some other high position in the Government and the Under Secretary should become Secretary?

Mr. SMITH. We will not discuss that question.

Mr. VANDENBERG. How would the Senator like to have these powers administered then?

Mr. SMITH. I turn over all my interest to the Senator from Michigan. He is welcome to draw any deduction or induction or abduction. [Laughter.]

Mr. VANDENBERG. Does the Senator think that hazard is sufficiently imminent so that we ought to protect against it in this bill?

Mr. SMITH. I noticed that some of the Senators were willing to take the hazard in the first place, and they are welcome to take it in the second place.

Mr. VANDENBERG. I should like to ask the Senator one other question in regard to this section. I should like to know why sugar beets are chosen as one of the specific commodities which are not exempted from the license language on page 6?

Mr. SMITH. I think the Secretary and his assistants have taken out those raw materials which were notoriously below the parity price, where the producers were not getting the parity price, and where a processing tax could not be so readily available as when applied to the standard articles, such as cotton, and corn, and wheat.

Mr. VANDENBERG. We have the Jones-Costigan Act to deal with the sugar situation, and I am wondering why it is not left to the Jones-Costigan Act. I see one of the able authors of that act upon his feet. Perhaps he might be permitted to respond.

Mr. COSTIGAN. Mr. President—

The PRESIDING OFFICER (Mr. MOORE in the chair). Does the Senator from South Carolina yield to the Senator from Colorado?

Mr. SMITH. I yield.

Mr. COSTIGAN. I did not rise to respond to that inquiry, but to supplement the question of the able Senator from Michigan by asking why sugarcane is not included with sugar beets in the clause mentioned by the Senator from Michigan?

Mr. SMITH. I am not prepared to make a statement, save to refer to just what was brought out before the committee. My understanding is that the prices of the sugar beets and wool were so far below anything like parity that a processing tax was not indicated as being easily executed. They could adjust the difference more satisfactorily than through an attempt to put on a processing tax, because it must be evident to the Senator that if they were as far below the parity as indicated by the report, a processing tax would practically eliminate them.

Mr. COSTIGAN. My suggestion to the able Senator from South Carolina is that either sugar beets be eliminated from line 16, page 5, of the House bill or sugarcane be added. It is evident that sugar produced from cane and sugar produced from beets are not distinguishable.

Mr. SMITH. No.

Mr. COSTIGAN. It is also well known that in marketing sugar produced from diverse sources, beet and cane, natural marketing areas are frequently invaded, so that sugar produced from cane is frequently sold in beet-sugar regions, and vice versa. Therefore, marketing agreements are especially desirable to eliminate needless and wasteful cross-transportation charges.

I wish at this early stage in the consideration of the bill to suggest to the able Senator from South Carolina that sugarcane be added or sugar beets omitted, particularly since the courts under known commercial conditions may reasonably hold any such classification, distinguishing between closely allied basic commodities, to be an arbitrary, unwarranted, and illegal discrimination.

Mr. SMITH. Let me suggest to the Senator that he prepare an amendment to that effect, and I shall ask the Department to give me a specific statement as to what they have found in trying to administer the law.

Mr. COSTIGAN. I thank the Senator. That is precisely my intention.

Mr. VANDENBERG. Mr. President, if the Senator will permit me, I am still without an answer to my question as to why sugar beets should be in the bill at all, in view of the existence of the Jones-Costigan Act, and I am wondering whether the Senator will not permit the Senator from Colorado to give me his judgment upon that question?

Mr. SMITH. I shall be glad to yield for that purpose.

Mr. COSTIGAN. I had nothing to do with the preparation of the bill before us. My attention has been directed only to the clause about which I have expressed myself. I prefer at this time to reserve any further answer to the question of the Senator from Michigan.

Mr. SMITH. Mr. President, I wish to call attention to another phase of the matter. The Senator from Michigan and the Senator from Colorado were speaking about articles being licensed rather than being brought under the processing tax provision. These articles are produced in a territory so limited in extent, and in a volume so small, comparatively, that it is more convenient, according to the statement made by the Department, to handle them by marketing agreements and licenses than by a processing tax.

The fifth clause provides that no license can be issued except in aid of an executed or proposed marketing agreement. Since from line 19 on page 4 through the end of the sentence in line 1 on page 5 of the Senate bill there is already imposed a similar restriction with respect to clause (2) and clause (3) licenses, this new sentence affects only the clause (1) licenses, which deal solely with unfair trade practices and charges.

The sixth clause exempts retailers—with the exception of retailers of milk—from the compulsory licensing provisions.

There was considerable propaganda to the effect that under the terms of the original law and the first proposed amendment, the Secretary should license anyone handling agricultural products, wherever they went. The proposed amendment does not permit a retailer to be licensed unless the retailer assumes the function of a wholesaler—that is, a retailer selling to a retailer—but so long as he sells in retail no license shall be applied.

Mr. VANDENBERG. Mr. President, may I ask the Senator whether the phrase "unfair practices" is defined anywhere in the bill?

Mr. SMITH. No; I think not.

Mr. VANDENBERG. What does the phrase "unfair practices" mean?

Mr. SMITH. The Senator can answer his own question just as well as I can. It is a pretty broad expression. If it were capable of definition, I think it should be incorporated in the bill; but the Senator recognizes that whenever we begin to enumerate the specific things to be exempted or included we cannot go beyond them, so are obliged to leave it to the judgment of those who are to administer this law to decide whether practices are manifestly unfair in common honesty and in common dealing.

Mr. VANDENBERG. Does the Senator think we have constitutional authority to delegate to the Secretary of Agriculture the right to define an unfair practice and then deal with it by way of penalty through a license?

Mr. SMITH. Yes; I think we have the power of creating a court, and we come very near doing it in this bill. Congress has the power to create inferior courts and invest them with all the power necessary.

Mr. VANDENBERG. This will not be an inferior court.

Mr. SMITH. Mr. President, the paragraph designated as (B), beginning in line 1, page 8, of House bill 8052, is identical with the paragraph constituting lines 4, through 18, on page 5 of Senate bill 1807.

I do not think that needs any explanation.

Section 5 of House bill 8052 corresponds to and is substantially identical with section 4 of Senate bill 1807, and constitutes the so-called "books and records section."

There has been a good deal of comment about that. The Senate bill provided for an examination of books and papers pertinent to the question. I think synonymous provision is made in the House bill so that the two are practically the same in this respect.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. LEWIS. I should like the judgment of the Senator from South Carolina, as Chairman of the Committee on Agriculture and Forestry, who, as we all know, has been watching all legislation touching agriculture, and also the judgment of the Senator from Alabama [Mr. BANKHEAD] on this question:

Is it not now worthy of consideration whether we should go farther in our consideration of this bill at the present time? The Supreme Court of the United States seems to have rendered an opinion which, from what we learn of it, indicates that the foundation on which this proposed legislation is based is open to the serious question of unconstitutionality, certain features of it coming wholly within the decision as we now know it to have been rendered. Would it not be well, before we go farther with this bill, that it be recommitted to the committee, or for a while suspended, until complete consideration by the Committee on Agriculture and Forestry can be given as to how far the provisions of this bill are within the opinion of the Supreme Court, or how far they are without it, and thus avoid the possible passage in this body of a measure which may in a very short while be under question, under suspicion, under charge, under great doubt, and possibly come within the maledictions of the Supreme Court in declaring it invalid? Would it not be well for us now to consider those phases of the subject?

Mr. SMITH. Mr. President, now that this bill has been reported, individually I prefer to have this august body of lawyers consider it in all its legal and constitutional phases rather than send it back to the committee with its limited knowledge of legal lore. I make no reflection on the lawyers on the committee, but while there are some of us on the committee who make assault with intent to be lawyers, and some of us may be lawyers, I think it is better, now that we have the bill before us and have the decision of the Supreme Court before us, to test each one of the provisions of the substantive law as well as these implementing amendments. I prefer, for the sake of the agricultural interests of America, to go on, and, so far as we can, intervene and give them some hope that from now on they will be enabled under law to participate to some degree at least in the wealth they produce and not to continue to be in the line of least resistance and to be exploited by all the profiteers and manufacturers who handle the farmers' products.

Mr. McNARY. Mr. President, the Senator from Illinois has made a proposal which I thought of making, twice within the last hour. A number of Senators spoke to me about the advisability of recommitting the bill to the committee for its study in connection with the decision handed down by the Supreme Court today in connection with the N. R. A.

With the slight knowledge I have of the decision of the Supreme Court, if I have been correctly informed, it is my judgment that the delegation of power without any proper definition is just as apparent in the agricultural-adjustment bill as in the N. R. A. Act. I have not had time to read the decision, and I may be mistaken.

Would it not be helpful and fair to Congress and fair to the farmers of the country to recommit the bill to the committee for the purpose of study? Would we not gain time thereby?

Mr. SMITH. I think we will gain time if we shall continue to consider the bill on the floor of the Senate, and, in the light of the decision of the Supreme Court, either amend or eliminate those parts of the bill which in the opinion of a majority of the Senators are unconstitutional, rather than send the bill back to the committee for its discussion, because the same questions will again be gone over when the bill comes back to the floor.

Mr. McNARY. I think there is question whether the pending measure does not come within the provisions of the decision handed down today; and, inasmuch as there is other pending legislation which may take the place of that which is now before us, I believe it is in the interest of the farmers of the country and of Congress that this bill be recommitted to the committee for its study, in the light of the decision of the Supreme Court. I do not wish to take it away from the chairman of the committee. If I were chairman of the committee I should do it voluntarily, and I should feel almost under the necessity of moving in that direction; but, in justice to the chairman, I hesitate at this time to do so.

Mr. SMITH. Mr. President, I desire to state that I do not think the terms of this bill are comparable to the terms of the N. R. A. Act.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. Would not the Senator be willing to have the Senate take a recess until tomorrow, so as to give us a chance to study the bill in the light of the decision of the Supreme Court, instead of sending the bill back to the committee?

Mr. SMITH. Mr. President, I should be perfectly willing to take that course.

Mr. ROBINSON. Mr. President, why not let the Senator from South Carolina proceed with his explanation of the amendments? When he shall have concluded that explanation—which will give the Senate, if Senators will listen to it, some understanding of the purposes and effect of the bill—it will be time enough to discuss taking a recess or an adjournment.

I think the Senator should have an opportunity to conclude his discussion of the amendments. He has been interrupted—properly, of course—a great many times. When he shall have concluded his explanation of the bill we can then decide whether or not we wish to take a recess or an adjournment.

Mr. SMITH. Mr. President, I think perhaps the suggestion of the Senator from Arkansas is the better plan; and, if I am permitted, I will go through the amendments, so that they will be in the RECORD, with the explanation which has been prepared, and those who desire to examine the decision of the Supreme Court will be prepared tomorrow.

Mr. BORAH. Mr. President, the questions involved in some of these amendments were decided by the Supreme Court.

DECISIONS OF SUPREME COURT IN N. R. A. AND FRAZIER-LEMKE LAW CASES (S. DOC. NO. 65)

Mr. BLACK. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BLACK. It has been suggested by a number—but I do not know that the suggestion has as yet been carried out—that the opinions should be placed in the RECORD, and, if the Senator from South Carolina will yield for that purpose, I will ask unanimous consent to have inserted in the RECORD both opinions of the Supreme Court of the United States in the N. R. A. cases.

Mr. BANKHEAD. Were there two opinions?

Mr. BLACK. I might state that there were two opinions, the opinion of the Court and concurring opinions by Mr. Justice Cardozo and Mr. Justice Stone, who added some views to those of the other justices of the Court. I ask that both opinions may be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KING. Mr. President, will the Senator from South Carolina yield?

Mr. SMITH. I yield.

Mr. KING. Does the request of the Senator from Alabama also include the decision of the Court on the so-called "Frazier-Lemke Act"?

Mr. BLACK. I did not include that in my request, but I think it would be wise to do so, and I shall be glad to add also the request that the opinion of the Court on the Frazier-Lemke Act be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBINSON. What was the opinion of the Court in that case?

Mr. KING. The act was declared unconstitutional.

Mr. BLACK. Mr. President, it has been suggested—I do not know whether it would be desirable or not, but I suggest it for consideration—that there will be so many requests for the opinion of the Supreme Court in the N. R. A. case that it ought also to be printed as a public document, and I make that request, in order to test whether Senators think that is proper. I may add that the estimate of cost of printing the opinions in the RECORD, as required by the rules of the Joint Committee on Printing, has been furnished to the committee.

Mr. BYRD. Is the opinion a long one?

Mr. BORAH. Mr. President, as I understand, there will be plenty of copies printed by the Supreme Court itself.

Mr. BLACK. If copies will be available from that source, then, I will withdraw that part of my request.

Mr. BYRD. Is the opinion a long one, I should like to ask the Senator? I was just wondering whether it would not be well to have the opinion read by the clerk, if it is not too long.

Mr. BLACK. It would probably take an hour or more to read it.

Mr. ROBINSON. It would take, perhaps, 2 hours.

Mr. BYRD. Very well.

Mr. BLACK subsequently said: Mr. President, since I was on my feet a few moments ago, it has been ascertained that the number of printed copies of the opinions relative to the N. R. A. law available to the Supreme Court are very limited, and a number of Senators desire that the Supreme Court opinions to which I have referred be made a Senate document. I therefore ask unanimous consent that it be so done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The opinions of the Supreme Court of the United States which were ordered to be printed in the RECORD are as follows:

[Supreme Court of the United States. Nos. 854 and 864. October term, 1934. 854. *A. L. A. Schechter Poultry Corporation, Schechter Live Poultry Market, Joseph Schechter, Martin Schechter, Alex Schechter, and Aaron Schechter, petitioners, v. The United States of America*, 864. *The United States of America, petitioner, v. A. L. A. Schechter Poultry Corporation, Martin Schechter, Alex Schechter, and Aaron Schechter*. On writs of certiorari to the United States Circuit Court of Appeals for the Second Circuit]

Mr. Chief Justice Hughes delivered the opinion of the Court. Petitioners in no. 854 were convicted in the District Court of the United States for the Eastern District of New York on 18 counts of an indictment charging violations of what is known as the "Live Poultry Code"; and on an additional count for conspiracy to commit such violations.¹ By demurrer to the indictment and appropriate motions on the trial the defendants contended (1) that the code had been adopted pursuant to an unconstitutional delegation by Congress of legislative power; (2) that it attempted to regulate intrastate transactions which lay outside the authority of Congress; and (3) that in certain provisions it was repugnant to the due process clause of the fifth amendment.

The circuit court of appeals sustained the conviction on the conspiracy count and on 16 counts for violation of the code, but reversed the conviction on 2 counts which charged violation of

¹ The full title of the code is Code of Fair Competition for the Live Poultry Industry of the Metropolitan Area in and About the City of New York.

² The indictment contained 60 counts, of which 27 counts were dismissed by the trial court, and on 14 counts the defendants were acquitted.

requirements as to minimum wages and maximum hours of labor, as these were not deemed to be within the congressional power of regulation. On the respective applications of the defendants (no. 854) and of the Government (no. 864) this court granted writs of certiorari April 15, 1935.

New York City is the largest live-poultry market in the United States. Ninety-six percent of the live poultry there marketed comes from other States. Three-fourths of this amount arrives by rail and is consigned to commission men or receivers. Most of these freight shipments (about 75 percent) come in at the Manhattan Terminal of the New York Central Railroad, and the remainder at one of the four terminals in New Jersey serving New York City. The commission men transact by far the greater part of the business on a commission basis, representing the shippers as agents, and remitting to them the proceeds of sale, less commissions, freight, and handling charges. Otherwise, they buy for their own account. They sell to slaughterhouse operators, who are also called market men.

The defendants are slaughterhouse operators of the latter class. A. L. A. Schechter Poultry Corporation and Schechter Live Poultry Market are corporations conducting wholesale poultry slaughterhouse markets in Brooklyn, New York City. Joseph Schechter operated the latter corporation and also guaranteed the credits of the former corporation, which was operated by Martin, Alex, and Aaron Schechter. Defendants ordinarily purchase their live poultry from commission men at the West Washington Market in New York City or at the railroad terminals serving the city, but occasionally they purchase from commission men in Philadelphia. They buy the poultry for slaughter and resale. After the poultry is trucked to their slaughterhouse markets in Brooklyn, it is there sold, usually within 24 hours, to retail poultry dealers and butchers, who sell directly to consumers. The poultry purchased from defendants is immediately slaughtered, prior to delivery, by shochtim in defendants' employ. Defendants do not sell poultry in interstate commerce.

The live-poultry code was promulgated under section 3 of the National Industrial Recovery Act.³ That section—the pertinent provisions of which are set forth in the margin⁴—authorizes the

³ Act of June 16, 1933, c. 90 (48 Stat. 195, 196; 15 U. S. C. 703).

⁴ Codes of Fair Competition:

"SEC. 3. (a) Upon the application to the President by one or more trade or industrial associations or groups, the President may approve a code or codes of fair competition for the trade or industry or subdivision thereof, represented by the applicant or applicants, if the President finds (1) that such associations or groups impose no inequitable restrictions on admission to membership therein and are truly representative of such trades or industries or subdivisions thereof, and (2) that such code or codes are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of this title: *Provided*, That such code or codes shall not permit monopolies or monopolistic practices; *Provided further*, That where such code or codes affect the services and welfare of persons engaged in other steps of the economic process, nothing in this section shall deprive such persons of the right to be heard prior to approval by the President of such code or codes. The President may, as a condition of his approval of any such code, impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such code, as the President in his discretion deems necessary to effectuate the policy herein declared.

"(b) After the President shall have approved any such code, the provisions of such code shall be the standards of fair competition for such trade or industry or subdivision thereof. Any violation of such standards in any transaction in or affecting interstate or foreign commerce shall be deemed an unfair method of competition in commerce within the meaning of the Federal Trade Commission Act, as amended; but nothing in this title shall be construed to impair the powers of the Federal Trade Commission under such act, as amended.

"(c) The several District Courts of the United States are hereby invested with jurisdictions to prevent and restrain violations of any code of fair competition approved under this title; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations.

"(d) Upon his own motion, or if complaint is made to the President that abuses inimical to the public interest and contrary to the policy herein declared are prevalent in any trade or industry or subdivision thereof, and if no code of fair competition therefor has theretofore been approved by the President, the President, after such public notice and hearing as he shall specify, may prescribe and approve a code of fair competition for such trade or industry or subdivision thereof, which shall have the same effect as a code of fair competition approved by the President under subsection (a) of this section.

"(f) When a code of fair competition has been approved or prescribed by the President under this title, any violation of any provision thereof in any transaction in or affecting interstate or foreign commerce shall be a misdemeanor and upon conviction thereof an offender shall be fined not more than \$500 for each offense, and each day such violation continues shall be deemed a separate offense."

President to approve "codes of fair competition." Such a code may be approved for a trade or industry, upon application by one or more trade or industrial associations or groups, if the President finds (1) that such associations or groups "impose no inequitable restrictions on admission to membership therein and are truly representative", and (2) that such codes are not designed "to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy" of title I of the act. Such codes "shall not permit monopolies or monopolistic practices." As a condition of his approval, the President may "impose such conditions (including requirements for the making of reports and the keeping of accounts) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and may provide such exceptions to and exemptions from the provisions of such code as the President in his discretion deems necessary to effectuate the policy herein declared." Where such a code has not been approved, the President may prescribe one, either on his own motion or on complaint. Violation of any provision of a code (so approved or prescribed) "in any transaction in or affecting interstate or foreign commerce" is made a misdemeanor punishable by a fine of not more than \$500 for each offense, and each day the violation continues is to be deemed a separate offense.

The "live-poultry code" was approved by the President on April 13, 1934. Its divisions indicate its nature and scope. The code has eight articles entitled (1) purposes, (2) definitions, (3) hours, (4) wages, (5) general labor provisions, (6) administration, (7) trade-practice provisions, and (8) general.

The declared purpose is "to effect the policies of title I of the National Industrial Recovery Act." The code is established as "a code for fair competition for the live poultry industry of the metropolitan area in and about the city of New York." That area is described as embracing the five boroughs of New York City, the counties of Rockland, Westchester, Nassau, and Suffolk in the State of New York, the counties of Hudson and Bergen in the State of New Jersey, and the county of Fairfield in the State of Connecticut.

The "industry" is defined as including "every person engaged in the business of selling, purchasing for resale, transporting, or handling and/or slaughtering live poultry, from the time such poultry comes into the New York metropolitan area to the time it is first sold in slaughtered form", and such "related branches" as may from time to time be included by amendment. Employers are styled "members of the industry", and the term employee is defined to embrace "any and all persons engaged in the industry, however compensated", except "members."

The code fixes the number of hours for workdays. It provides that no employee, with certain exceptions, shall be permitted to work in excess of forty (40) hours in any one week, and that no employee, save as stated, "shall be paid in any pay period less than at the rate of fifty (50) cents per hour." The article containing "general labor provisions" prohibits the employment of any person under 16 years of age, and declares that employees shall have the right of "collective bargaining", and freedom of choice with respect to labor organizations, in the terms of section 7 (a) of the act. The minimum number of employees, who shall be employed by slaughterhouse operators, is fixed, the number being graduated according to the average volume of weekly sales.

Provision is made for administration through an "industry advisory committee", to be selected by trade associations and members of the industry, and a "code supervisor" to be appointed, with the approval of the committee, by agreement between the Secretary of Agriculture and the Administrator for Industrial Recovery. The expenses of administration are to be borne by the members of the industry proportionately upon the basis of volume of business, or such other factors as the advisory committee may deem equitable, "subject to the disapproval of the Secretary and/or Administrator."

The seventh article, containing "trade practice provisions", prohibits various practices which are said to constitute "unfair methods of competition." The final article provides for verified reports, such as the Secretary or Administrator may require, "(1) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and (2) for the determination by the Secretary or Administrator of the extent to which the declared policy of the act is being effectuated by this code." The members of the industry are also required to keep books and records which "will clearly reflect all financial transactions of their respective businesses and the financial condition thereof", and to submit weekly reports "showing the range of daily prices and volume of sales" for each kind of produce.

The President approved the code by an Executive order in which he found that the application for his approval had been duly made in accordance with the provisions of title I of the National Industrial Recovery Act, that there had been due notice and hearings, that the code constituted "a code of fair competition" as contemplated by the act and complied with its pertinent provisions, including clauses (1) and (2) of subsection (a) of section 3 of title I; and that the code would tend "to effectuate the policy of Congress as declared in section 1 of title I".⁵ The Executive order

⁵ The Executive order is as follows:

"EXECUTIVE ORDER

"Approval of code of fair competition for the live-poultry industry of the metropolitan area in and about the city of New York.

"Whereas, the Secretary of Agriculture and the Administrator of the National Industrial Recovery Act having rendered their

We have no occasion to consider either the causes or the extent of farm tenancy; or whether its progressive increase would be arrested by the provisions of the act. Nor need we consider the occupations of the beneficiaries of the legislation. These are matters for the consideration of Congress; and the extensive provision for the refinancing of farm mortgages which Congress has already made shows that the gravity of the situation has been appreciated. The province of the Court is limited to deciding whether the Frazier-Lemke Act as applied has taken from the bank without compensation, and given to Radford, rights in specific property which are of substantial value. Compare *Ochoa v. Hernandez* (230 U. S. 139, 161); *Loan Association v. Topeka* (20 Wall. 655, 662, 664); *In re Dillard* (Fed. Cas. No. 3912, p. 706). As we conclude that the act as applied has done so, we must hold it void. For the fifth amendment commands that, however great the Nation's need, private property shall not be thus taken even for a wholly public use without just compensation. If the public interest requires, and permits, the taking of property of individual mortgagees in order to relieve the necessities of individual mortgagors, resort must be had to proceedings by eminent domain; so that, through taxation, the burden of the relief afforded in the public interest may be borne by the public.

Reversed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 1023) to provide for the payment of a military instructor for the high-school cadets of Washington, D. C.

The message also announced that the House insisted upon its amendment to the bill (S. 2276) to authorize participation by the United States in the Interparliamentary Union, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. McREYNOLDS, Mr. BLOOM, and Mr. FISH were appointed managers on the part of the House at the conference.

PUERTO RICAN HURRICANE RELIEF COMMISSION

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the joint resolution (S. J. Res. 88) to abolish the Puerto Rican Hurricane Relief Commission, and transfer its functions to the Secretary of the Interior, which was, on page 1, line 5, to strike out "Rica" and insert "Rico."

Mr. TYDINGS. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. SMITH. Mr. President, section 7 of House bill 8052, which I have offered as an amendment in the nature of a substitute, merely authorizes the Secretary to hold hearings in order to determine whether or not to refer an alleged violation of a license to the Attorney General for appropriate action.

Mr. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. SMITH. I yield.

Mr. BYRD. I have not heard the Senator explain fully the licensing clause in section 4, subsection 3. There is considerably more to it than the Senator has covered.

Mr. SMITH. I think the text of the subsection explains itself fully.

that it is now operated by tenants" (Yearbook of Agriculture, 1932, p. 494). From 1910 to 1920, farm mortgage debt increased from \$3,320,470,000 to \$7,857,700,000. See The Farm Debt Problem, H. Doc. No. 9, p. 5, 73d Cong., 1st sess. In 1910 the total acreage of farm land was 878,798,325; in 1920, it was 955,883,715 (Census of 1920, Agriculture, vol. V, p. 32, t. 3). The greatly increased local tax rate, in connection with increased land values, has been suggested as being an important cause of increasing farm tenancy (hearings on S. 2367, p. 16). The average value of farm property per acre in 1880, was \$22.72; in 1920, \$81.52; in 1930, \$58.01 (Census of 1930, Agriculture, vol. II, p. 10, t. I). Farm property taxes in 1910 amounted to approximately \$268,000,000; in 1920, to \$452,000,000; in 1932, to \$629,000,000. See The Farm Debt Problem, supra, p. 21.

"See Note 4.

Mr. BYRD. I should like to ask the Senator if I am correct in my interpretation that under clause 2, 50 percent of the handlers of any given product may impose licenses on the producers providing the producers prepare their own products for marketing?

Mr. SMITH. The provision reads:

(2) To make effective any marketing plan set forth in any marketing agreement (or appendix thereto) signed by the persons handling not less than 50 percent of the volume of the business done in the respective classes of industrial or commercial activity specified in such agreement.

Mr. BYRD. A producer must have handlers, of course, in order to handle his product; and would not the effect of that provision be that 50 percent of the handlers can in effect license the producers?

Mr. BANKHEAD. Let me call the attention of both Senators to the provision at the bottom of page 7, in line 22, which reads:

No license issued under this title shall be applicable to any producer in his capacity as a producer.

Mr. BYRD. But, Mr. President, the Senator has not stated that a producer who prepares for market his products becomes a processor under the terms of the original act.

Mr. SMITH. No. I should like to call the Senator's attention to the language on page 7, lines 22 and 23, quoted by the Senator from Alabama [Mr. BANKHEAD]:

No license issued under this title shall be applicable to any producer in his capacity as a producer.

Where a producer processes and distributes his own products and is restricted to the processing and the distribution of his own products, I do not think he should be required to be licensed.

Mr. BYRD. Will the Senator accept an amendment to clarify that provision?

Mr. SMITH. I will.

Mr. BYRD. I think it should be changed, because, under the regulation as now proposed, any producer who prepares for market his own product becomes subject to a license.

Mr. SMITH. I think I ought unhesitatingly to say that, in my opinion, it is nothing but fair, where a producer processes and distributes his products and his alone, that he should not be subject to a license.

Mr. BYRD. Mr. President, in addition to that I am very doubtful of the wisdom of permitting 50 percent of the handlers of a given product to license the producers in the entire industry. I should like to have the judgment of the Senator on that point, and as to the advisability of providing that at least 75 percent of the producers shall agree when any license is placed on certain agricultural products.

Mr. SMITH. I think the percentage is a question that should be considered, not only as to the percentage of the producers, but the volume of the product. I can recall cases where 50 percent of the producers might represent but 25 percent of the volume.

Mr. BYRD. This measure as now written proposes to permit 50 percent of the handlers to license a given product, and I ask the Senator if he will not accept an amendment to the effect that no license shall be imposed on any given agricultural product unless approved by 75 percent of the producers thereof?

Mr. SMITH. I would be willing to accept such an amendment; I think that would be fair.

Mr. BYRD. Both in quantity and in number.

Mr. SMITH. I think there should be a provision that the volume should be connected with the number of producers.

Mr. BYRD. But the Senator agrees with me that under the pending measure that is not done, for 50 percent of the handlers may now license a given product and, in effect, license all the producers of that product?

Mr. KING. Mr. President, may I inquire of the Senator from Virginia upon what theory—and I am asking the question for information—can we defend a legislative declaration by Congress, if 75 percent or 80 percent or 60 percent or 81 percent of people engaged in any activity shall vote one way, that all the other persons engaged in such activity shall be subject to their decision, affecting their

personal rights, their individual rights, and their property rights?

Mr. SMITH. I am surprised to hear that question asked by the Senator from Utah, because the very genius of our Government is majority rule. I think the Senator from Utah is in this body because a majority selected him to come here. I do not know that I would have joined them, but I say he is here as a result of a majority vote. I do not know what right the minority who did not vote for him have in the premises.

Mr. KING. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. KING. I am surprised that the Senator from South Carolina, who is a man of great perspicacity and a great deal of wisdom, although he is frequently wrong, cannot distinguish between the political right to vote for officials and the right to control one's own product, subject, of course, to reasonable rules and regulations and to the power of the Government for tax purposes. Obviously there is such a wide distinction that I am amazed the Senator does not comprehend it.

Mr. SMITH. The right to vote was exercised by both the majority and the minority, but the minority had to acquiesce in the will of the majority. In the exercise of the voting privilege to determine a marketing system, a 75-percent majority vote is generally a high ratio, for 25 percent can almost always be depended upon to go contrary, even though it is to their detriment to do so. I think the principle is found in the result and not in the exercise of the right. The producers have a right to vote if we adopt the system, although I am not particularly enamored of it, I will say.

Mr. CAREY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Wyoming?

Mr. SMITH. I yield.

Mr. CAREY. I note that the vote is not based on the number who are engaged in the business but on the volume of business.

Mr. SMITH. Yes.

Mr. CAREY. Does not that mean that a few men who might be doing a greater part of the business could dictate to the smaller fry in a particular line?

Mr. SMITH. No. The bill reads:

thereto) signed by the persons handling not less than 50 percent of the volume of the business done in the respective classes of industrial or commercial activity specified by such agreement.

Now:

(3) To make effective the marketing plan set forth in any proposed marketing agreement (or appendix thereto), on which a hearing has been held, whenever the Secretary, with the approval of the President, determines—

(a) That the refusal or failure to sign such proposed agreement by the persons handling more than 50 percent of the volume of business done in any class of industrial or commercial activity specified therein tends to prevent the effectuation of the declared policy with respect to the commodity.

Mr. CAREY and Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Does the Senator from South Carolina yield; and if so, to whom?

Mr. SMITH. I yield first to the Senator from Wyoming.

Mr. CAREY. Say, for example, that in the packing industry three or four packers handle 51 percent of the business. This provision of the bill, if adopted, would mean that they could control as against perhaps a hundred other packers who were doing a smaller amount of business. The control is not based on numbers; it is based on the volume of business done. So a few who are doing a large amount of business could control the industry through this provision making the basis the amount of business done.

Mr. SMITH. I had in mind, in answering the Senator from Virginia, another paragraph which pertains to marketing agreements where a certain number must come in as well as a certain volume. In my conception, the point the Senator from Wyoming makes is well taken, because two or three or four may control 51 percent of the volume of a given business, and 75 or 80 percent of the smaller ones may not be able to subscribe to the conditions that affect the 51 percent.

Mr. CAREY. I think that is entirely possible.

Mr. SMITH. I suggest that the Senator offer an amendment along that line.

Mr. President, sections 8, 9, and 10 all amend section 9 of the Agricultural Adjustment Act.

Mr. BYRD. Mr. President, before the Senator proceeds to that point I should like to have him explain the regional marketing area provision and exactly what it means, and whether it is proposed to prevent one section of the country shipping into another section.

Mr. SMITH. No; I think not. I think the marketing agreements and the conditions under which producers are willing to market their products vary with different sections of the country. In order not to do the injustice that is done by a blanket arrangement, where conditions might impose hardships on one and benefits on another, districts could be formed where the conditions are almost identical. Then the marketing agreement and the licensing could be more advantageously carried out, with the thought always in mind that there must be provision made that a given article in a certain section shall not be discriminated against as compared to that article in another region.

Mr. BYRD. But will the given article in another region be prohibited from coming into the other marketing area?

Mr. SMITH. I think not.

Mr. BYRD. Then, what is the advantage of the provision?

Mr. SMITH. It may be incidental, but I take it districts are going to be created where the freight and the consumption and the other elements which affect the trade would not make it advantageous for someone outside to ship into that district. The Senator knows, as I know, that it is a common practice for a man in one section, in order to get into a market, to go there and sell at a price with which the local people cannot possibly compete, and he does that until such time as he gets a foothold in the market and can compete with the local people under normal and ordinary conditions.

Mr. BYRD. Is it the purpose to establish zones over the country and give those zones to certain producers, or are we going to have free trade such as we now have?

Mr. SMITH. We will have free trade, as I understand, to the extent that the best interests of all those within the zone will be protected.

Mr. BYRD. The Senator would favor the principle of establishing zones and prohibiting the producers of the West from shipping to the markets of the East?

Mr. SMITH. If it is an advantage to the farmer, I am willing to do so.

Mr. BYRD. To the advantage of which farmer?

Mr. SMITH. The producer.

Mr. BYRD. The farmer within the particular zone or outside the particular zone?

Mr. SMITH. If it should be advantageous to him under the zone plan I would vote "yea", and if it should be disadvantageous I would vote "nay."

Mr. BYRD. But the Senator speaks of the farmer. What farmer? Does he mean the farmer within the zone or the farmer outside the zone?

Mr. SMITH. They will all be in a zone. Each man will ship in his own bailiwick. The Senator must not think that anybody would be left out.

Mr. BYRD. But they will be left out if they cannot ship to other zones than their own.

Mr. SMITH. I do not think there will be any marginal producers. We have marginal lands, but I do not think we will have marginal producers.

Mr. BYRD. Is it the purpose of the legislation to establish zones and prohibit shipment into a particular zone by anybody living outside of the particular zone in order to give the advantage to the farmers within such zone?

Mr. SMITH. I think not.

Mr. BANKHEAD. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Alabama?

Mr. SMITH. I yield.

Mr. BANKHEAD. In the first place, this particular feature of the bill is not one which has been sponsored by the Department. It was incorporated in the bill by the House committee in response to criticism of the broad area which might be included under the terms of the original bill. Of course the Senator understands this was originally limited to a few special crops. It was apparently the desire to get agreements with a certain percentage of the producers, but the argument was made that it might include producers from the Atlantic to the Pacific Ocean in the case of milk, for instance, in order to have a marginal agreement to supply the New York milk shippers. In response to that argument, to show that nothing of that kind was contemplated, the House committee wrote this limitation providing that a certain area would be included.

Mr. BYRD. Would anyone outside of that particular area be prohibited from shipping into that area?

Mr. BANKHEAD. Naturally they would not ship in there.

Mr. BYRD. Suppose it was an area around Washington for vegetables and milk; then the farmers outside of such area could not ship into Washington, could they?

Mr. BANKHEAD. If it should be a proper and economic market, they would be in the area.

Mr. BYRD. Suppose it was a product coming into Washington from west of the Mississippi River, it could not be within this area, could it?

Mr. BANKHEAD. Then, of course, this would not be the proper market for it.

Mr. BYRD. Then the Senator would prohibit that product from coming into this area?

Mr. BANKHEAD. Oh, no. If this is a proper and reasonable market for that particular article, it could come into this area.

Mr. BYRD. The language of the bill is "small areas of distribution." The Senator would not construe an area 2,000 miles from here as being a small area, would he? Therefore, he would prohibit shipment into this particular zone.

Mr. BANKHEAD. If it is in the Senator's mind to make the whole United States into a milk-market zone, he would destroy the purposes of the bill.

Mr. BYRD. Does the Senator favor and does the proposed legislation permit the establishment of zones, and is it the purpose to prohibit producers outside of those zones shipping into them? If that is the purpose of the bill and if that is what the bill does, we have started a procedure that is something new in this country.

Mr. BANKHEAD. The Senator may not be familiar with what has been done, but the marketing agreements which have been entered into under the act of last year carry out and accomplish that exact purpose.

Mr. BYRD. But they do not prohibit shipment, and under the licensing clause much broader powers are granted.

Mr. SMITH. I think the whole provision should have been restricted, perhaps, to the milk problem. It is the most vexatious and aggravated question in the whole category. In answer to the suggestion of the Senator from Virginia that we are entering upon a new project in the matter of zoning, the Senator must be familiar with the matter of freight rates and the zones which are created for the application of freight rates.

Mr. BYRD. We are zoned as to freight rates by reason of our location, whereas it is proposed here to zone us according to our markets. We are not zoned by legislative enactment, and we are not prohibited from shipping directly into a given area.

Mr. SMITH. I do not think this does that, either.

Mr. BYRD. That is the purpose of it, as I happen to know.

Mr. SMITH. The purpose of this provision, I think, is to regulate more particularly the distribution of milk. I am not familiar with that matter, but the Department explains that the most aggravated profiteering and racketeering that has gone on in the country has been in connection with the supply and distribution of milk.

Mr. BYRD. Why, then, does not the Senator amend the bill and confine its provisions to milk?

Mr. SMITH. There might be some other commodities involved.

Mr. BYRD. The bill applies now to every agricultural product.

Mr. SMITH. Oh, no.

Mr. BYRD. When this country undertakes to establish 48 zones and then to prohibit by legislative enactment shipments into one zone from any of the other zones, we have begun a new process of business.

Mr. McKELLAR. Would it not be unconstitutional?

Mr. BYRD. Assuredly it would be.

Mr. GEORGE. Yes; it would be clearly unconstitutional.

Mr. SMITH. As we have had the decision of the Supreme Court, when I get through explaining these unconstitutional provisions I think I shall call upon the constitutional lawyers to explain. I am talking seriously.

Mr. GEORGE. So am I. One of the difficulties about our legislation is that we have been willing to take it without any real consideration of whether it would stand the test in the courts or ought to stand up in the courts. If it is intended to establish zones which would restrict shipments, clearly it is unconstitutional. That power could not be granted. We have no authority to grant it. The Congress has no such power.

Mr. SMITH. From a layman's standpoint I have been amazed and shocked at the conduct of lawyers in this body, those who went up to the Vice President's desk and took the oath of office, those who said they had devoted their life's work to interpretation of the Constitution and the law, those who called the courthouse a temple of "justice"—God help them—who sat right here in this body with a measure so palpably unconstitutional that it almost said so, and then voted for it. Let him who is without sin cast the first stone at me. Lawyers in this body who had cut their wisdom teeth in the profession of the law, in the case of serious legislation which, outside the Senate, they would say "the damned thing is unconstitutional", yet voted for it here. God knows I should like to go back and vote in such a way that each one of us would do his duty as he saw it, regardless of any outside interference or influence.

Mr. KING. Mr. President, will the Senator permit an interruption?

Mr. SMITH. I should like to finish this thought.

The Departments are criticized for sending here propositions that are unconstitutional. What did we do when we formulated laws in our committee rooms which already the Supreme Court has said are unconstitutional? God grant that the action of the Supreme Court may bring us to a realization of our duty under the Constitution, so that each and every one of us, according to his conception, will vote his convictions as to the right or wrong of the measures before him. We do not do it, however, and yet we come in here and criticize those who, in their zeal to aid a desperate condition—because the condition of agriculture is desperate—endeavor to aid it. Immediately a host of critics rise up and meticulously point out what they believe to be directly or indirectly unconstitutional; and yet, without any kind of criticism, we pass bills carrying billions of dollars for purposes of doubtful constitutionality.

Mr. BANKHEAD. Mr. President—

Mr. SMITH. I wish the farmers of the country could understand just what we consciously and subconsciously think of them in this body. They are the line of least resistance—yes. Other Senators know, as I know, that the minute we begin to talk about doing anything for the farmer, it falls on deaf ears, or encounters sickening indifference. We eat the farmer's food; we wear the product of his toil; but we consider him not in our legislation.

We come in here and talk about trying to expand the currency in order to lift the price of commodities. My God, unless we tie a gold block on one end and a banker on the other end, we cannot have any currency. Why should we consider a farmer or his commodity?

What is our currency based on today? We say we have \$5,000,000,000 in circulation. What is it based on? Our gold is neutralized. Our silver is subsidiary. What is the volume of our currency based on today? If one of us says

"I have a gold certificate", he will be put in jail; and yet we sit here on this floor and demand "a sound currency". What is it based on now? We have \$5,000,000,000 of circulation, based on what? On bonds from which the bankers are clipping the coupons, bonds based on the good faith and honor of America; and yet we come here and quibble and say, "Oh, we cannot risk fiat money." I wish the people would quit risking fiat Senators. We talk about printing-press money, but we have printing-press Senators. You know it and I know it.

God grant that the Court decision of today will bring about a recognition on the part of the voters of the country that from now on we will use the Constitution which has brought us to the glorious position we now occupy, and is thoroughly competent to take care of us in all the future.

We can relieve the depression without going outside the Constitution. We can reflate our currency without violating the Constitution as we are now doing. We never had a right to delegate the issuance of currency to anybody outside of the Congress; and yet we sit here and talk wisely—God knows, we sit here and assume to talk wisely—and contradict ourselves in every practice. We must not have fiat money, printing-press money, but what have we today? Sterilized gold and subsidiary silver, and yet we have paper money to the amount of some \$4,000,000,000, based on what? On what?

Mr. BANKHEAD. Mr. President, will the Senator yield to me for a moment?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Alabama?

Mr. SMITH. Yes.

Mr. BANKHEAD. Before we leave the discussion which has followed the remarks of the Senator from Virginia and the Senator from Georgia, I wish to say that, so far as I have been able to read and analyze the bill, there is no prohibition in it against the shipment of the commodities specified which may be licensed into an area covered by a marketing agreement. It seems to have been assumed in the discussion that there was such a prohibition; but, as I construe the bill, it applied only when a local area is used for a marketing agreement, to be enforced through a license to those within the area covered by the signers of the marketing agreement. It could have no extraterritorial operation where producers were not in the area and therefore were not subject to the marketing agreement; and, on the other hand, it could have no extraterritorial effect upon handlers outside of that area. In other words, they must be under license before the provision will operate on them. So I think there is a misunderstanding, and we do not want any misunderstanding about it.

Mr. BYRD. But suppose the Secretary should refuse a license to any producer outside of a particular area: Would he then be permitted to ship into it?

Mr. BANKHEAD. He would not have to have any license if he was not in the area. He could ship where he pleased. There would be no restriction on him.

Mr. BYRD. Then, exactly what will these regional marketing agreements mean?

Mr. BANKHEAD. Naturally, the producers who are within the area will be a part of the marketing agreement, and those who are handling the product will come under the license agreement; but it applies only to those producers or handlers who are within a particular marketing-agreement area.

Mr. GEORGE. Mr. President, I desire to say for the benefit of my friend, the Senator from Alabama, that I did not venture any guess as to what the provision meant. I merely made an inquiry as to whether it did have the effect stated.

Mr. BANKHEAD. I so understood the Senator, and that is the reason why I was anxious to develop the thought before we got away from it, because I am quite clear that no construction of that sort is permissible under the bill.

Mr. BYRD. I should like to ask the Senator a question. The bill, under section 2, permits a majority of the handlers to impose licenses. Under the imposition of those licenses, quota systems can be provided for, and the flow of com-

merce, according to the testimony of Mr. Davis, can be regulated. Let us assume that we have a regional marketing agreement for a certain product, and that there is a national marketing agreement for the same product which is imposed by 50 percent of the handlers: Could not the Secretary, in the exercise of his discretion, prohibit shipment into the regional territory?

Mr. BANKHEAD. I assume, naturally, there would not be both a local agreement and a national agreement for the same commodity.

Mr. BYRD. There may be under the terms of the bill.

Mr. BANKHEAD. It is possible, but it is not probable or practicable. There is no reason for it. We must not assume that the Department will do an unnecessary and a foolish thing.

Mr. SMITH. Mr. President, I discussed this matter earlier in the day, not alone with those who favored the bill but with those who opposed it; and it is my judgment that this particular portion of the bill needs more definite limitations and definitions as to just what it does mean and what will be its effect on a general market.

Mr. McKELLAR. Mr. President, before the Senator goes to another subject, will he yield to me?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Tennessee?

Mr. SMITH. Yes.

Mr. McKELLAR. I call the Senator's attention to a sentence beginning in line 17, on page 16:

The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

I have not any objection to that so far as it goes; but so far as the cotton trade is concerned, the Senator knows that that trade now is largely controlled by three firms—I believe their names are Anderson, Clayton & Co., McFadden & Co., and the Weil Co.—together with the so-called "cooperative associations", which are no longer cooperative associations, but are just other handlers of cotton.

I wonder if the Senator would not be willing to accept an amendment which would treat all legitimate dealers in cotton fairly and justly and not undertake to put them out of business for the benefit of the cooperative associations, which are now simply dealers in cotton. I have prepared an amendment of that kind, which I showed the Senator yesterday or day before yesterday; and I am wondering if he would not be willing to accept the amendment, which I will read:

No such association shall handle the products of nonmembers in excess of the amount necessary to handle member products and in any case not exceeding 25 percent in value of the products handled for members, and there shall be included in nonmember business every transaction in which the association as such, or any agency thereof, can make a profit to which the contracting producer is not entitled, or incur a loss for which the contracting producer is not liable and every transaction in commodities delivered by persons having no legal or equitable right in their production.

Such an amendment would prevent, through the Government's attitude toward cooperative associations, doing away with the small-business cotton dealer.

Mr. SMITH. Mr. President, I think that the cooperative associations ought to deal with the products of their members, and not become organizations for the handling of products of those who are not members, and therefore gradually become another element marketing purely for individual benefit. I would be very glad to accept the amendment.

Mr. McKELLAR. Mr. President, I will offer the amendment now, if the Senator will accept it, and let it go into the bill. I offer the amendment which I have just read.

Mr. SMITH. Let it lie on the table as presented until we get to individual amendments.

Mr. McKELLAR. Let it be printed and lie on the table, and I will offer it later. I thank the Senator very much.

Mr. BYRD. Mr. President, will the Senator permit me to ask him another question?

Mr. SMITH. I yield.

Mr. BYRD. In the original bill, Senate bill 1807, there is a provision, in section 5, which would prohibit the imposition of quotas unless two-thirds of the producers approved them. That has been stricken out of the House bill. Certainly if we establish a quota system in this country the producers ought to approve it, and I ask the Senator whether he will agree to an amendment to restore the provision of the original bill, so that no quotas can be adopted without the approval of two-thirds of the producers of a particular commodity.

Mr. SMITH. It is in the pending measure now. Let the Senator turn to page 5, subsection (b), which provides:

That the issuance of such license is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers.

Mr. BYRD. Yes, Mr. President; but they can still license under section 2, which is a section entirely independent of section 3, and can impose quotas under that section.

Mr. McKELLAR. Mr. President, any effort to restrict the free intercourse of products between the States or between the various areas is manifestly unconstitutional.

Mr. BYRD. I so understand.

Mr. McKELLAR. And no provision looking to that end ought to go into the bill, and if the Senator will offer an amendment to strike it out I am quite sure it will be agreed to.

Mr. SMITH. But the Senator must not lose sight of the section of the bill to which I have just referred.

Mr. BYRD. Section 3 does not qualify section 2. Section 2 stands alone, and provides that 50 percent of the handlers can license a given product.

Mr. SMITH. I have already said to the Senator that if he desires to offer an amendment increasing that number I will be glad to accept it.

Mr. BYRD. Fifty percent of the handlers of a product should not be able to put a quota on the producers of a commodity without at least two-thirds of them approving it.

Mr. SMITH. I do not think they can under the pending bill.

Mr. BYRD. They could do it under the pending bill.

Mr. SMITH. No.

Mr. BYRD. Yes; they could. The provision to which I refer was in the original bill, but for some reason was stricken out, and I do not see why the Senator should not agree to reinsert in the pending bill the provision he had in his original measure.

Mr. SMITH. It reads:

That the issuance of such license is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers.

Mr. BYRD. Mr. President, that is only operative providing they fail under section 2 to have a license.

Mr. SMITH. Precisely, but it goes back to the producer as to what he is going to agree to.

Mr. BYRD. Mr. President, I differ with the Senator, and to make it clear, if he will offer an amendment to reinsert the provision which he had in his original bill, that no quotas may be established without approval of two-thirds of the producers, that will be all right.

Mr. SMITH. This is identically the same thing.

Mr. BYRD. Mr. President, section 2 stands alone. If the pending bill should be enacted, 50 percent of the handlers could license any agricultural product in this country, and the growers would not have any vote at all. I stand upon that statement as a Member of the Senate. That is in the bill.

Mr. SMITH. It reads:

To make effective the marketing plan set forth in any proposed marketing agreement.

The precedent upon which section 2 is established is the marketing agreement.

Mr. BYRD. I understand that, but handlers can establish a marketing agreement.

Mr. SMITH. Oh, no.

Mr. BYRD. It is provided in the bill just as clearly as can be that they can do it.

Mr. SMITH. Who makes the marketing agreement?

Mr. BYRD. There are two ways of making one. One way is for 50 percent of the handlers to make it, and if they fail to do it, the President can promulgate it, subject to approval by 75 percent.

Mr. SMITH. Oh, no; the President cannot promulgate it unless it is to eliminate an unfair practice. It reads:

To make effective the marketing plan set forth in any proposed marketing agreement.

Mr. BYRD. If the Senator will read at the bottom of page 5 the report of the House committee, he will find that it states:

The new provision adds to the present law a new class of licenses, herein called "clause (2) licenses." These licenses are to be issued to make effective a marketing plan set forth in a marketing agreement which relates to any agricultural commodity or product thereof and which is signed by the handlers of 50 percent or more of the volume of business done by the respective classes of business or industrial activity specified in the license.

That stands alone.

Mr. SMITH. Back of it is a marketing agreement which is precedent to any license or any processing and distribution. There must be incorporated in the marketing agreement what the producers desire. Then these others come in, and only them.

Mr. BYRD. Does the Senator contend that no licenses can be issued unless 75 percent of the producers approve it?

Mr. SMITH. Whatever percentage is incorporated in the law.

Mr. BYRD. Will the Senator agree to an amendment to clarify that so that it will be beyond question?

Mr. SMITH. Certainly.

Mr. President, section 13 provides the means by which State authorities and Federal authorities may get together to work in harmony, especially those in Virginia.

Section 15 appropriates 30 percent of the annual receipts from duties collected under the customs laws to the Secretary of Agriculture for certain named purposes. I hope that that will be unanimously agreed to.

Mr. BYRD. Mr. President, what is the amount of that in dollars?

Mr. SMITH. I do not know; I have not ascertained. It provides for the appropriation of 30 percent of the customs receipts. It is for the purpose of meeting the expenses.

Section 16 constitutes a restriction upon the use of receipts from processing taxes. A reading of the provision explains it.

Section 17 amends section 15 (d) of the Agricultural Adjustment Act, which authorizes the imposition of compensating taxes, so as to take account of the interests of producers as well as processors. That has been in the law. Why it was never enforced I have never been able to understand.

Section 18 corresponds roughly to section 3 (e) of the National Industrial Recovery Act, and authorizes the President, under certain specified conditions, to impose quotas or taxes upon the importation of agricultural commodities. I desire to say here for the Record that individually I myself do not agree to that amendment.

Mr. BYRD. What is that?

Mr. SMITH. Section 18 corresponds, roughly, to section 3 (e) of the National Industrial Recovery Act, and authorizes the President, under certain specified conditions, to impose quotas or taxes upon the importation of agricultural commodities. I wish to state here and now that I am not in favor of that paragraph in this bill.

As to section 19, the administration has no objection to its inclusion. It corresponds to Senate bill 2753, introduced by the Senator from Wisconsin [Mr. DUFFY], with reference to which the Senate Agricultural Committee has recently requested a report on the part of the Department of Agriculture.

Mr. President, I am now through giving the definitions of the amendments proposed in the House bill.

The parliamentary situation is rather confusing. I have made a motion to substitute the House bill for the Senate bill, and that motion is now pending. I should like to have a vote on substituting the House bill for the Senate bill, so that we will know definitely that we are from now on discussing directly the provisions of the House amendments as related to the organic law.

Mr. McKELLAR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McKELLAR. Before that is done, must not the amendments first be adopted, if there are amendments?

Mr. SMITH. It is just one amendment.

Mr. McKELLAR. I know it is just one amendment, but many amendments are to be offered to that amendment. Should not the amendment be perfected first and then adopted? That is my understanding of the proper procedure. However, I am not a parliamentarian, and I am asking the Presiding Officer.

The PRESIDING OFFICER. The Chair is advised that the amendment should be perfected before being voted on.

Mr. McKELLAR. I was quite sure that was true.

Mr. McNARY. Mr. President, I think there was a common understanding earlier in the day when I suggested that the bill should be recommitted to the Committee on Agriculture, that at the conclusion of the explanation by the Senator from South Carolina [Mr. SMITH] the Senate should recess until tomorrow. Therefore, I should not wish to see any action whatsoever taken on the amendment today.

Mr. SMITH. Mr. President, if it is agreeable to the other Members of the Senate, I have no objection to a recess being taken now until 12 o'clock tomorrow, when we shall continue the consideration of this amendment.

RIO GRANDE COMPACT

Mr. ADAMS. Mr. President, I ask unanimous consent to lay aside, if necessary, the unfinished business temporarily, and to have considered House bill 7873, Calendar No. 745. It is a bill which has been passed by the House to extend a compact entered into between the States of Colorado, New Mexico, and Texas.

Congress authorized the compact 2 years ago. The compact is about to expire on June 1 of this year. The three States have ratified an extension, and they now ask the Congress to grant consent to further extension. The House, as I say, has already passed the bill.

Mr. McKELLAR. Mr. President, are the Senators from the other two or three States mentioned in favor of the extension?

Mr. ADAMS. A similar bill was introduced by the Senators from Texas, and one by myself; and I know that is true of the Senators from New Mexico.

Mr. McKELLAR. If the other Senators do not object to it, I shall not object to it.

Mr. McNARY. Mr. President, is this a request for an extension of time?

Mr. ADAMS. A 2-year compact was entered into. The compact will expire on the first of June of this year. The three States, by their legislature, have already acted to renew the compact, and they now ask Congress to concur in its extension.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H. R. 7873), to give the consent and approval of Congress to the extension of the terms and provisions of the present Rio Grande compact signed at Santa Fe, N. Mex., on February 12, 1929, and heretofore approved by act of Congress dated June 17, 1930 (Public, No. 370, 71st Cong., 46 Stat. 767), which was ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the consent and approval of Congress is hereby given to the extension of the provisions of said Rio Grande compact, and all the terms thereof for the period of 2 years from June 1, 1935, to June 1, 1937, as heretofore ratified by the legislature of the State of Colorado by act approved April

13, 1935, by the Legislature of the State of New Mexico by act approved February 25, 1935, and by the Legislature of the State of Texas by act approved April 18, 1935.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The preamble was agreed to, as follows:

Whereas the duly accredited commissioners representing the States of Colorado, New Mexico, and Texas, respectively, signed the Rio Grande compact at Santa Fe, N. Mex., on the 12th day of February 1929, and which said compact was thereafter duly ratified by the legislature of each of the aforesaid States and approved by act of Congress on June 17, 1930 (Public, No. 370, 71st Cong., 46 Stat. 767); and

Whereas the legislature of each of the aforesaid States has by appropriate legislation, and pursuant to the express provisions of article 14 of said compact, extended the said compact for the term of 2 years from June 1, 1935, to June 1, 1937: Now, therefore

ROAD WORK ON INDIAN RESERVATIONS

Mr. FRAZIER. Mr. President, I ask unanimous consent for the present consideration of Senate Joint Resolution 130, Calendar No. 659, making immediately available the appropriation for the fiscal year 1936 for the construction, repair, and maintenance of Indian reservation roads. Some \$4,000,000 for the purpose was included in the Interior Department appropriation, which ordinarily becomes available on the 1st of July. This joint resolution is to make it immediately available, as in the case of a number of Indian reservations no money is on hand to carry on work for the Indians who so badly need work; and especially in the Northern States, where the season is short, it is desired to get to work on the roads as soon as possible, before the 1st of July.

Mr. ROBINSON. The sum is carried in the appropriation bill?

Mr. FRAZIER. Yes.

Mr. ROBINSON. The fact is, that this joint resolution merely makes the amount immediately available?

Mr. FRAZIER. That is correct. The Department of the Interior is in favor of it.

Mr. McNARY. The Senator from Arkansas has indicated a desire to go on with the calendar in the morning. Of course, in this instance, everyone is aware of the proceedings, and what will be before the Senate. Would not the Senator be willing to wait until tomorrow, if such an order shall be entered?

ORDER FOR CONSIDERATION OF CALENDAR TOMORROW

Mr. ROBINSON. Mr. President, I ask unanimous consent that immediately following the convening of the Senate tomorrow the Senate proceed to the consideration of unobjectioned bills on the calendar.

Mr. McNARY. That covers the matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER. (Mr. Moore in the chair) laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

Mr. BURKE, from the Committee on the Judiciary, reported favorably the nomination of George H. Moore, of Missouri, to be United States district judge, eastern district of Missouri, to succeed Charles B. Faris, appointed to the circuit court of appeals.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

74TH CONGRESS
1ST SESSION

S. 1807

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BANKHEAD to the bill (S. 1807)
to amend the Agricultural Adjustment Act and for other
purposes, viz: At the proper place in the bill insert the
following:

1 That section 7 of title 1, Agricultural Adjustment Act,
2 as amended by section 221 of the National Industrial Re-
3 covery Act (48 Stat. 210; 15 U. S. C., art. 607), is
4 amended by striking out all of its present terms and provi-
5 sions and substituting therefor the following:

6 “SEC. 7. The Secretary shall sell cotton held and/or
7 acquired by him pursuant to authority of this Act at his
8 discretion subject only to the conditions and limitations of
9 title 1 of this Act: *Provided*, That the Secretary shall have

1 authority to enter into option contracts with producers of
2 cotton to sell to or for the producers such cotton held and/or
3 acquired by him in such amounts and at such prices and
4 upon such terms and conditions as he, the Secretary, may
5 deem advisable, and such option contracts may be trans-
6 ferred or assigned in such manner as the Secretary of Agri-
7 culture may prescribe.

8 “Notwithstanding any provisions contained in option
9 contracts heretofore issued and/or any provision of law,
10 assignments made prior to January 11, 1934, of option
11 contracts exercised prior to January 18, 1934, shall be
12 deemed valid upon determination by the Secretary that
13 such assignment was an assignment in good faith of the
14 full interest in such contract and for full value and is free
15 from evidence of fraud or speculation by the assignee.

16 “Notwithstanding any provision of existing law, the
17 Secretary of Agriculture may, in the administration of the
18 Agricultural Adjustment Act, make public such informa-
19 tion as he deems necessary in order to effectuate the pur-
20 poses of such Act.”

21 SEC. 2. Section 6 of the Agricultural Adjustment Act
22 is hereby repealed.

23 SEC. 3. Section 4 (b) of title 1 of the Agricultural
24 Adjustment Act, as amended by title 2 of the Emergency
25 Appropriation Act, fiscal year 1935, is amended by striking

1 out the words "to be available until March 1, 1936" and
2 inserting at the end of said section a new sentence to read
3 as follows: "This sum shall be available until the cotton
4 acquired by the Secretary of Agriculture under authority
5 of title 1 of this Act, including cotton futures, shall have
6 been finally marketed by any agency which may have been
7 or may be established by the Secretary of Agriculture for
8 the handling, carrying, insuring, or marketing of any cotton
9 acquired by the Secretary of Agriculture."

10 SEC. 4. Section 4 (f) of title 1 of the Agricultural
11 Adjustment Act, as amended by title 2 of the Emergency
12 Appropriation Act, fiscal year 1935, is amended by adding
13 at the end thereof a new paragraph to read as follows:
14 "The word 'obligation' when used in this section shall
15 include (without being limited to) administrative expenses,
16 warehouse charges, insurance, salaries, interest, costs, com-
17 missions, and other expenses incident to carrying, handling,
18 insuring, and marketing of said cotton."

AMENDMENT

Intended to be proposed by Mr. BANKHEAD to
the bill (S. 1807) to amend the Agricultural
Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

74TH CONGRESS
1ST SESSION

S. 1807

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BANKHEAD to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the proper place in the bill insert the following:

1 Section 17 of an Act entitled "An Act to place the
2 cotton industry on a sound commercial basis, to prevent un-
3 fair competition and practices in putting cotton into the chan-
4 nels of interstate and foreign commerce, to provide funds for
5 paying additional benefits under the Agricultural Adjust-
6 ment Act, and for other purposes", approved April 21,
7 1934, as amended, is amended by inserting "(a)" before
8 the first sentence thereof and by inserting at the end thereof
9 the following new subsection:

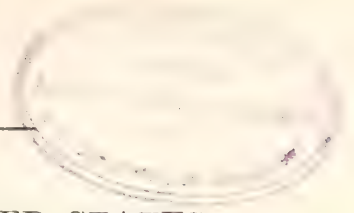
1 “(b) Appropriations for administrative expenses under
2 this Act are authorized to be made available to enable the
3 Secretary of Agriculture to pay any person, who, in connec-
4 tion with the operation of any cotton gin, incurred additional
5 expense in connection with the administration of this Act
6 with respect to cotton harvested and ginned during the crop
7 year 1935–1936 or the crop year 1936–1937, and who
8 applies to the Secretary therefor, compensation at the rate
9 of 25 cents per bale of such cotton ginned by such person.
10 No payment shall be made under this subsection with respect
11 to cotton ginned after the effective date of any code, license,
12 or marketing agreement entered into or issued under the
13 National Industrial Recovery Act, as amended, or the Agri-
14 cultural Adjustment Act, as amended, if under such code
15 license, or agreement any part of the charges for ginning or
16 other services performed by the ginner includes any expense
17 incurred by the ginner in connection with the administration
18 of this Act.”

AMENDMENT

Intended to be proposed by Mr. BANKHEAD to
the bill (S. 1807) to amend the Agricultural
Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed



IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BANKHEAD to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the proper place in the bill insert the following:

1 SEC. . That (a) the second and third sentences of
2 section 2 and the first sentence of section 3 (a) of the Act
3 entitled "An Act to place the cotton industry on a sound
4 commercial basis, to prevent unfair competition and practices
5 in putting cotton into the channels of interstate and foreign
6 commerce, to provide funds for paying additional benefits
7 under the Agricultural Adjustment Act, and for other pur-
8 poses ", approved April 21, 1934, as amended, are amended
9 by inserting after the phrase " the crop year 1935-1936 ",
10 wherever such phrase appears, the phrase " or the crop year
11 1936-1937 ".

AMENDMENT

Intended to be proposed by Mr. BANKHEAD to
the bill (S. 1807) to amend the Agricultural
Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

74TH CONGRESS
1ST SESSION

S. 1807



IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BYRD to the substitute amendment proposed by Mr. Smith to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 4, lines 13 and 14, of the substitute amendment,
2 strike out " or in competition with or so as to burden,
3 obstruct, or in any way affect".

4 On page 5, line 23 of the substitute amendment, strike
5 out " and " and insert a period and the following: " No
6 license shall be issued under this section unless it".

7 On page 6, line 3 of the substitute amendment, strike
8 out the word " or " where it appears the second time, and
9 insert the word " and".

1 On page 6, line 9 of the substitute amendment, strike
2 out the words " the preceding sentence " and insert in lieu
3 thereof " this paragraph ".

4 On page 7, line 4 of the substitute amendment, after the
5 word " title " insert a colon and the following: "*Provided,*
6 *however,* That before extending the license to all production
7 areas, the Secretary shall, after hearings in the production
8 areas involved, by vote determine that two-thirds of the
9 producers of the commodity in the United States favor the
10 extension of the license ".

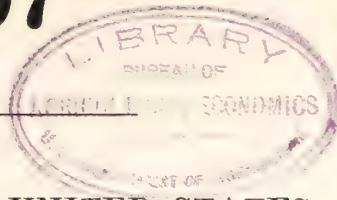
AMENDMENTS

Intended to be proposed by Mr. BYRD to the
substitute amendment proposed by Mr.
SMITH to the bill (S. 1807) to amend the
Agricultural Adjustment Act, and for other
purposes.

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

S. 1807



IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. METCALF to the bill (S. 1807)
to amend the Agricultural Adjustment Act, and for other
purposes, viz:

- 1 On page 2, line 1, strike out subsection (b).

AMENDMENT

Intended to be proposed by Mr. METCALF to
the bill (S. 1807) to amend the Agricultural
Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed



IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. McKELLAR to the bill (S. 1807)
to amend the Agricultural Adjustment Act, and for other
purposes, viz: On page 16, after line 23, insert the
following:

1 No such association shall handle the products of non-
2 members in excess of the amount necessary to handle mem-
3 ber products and in any case not exceeding 25 per centum
4 in value of the products handled for members, and there
5 shall be included in nonmember business every transaction
6 in which the association as such, or any agency thereof,
7 can make a profit to which the contracting producer is not
8 entitled, or incur a loss for which the contracting producer
9 is not liable and every transaction in commodities delivered
10 by persons having no legal or equitable right in their
11 production.

AMENDMENT

Intended to be proposed by Mr. McKellar to
the bill (S. 1807) to amend the Agricultural
Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 27), 1935

Ordered to lie on the table and to be printed



IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, MAY 28), 1935

Referred to the Committee on Agriculture and Forestry and ordered to be
printed

AMENDMENT

Intended to be proposed by Mr. SCHWELLENBACH to the amendment in the nature of a substitute proposed by Mr. SMITH to the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes, viz:

- 1 On page 2, line 25, after the comma insert "including
- 2 in either case regional or national surpluses,".

AMENDMENT

Intended to be proposed by Mr. SCHWELLEN-
BACH to the amendment in the nature of a
substitute proposed by Mr. SMITH to the
bill (S. 1807) to amend the Agricultural
Adjustment Act, and for other purposes.

MAY 13 (calendar day, MAY 28), 1935

Referred to the Committee on Agriculture and
Forestry and ordered to be printed

such statement. It did not even warn our people that the *Lusitania* carried contraband and actual munitions.

Senate Joint Resolution 99 empowers the President to withhold passports from Americans traveling in war zones or upon vessels of belligerent nations, and gives fair warning that Americans who risk their lives in war trade can expect no greater support from their fellow countrymen than those other adventurous Americans who risk their lives by joining the foreign legions of Europe.

Here, then, it seems to me, is a well-rounded out program to give life and endurance to our intended neutrality in the event sanity breaks loose from its moorings somewhere upon this earth. Senate Joint Resolutions 99, 100, and 120 constitute a studied effort to make American peace more secure. They may not alone keep us out of war, but experience dictates that this added strength to our neutrality policies in those years leading up to our entry into the World War would probably have saved us from the frightful consequences which have since followed. We ought to be making positive war against those who are blind to everything about war except its profits.

Assuredly this is the time for legislation. Hopeless is the thought of waiting for eventualities of war before trying to stave off our being drawn into it. Now is the time to act.

Congress may seem to demonstrate by its military appropriations an interest foreign to the purpose of staying out of war. I am sure that upon such questions as those involved in these resolutions which we have discussed the Congress will give ready cooperation, provided the American public shows a care about the subject. Thus the challenge is up to the people, up to you, and if you will make the most of it you will find a number of us doing our part to see to the accomplishment of this kind of legislation before the Congress adjourns.

Isn't the time for legislation now?

Indeed it is, and the people ought to so answer. But that answer must be made soon or we may find ourselves again in a situation where it is too late to make a considered national answer, but, instead, our admirals, generals, and bankers will make the answer—piecemeal and from day to day under the pressure of events and according to their own trainings and sympathies.

The hour for action is now. Why not make the most of it?

Today we think of public enemies as those who threaten and kill for profit. With a war looming on the European horizon, let us broaden our definition. Public enemies should be those among us who do the things which result in having other people killed for their own profit.

Public enemy no. 1 should be the munitions maker, who wants to sell his powder and poison gas, and sends it in American ships, wrapped up in the American flag, manned with American seamen, to be sunk by submarines and bombing planes. The result of his act will inevitably drag us into war.

Public enemy no. 2 is the banker who raises money to pay for the munitions and who speculates in the stocks of the war babies, steel, gas, and chemicals, and who lures the people into believing there is both profit and honor in this blood money—until that time when he can no longer tell the difference between profit and honor.

Public enemy no. 3 is the industrialist who knows that the only way to get fascism established in America is to get the country into a war with all the military dictatorship that involves.

Public enemy no. 4 is the American who goes into the war zones to make money, recklessly indifferent of the consequences to his nation and to hundreds of thousands of men better than himself.

In conclusion, we ought to be ready to face facts. We should be seeking profit from experience. If we will but do this we will fight with determination for legislation such as will greatly simplify our task of trying to stay out of another war.

Let us first of all admit large likeness between this present hour and those pre-war hours of 20 years ago. We cannot ignore the mad armament race which is upon the world. We cannot overlook the talk and the threats being hurled daily. Nor can we be unconscious of that which seems to be a large resignation to the thought that there is going to be more war; that it is inevitable. Most dangerous is our ground. Most cautious should we be against possibility of antagonizing others. Most earnest should we be in building such barriers as we can against our being drawn into conflict that is our business only because we let selfish commercial interests sway us away from high resolves to be truly neutral when other lands may again lose their minds.

Our American position of security is envious. We of all people should be the last to consider our participation in more war as inevitable. War for us is only so inevitable as we let greed for commercial advantage and profit, while others bleed, remain inevitable. Certainly we should be counting it highly possible to save ourselves, this generation, from more war.

But if it were true that we could not avoid being drawn into that war which might come any moment, we can hardly expect being excused if we fail to exert every honorable effort to make it less easy to be thus drawn, and we ought gladly give of the best that is in us if for no other reason than that we may thus contribute to a greater security against war for those we have brought into this world and for theirs. The least we can do is turn the experience of one generation to the advantage of our own children. Only in fulfillment of such duty can we hope to merit being recorded as other than a futile race.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (S. 1807) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. SMITH. I move that the bill be recommitted to the Committee on Agriculture and Forestry.

Mr. McNARY. Mr. President, I heartily approve of the course of action taken by the Senator from South Carolina. I hope his motion will prevail.

The PRESIDING OFFICER (Mr. Moore in the chair). The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

REGULATION OF TRAFFIC IN FOOD, DRUGS, AND COSMETICS

Mr. COPELAND. Mr. President, I move that the Senate proceed to the consideration of the bill (S. 5) to prevent the manufacture, shipment, and sale of adulterated or misbranded food, drink, drugs, and cosmetics, and to regulate traffic therein; to prevent the false advertisement of food, drink, drugs, and cosmetics, and for other purposes.

Mr. WHEELER. Mr. President, I wonder if the Senator will not allow me to move to take up the bill known as the "public-utility holding company bill." Then I will agree temporarily to lay it aside so that the Senator may ask that the so-called "pure-food bill" be taken up.

Mr. COPELAND. I should like to have a vote on my motion that the Senate proceed to the consideration of Senate bill 5.

Mr. NORRIS. I desire to be heard on that motion. It is a debatable question.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

TENNESSEE VALLEY AUTHORITY

Mr. NORRIS. Mr. President, I desire to quote briefly from an article in the Sunday New York Times. It is an article under a Chattanooga, Tenn., date line, and reads:

Close of the most hectic week nationally in the already stormy career of the Tennessee Valley Authority finds this section of the valley in something of a dazed condition with regard to the Government's guinea-pig project for the Central South.

Mr. ROBINSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The Chief Clerk called the roll, and the following Senators answered to their names.

Adams	Copeland	Lewis	Robinson
Ashurst	Costigan	Logan	Russell
Austin	Couzens	Lonergan	Schall
Bachman	Dickinson	McAdoo	Schwellenbach
Bankhead	Dieterich	McGill	Sheppard
Barbour	Donahey	McKellar	Shipstead
Barkley	Fletcher	McNary	Smith
Bilbo	Frazier	Maloney	Steiwer
Black	George	Metcalf	Thomas, Okla.
Bone	Gerry	Minton	Thomas, Utah
Borah	Glass	Moore	Townsend
Brown	Gore	Murphy	Trammell
Bullock	Guffey	Murray	Truman
Burke	Hale	Neely	Tydings
Byrd	Harrison	Norbeck	Vandenberg
Byrnes	Hastings	Norris	Van Nuys
Capper	Hatch	Nye	Wagner
Caraway	Hayden	O'Mahoney	Walsh
Chavez	Johnson	Overton	Wheeler
Clark	Keyes	Pittman	White
Connally	King	Pope	
	La Follette	Radcliffe	

The PRESIDING OFFICER. Eighty-six Senators have answered to their names. A quorum is present.

Mr. NORRIS. The article goes on as follows:

The broadsides came close on the heels of the really tremendous celebration at Knoxville, May 17, of the second birthday of the Authority, when thousands shouted themselves hoarse in a wave of enthusiasm rarely approached since Armistice Day. Chattanooga sent a big delegation to the fete, including a float for the parade, and practically all of the upper half of the valley was represented for the occasion. More than 6,000 were served at the appreciation barbecue.

And then came the double smash of Comptroller General John R. McCarl, and the revelation before the House Military Affairs Committee that in its efforts to forestall any expansion of the Aluminum Co. of America power program in this area the Authority had done a little bit of land-shark practices in buying two small tracts in North Carolina directly in the path of the proposed new aluminum company dams.

Let me digress at that point, Mr. President, since reference is made here to the broadsides which came from the Comptroller General's office, to say that I understand the Comp-

troller General saw fit to give to the public on yesterday morning a letter he had written to me, but failed to include my answer to the letter. When I heard of it yesterday, I immediately notified my secretary to secure publicity also for my answer. The newspapers, however, have given but very little attention to it. Last night's newspapers, which I saw, gave no attention to anything I said in my answer.

In order that the whole matter may now receive publicity, I ask unanimous consent, Mr. President, at this point in my address to have printed in the RECORD, not only the Comptroller General's letter but my answer as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letters are as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, May 22, 1935.

HON. GEORGE W. NORRIS,
United States Senator.

MY DEAR SENATOR: I read with deep interest your letter of the 13th instant with reference to the report of this office on its audit of the financial transactions of the Tennessee Valley Authority during the period from June 16, 1933, to June 30, 1934, copies of which were, as required by law, transmitted to the President and to the Authority, and, as you knew it would, your impression that the matters therein were of such nature or had been so improperly questioned in the audit as unjustly to cast reflection upon the honesty or efficiency of the directors of the Authority, gave me serious concern. While those with whom I have been associated on this work for nearly 14 years not infrequently have suffered abuse that normally would be expected to induce treatment in kind I have yet to learn of official action by one of them calculated to unjustly accuse or to in any manner unnecessarily question the honesty of official action. They must question any payment from public moneys not shown to have legal support. It is their duty. But all improper payments are not based upon dishonesty. Some are based upon the best of motives—but are still unauthorized by law.

The Tennessee Valley Authority is not, of course, a 3-man organization—the three directors—but is an organization of such vast proportions that necessarily much authority must be delegated to subordinates. Probably one of the most beneficial services the audit by the General Accounting Office will render will be to the directors of the Authority, in that subordinates will function with knowledge that their errors will be reflected to the directors in the audit report. An audit report that does not point out such errors as they appear of record would be of doubtful value. Even if they are in fact but errors and the record can be cured by the supplying of facts, it is best for all concerned that they be brought to light, and timely, for corrective action, else the facts may not be available in connection with some future examination.

The audit of the financial transactions of the Authority was directed to be conducted on identically the same basis as other audits are prosecuted by the General Accounting Office, and if the transactions could have been examined and acted upon in the usual manner, on submission of accounts to this office by the accountable officer or officers of the Authority, and under which exceptions found to be necessary would have been taken on transactions as reached, the Authority advised, and opportunity given to explain or adjust, rather than by the method of making report to the President and the directors as provided for by the Tennessee Valley Authority Act of 1933, such of the transactions questioned and which you now state appear from facts in your possession as susceptible of explanation, doubtless would have been promptly cleared away.

In connection with any use of public moneys if from the record it should appear that a particular Government obligation was only \$300 but that a payment of \$330 had been made an audit exception would be taken as of course, but such exception would not be intended as suggesting a theft of \$30. Possibly some fact was omitted from the record. If so, and supplied, the exception would then be withdrawn and credit allowed. But if otherwise, the \$30 would be for return to the Treasury.

Exceptions taken by the auditors to transactions of the Authority were so intended and if, as you suggest, the facts when supplied will warrant withdrawal of the exceptions so taken, you may be assured they will be promptly withdrawn and record made accordingly.

This office is not in a position, of course, to regulate the uses to which its audit action may be employed by others, or the interpretation that may be placed upon particular items excepted to. The fair way to consider the audit report would be in the light of its primary purpose and the terms of the statute under which made, and then as a whole and with knowledge that each exception taken therein is open to explanation or answer by the proper officials of the Authority.

It was an audit that was made by this office—not an investigation—and the records of the Authority were taken as found. Thus the audit report was not and was not intended to be an indictment but rather a pointing out of the material matters lacking of record to justify passing the transactions as conforming with the laws apparently applicable thereto.

That the directors of the Authority understand they have opportunity to make explanation of the matters excepted to in the audit report seems to appear from a letter I received from the chairman under date of April 20, 1935, as follows:

"I wish to acknowledge receipt of two copies of the report of audit of the transactions of the Tennessee Valley Authority for the period June 16, 1933, to June 30, 1934, transmitted with your letter of April 3, 1935.

"As this is the first such report we have received from you, we have no information as to the appropriate procedure for us to follow as the result of this report, but assume that it would be proper to review the entire report in order to form our own definite opinions on the points raised and then to arrange a conference to discuss it with you.

"A first reading of the report has developed a number of differences of opinion as to both the facts presented and the applicability of certain statutes or regulations to the operations of the Tennessee Valley Authority, and we believe that it would be mutually helpful if we could discuss them with you.

"I would appreciate receiving any suggestions which you may care to make in this connection. While we do not wish to unduly delay this matter, it is obvious that it will take considerable time to completely digest the report, but we will be glad to meet your convenience if you will set a definite date for a conference."

I responded to said letter on May 4, 1935, as follows:

"There was received your letter of April 20, 1935, asking to be informed 'as to the appropriate procedure for us to follow' in connection with an audit report of this office of the transactions of the Tennessee Valley Authority for the period June 16, 1933, to June 30, 1934. You state it is assumed 'it would be proper to review the entire report in order to form our own definite opinions on the points raised and then to arrange a conference to discuss it with you.'

"The usual procedure upon such audit reports is for the agency whose transactions it concerns to carefully examine into the matters as to which exception has been taken, and either make corrections to satisfy such exceptions, advising this Office accordingly, or justify the transactions in a document for filing with the retained copy of the audit report in this Office. It would be highly desirable, of course, to have all exceptions believed necessary by this Office and raised in the audit report, fully adjusted either by corrections and adjustments or by satisfactory explanations, and record thereof filed here with the retained copy of the audit report. I hope you will find it possible to follow such course. However, if after making such careful examination of the transactions as to which this Office found it necessary to take exception you desire to talk with me, either before or after making your response thereto, please let me know and we will arrange to go over the matters on a day convenient for you."

Since the receipt of your letter I have searched for evidence of any reason or disposition, or even inclination on the part of the individuals, or any of them, who made the audit for this Office, to be hostile or in any manner unfair to the Tennessee Valley undertaking as authorized by the Act of 1933, or to the officials thereof, and have found nothing. I have found, however, a uniform conviction that many exceptions might have been avoided if those acting for the Authority had more carefully and wholeheartedly given effect to laws considered by this Office applicable to Authority transactions and designed to produce the best results and to minimize room for criticism, just or unjust, of transactions public in nature.

Seldom is there not ultimately exacted some accounting where a use of public moneys is involved. The orderly procedure and the one that apparently best serves the interests of all concerned is that of having accounts currently submitted to the Government's accounting officers for examination and settlement under the applicable laws. Such procedure not only permits of prompt application of the laws applicable to the particular transactions but affords assistance to administration in keeping within such laws. Where such procedure is avoided, however, there seems usually to result, eventually, a congressional inquiry or other like examination into the transactions, and when such inquiry is made long after the transactions and of an activity operating without an effective audit by an independent governmental agency, the records are frequently found so incomplete as to leave in doubt many transactions that in fact may have been quite regular and lawful with negligence only in making, and timely, a proper record, a condition unsatisfactory to all concerned and possibly damaging in effect.

Since the matter of audit exceptions to Authority transactions has thus been brought forward and given quite unusual and unexpected prominence, due possibly to the existence of divergent views as to certain basic matters in the undertaking, it seems proper for me to here point out that while this Office has, of course, no responsibility with respect to legislation, when an undertaking has been determined upon by the Congress, with legislation accordingly, it is a responsibility of this Office to give effect to the law with respect to the uses of the public moneys that may be involved, and when the Tennessee Valley Authority Act of 1933 became law it was examined to ascertain the duties of this Office thereunder. It was an unusual enactment in that while a corporate form of agency was employed the enactment contained much detail as to just what such agency might and might not do. It was repeatedly referred to therein as a Government agency and as an instrumentality of the Government, and great care apparently was exercised both in the provisions of the basic law

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 1935

Mr. JONES introduced the following bill; which was referred to the Committee on Agriculture and ordered to be printed

A BILL

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the first sentence of subsection (1) of section 2 of
4 the Agricultural Adjustment Act, as amended, is amended
5 by striking out the first word and inserting in lieu thereof the
6 following: "Through the exercise of the powers conferred
7 upon the Secretary of Agriculture under this title, to", and
8 by inserting before the period at the end thereof a semicolon
9 and the following: "and, in the case of all commodities for
10 which the base period is the pre-war period, August 1909
11 to July 1914, will also reflect current interest payments per

1 acre on farm indebtedness secured by real estate and tax
 2 payments per acre on farm real estate, as contrasted with
 3 such interest payments and tax payments during the base
 4 period".

5 (b) Section 2 of the Agricultural Adjustment Act,
 6 as amended, is amended by striking out subsections (2) and
 7 (3) and inserting in lieu thereof the following:

8 " (2). To protect the interest of the consumer by (a)
 9 approaching the level of prices which it is declared to be
 10 the policy of Congress to establish in subsection (1) of this
 11 section by gradual correction of the current level at as rapid
 12 a rate as the Secretary of Agriculture deems to be in the
 13 public interest and feasible in view of the current consump-
 14 tive demand in domestic and foreign markets, and (b)
 15 authorizing no action under this title which has for its pur-
 16 pose the maintenance of prices to farmers above the level
 17 which it is declared to be the policy of Congress to establish
 18 in subsection (1) of this section."

19 SEC. 2. Section 8 of the Agricultural Adjustment Act,
 20 as amended, is amended by striking out everything pre-
 21 ceding subsection (2) and inserting in lieu thereof the
 22 following:

23 " (1) Whenever the Secretary of Agriculture has
 24 reason to believe that:

1 “(a) The current average farm price for any
2 basic agricultural commodity is less than, or is likely
3 during the current or next succeeding marketing year
4 for such commodity to be less than, the fair exchange
5 value thereof, and

6 “(b) The conditions of and factors relating to
7 the production, marketing, and consumption of such
8 commodity are such that the exercise of any one or
9 more of the powers conferred upon the Secretary under
10 subsections (2) and (3) of this section would tend to
11 effectuate the declared policy of this title, and that the
12 exercise of any one or more of such powers would be
13 administratively practicable,

14 he shall cause an immediate investigation to be made to
15 determine such facts. If, upon the basis of such investiga-
16 tion, the Secretary finds the existence of such facts, he shall
17 exercise such one or more of the powers conferred upon him
18 under subsections (2) and (3) of this section as he finds,
19 upon the basis of such investigation, administratively prac-
20 ticable and best calculated to effectuate the declared policy
21 of this title.

22 “(2) Subject to the provisions of subsection (1) of
23 this section, the Secretary of Agriculture shall provide,
24 through agreements with producers or by other voluntary
25 methods,

1 “(a) For such adjustment in the acreage or in
2 the production for market, or both, of any basic agri-
3 cultural commodity, as he finds, upon the basis of the
4 investigation made pursuant to subsection (1) of this
5 section, will tend to effectuate the declared policy of
6 this title, and to make such adjustment program prac-
7 ticable to operate and administer, and

8 “(b). For rental or benefit payments in connec-
9 tion with such agreements or methods in such amounts
10 as he finds, upon the basis of such investigation, to be
11 fair and reasonable and best calculated to effectuate
12 the declared policy of this title and to make such pro-
13 gram practicable to operate and administer, to be paid
14 out of any moneys available for such payments or to be
15 made in quantities of one or more basic agricultural
16 commodities acquired by the Secretary pursuant to
17 this title.

18 “(3) Subject to the provisions of subsection (1) of
19 this section, the Secretary of Agriculture shall make pay-
20 ments, out of any moneys available for such payments,
21 in such amounts as he finds, upon the basis of the investiga-
22 tion made pursuant to subsection (1) of this section, to be
23 fair and reasonable and best calculated to effectuate the
24 declared policy of this title:

1 “(a) To remove from the normal channels of
2 trade and commerce quantities of any basic agricul-
3 tural commodity or product thereof;

4 “(b) To expand domestic or foreign markets for
5 any basic agricultural commodity or product thereof;

6 “(c) In connection with the production of that
7 part of any basic agricultural commodity which is
8 required for domestic consumption,

9 “(4) Whenever, during a period during which any of
10 the powers conferred in subsection (2) or (3) is being
11 exercised, the Secretary of Agriculture has reason to believe
12 that, with respect to any basic agricultural commodity:

13 “(a) The current average farm price for such com-
14 modity is not less than, and is not likely during the
15 current or next succeeding marketing year for such
16 commodity to be less than, the fair exchange value
17 thereof, or

18 “(b) The conditions of and factors relating to the
19 production, marketing, and consumption of such com-
20 modity are such that none of the powers conferred in
21 subsections (2) and (3), and no combination of such
22 powers, would, if exercised, tend to effectuate the
23 declared policy of this title or that the exercise thereof
24 would not be administratively practicable,

1 he shall cause an immediate investigation to be made to
2 determine such facts. If, upon the basis of such investi-
3 gation, the Secretary finds the existence of such facts, he
4 shall not exercise any of such powers with respect to such
5 commodity after the end of the marketing year current at
6 the time when such finding is made and prior to a new
7 finding under subsection (1) of this section.

8 “ (5) In the course of any investigation required to be
9 made under subsection (1) or subsection (4) of this section,
10 the Secretary of Agriculture shall hold one or more hear-
11 ings, and give due notice and opportunity for interested
12 parties to be heard.

13 “ (6) No payment under this title made in an agri-
14 cultural commodity acquired by the Secretary in pursuance
15 of this title shall be made in a commodity other than that
16 in respect of which the payment is being made. For the
17 purposes of this subsection, hogs and field corn may be
18 considered as one commodity.

19 “ (7) In the case of sugar beets or sugarcane, in the
20 event that it shall be established to the satisfaction of the Sec-
21 retary of Agriculture that returns to growers or producers,
22 under the contracts for the 1933-1934 crop of sugar beets
23 or sugarcane, entered into by and between the processors
24 and producers and/or growers thereof, were reduced by
25 reason of the payment of the processing tax, and/or the

1 corresponding floor stocks tax, on sugar beets or sugarcane,
2 in addition to the foregoing rental or benefit payments, the
3 Secretary of Agriculture shall make such payments, repre-
4 senting in whole or in part such tax, as the Secretary deems
5 fair and reasonable, to producers who agree, or have agreed,
6 to participate in the program for reduction in the acreage
7 or reduction in the production for market, or both, of sugar
8 beets or sugarcane.

9 “(8) In the case of rice, the Secretary of Agriculture,
10 in exercising the power conferred upon him by subsection
11 (2) of this section to provide for rental or benefit payments,
12 is directed to provide in any agreement entered into by him
13 with any rice producer pursuant to such subsection, upon
14 such terms and conditions as the Secretary determines will
15 best effectuate the declared policy of this title, that the
16 producer may pledge for production credit in whole or in
17 part his right to any rental or benefit payments under the
18 terms of such agreement and that such producer may
19 designate therein a payee to receive such rental or benefit
20 payments.

21 “(9) Under regulations of the Secretary of Agricul-
22 ture requiring adequate facilities for the storage of any non-
23 perishable agricultural commodity on the farm, inspection
24 and measurement of any such commodity so stored, and the
25 locking and sealing thereof, and such other regulations as

1 may be prescribed by the Secretary of Agriculture for the
2 protection of such commodity and for the marketing thereof,
3 a reasonable percentage of any benefit payment may be
4 advanced on any such commodity so stored. In any such
5 case, such deduction may be made from the amount of the
6 benefit payment as the Secretary of Agriculture determines
7 will reasonably compensate for the cost of inspection and
8 sealing but no deduction may be made for interest."

9 SEC. 3. The first sentence of subsection (b) of section
10 12 of the Agricultural Adjustment Act, as amended, is
11 amended to read as follows: "In addition to the foregoing,
12 for the purpose of effectuating the declared policy of this
13 title, a sum equal to the proceeds derived from all taxes
14 imposed under this title are hereby appropriated to be
15 available to the Secretary of Agriculture for (1) the acqui-
16 sition of any agricultural commodity pledged as security for
17 any loan made by any Federal agency, which loan was
18 conditioned upon the borrower agreeing or having agreed
19 to cooperate with a program of production adjustment or
20 marketing adjustment adopted under the authority of this
21 title, and (2) the following purposes under part 2 of this
22 title: Administrative expenses, payments authorized to be
23 made under section 8, and refunds on taxes."

24 SEC. 4. Subsection (2) of section 8 of the Agricul-
25 tural Adjustment Act, as amended, is amended by desig-

1 nating said subsection as section 8b, by inserting said section
 2 at the end of section 8a, and by amending the first sentence
 3 thereof to read as follows: "In order to effectuate the
 4 declared policy of this title, the Secretary of Agriculture
 5 shall have the power, after due notice and opportunity for
 6 hearing, to enter into marketing agreements with processors,
 7 producers, associations of producers, and others, engaged
 8 in the handling of any agricultural commodity or product
 9 thereof, in the current of interstate or foreign commerce, or
 10 so as directly to burden, obstruct, or affect, interstate or
 11 foreign commerce in such commodity or product thereof."

12 SEC. 5. The Agricultural Adjustment Act, as amended,
 13 is amended by striking out section 8 (3) thereof and by
 14 adding after section 8b, the following new section:

15 "ORDERS

16 "SEC. 8c. (1) The Secretary of Agriculture shall,
 17 subject to the provisions of this section, issue, and from time
 18 to time amend, orders applicable to processors, associations
 19 of producers, and others, engaged in the handling of any
 20 agricultural commodity or product thereof specified in sub-
 21 section (2) of this section. Such persons are referred to in
 22 this title as 'handlers'. Such orders shall regulate, in the
 23 manner hereinafter in this section provided, the handling of
 24 such agricultural commodity, or product thereof, in the
 25 current of interstate or foreign commerce, or so as directly

1 to burden, obstruct, or affect, interstate or foreign commerce
2 in such commodity or product thereof.

3 "COMMODITIES TO WHICH APPLICABLE

4 "(2) Orders issued pursuant to this section shall be
5 applicable only to the following agricultural commodities and
6 the products thereof (except products of naval stores), or
7 to any regional, or market classification of any such com-
8 modity or product: Milk, fruits (including pecans and
9 walnuts but not including apples and not including fruits for
10 canning), tobacco, vegetables (not including vegetables for
11 canning), and naval stores as defined in the Naval Stores
12 Act. As used in this section, the term 'vegetables' includes
13 soybeans.

14 "NOTICE AND HEARING

15 "(3) Whenever the Secretary of Agriculture has
16 reason to believe that the issuance of an order will tend to
17 effectuate the declared policy of this title with respect to
18 any commodity or product thereof specified in subsection
19 (2) of this section, he shall give due notice of and an
20 opportunity for a hearing upon a proposed order.

21 "FINDING AND ISSUANCE OF ORDER

22 "(4) After such notice and opportunity for hearing,
23 the Secretary of Agriculture shall issue an order if he finds,
24 and sets forth in such order, upon the evidence introduced
25 at such hearing (in addition to such other findings as

1 may be specifically required by this section) that the issuance
 2 of such order and all of the terms and conditions thereof
 3 will tend to effectuate the declared policy of this title with
 4 respect to such commodity.

5 "TERMS—MILK AND ITS PRODUCTS

6 " (5) In the case of milk and its products, orders issued
 7 pursuant to this section shall contain one or more of the
 8 following terms and conditions, and (except as provided
 9 in subsection (7)) no others:

10 " (A) Classifying milk in accordance with the form in
 11 which it is ultimately used or consumed, and fixing, or pro-
 12 viding a method for fixing, minimum prices for each such
 13 use classification which all handlers shall pay, and the time
 14 when payments shall be made, for milk purchased from
 15 producers or associations of producers. Such prices shall be
 16 uniform as to all handlers, subject only to adjustments for
 17 (1) volume, market, and production differentials customa-
 18 rily applied by the handlers subject to such order, (2) the
 19 grade or quality of the milk purchased, and (3) the loca-
 20 tions at which delivery of such milk, or any use classification
 21 thereof, is made to such handlers.

22 " (B) Providing:

23 " (i) for the payment to all producers and associa-
 24 tions of producers delivering milk to the same handler
 25 of uniform prices for all milk delivered by them: *Pro-*

1 *vided*, That, except in the case of orders covering milk
2 products only, such provision is approved or favored by
3 at least three-fourths of the producers who, during a
4 representative period determined by the Secretary of
5 Agriculture, have been engaged in the production for
6 market of milk covered in such order or by producers
7 who, during such representative period, have produced
8 at least three-fourths of the volume of such milk pro-
9 duced for market during such period; the approval
10 required hereunder shall be separate and apart from
11 any other approval or disapproval provided for by this
12 section; or

13 “(ii) for the payment to all producers and asso-
14 ciations of producers delivering milk to all handlers
15 of uniform prices for all milk so delivered, irrespective
16 of the uses made of such milk by the individual handler
17 to whom it is delivered;

18 subject, in either case, only to adjustments for (a) volume,
19 market, and production differentials customarily applied by
20 the handlers subject to such order, (b) the grade or quality
21 of the milk delivered, (c) the locations at which delivery
22 of such milk is made, and (d) a further adjustment,
23 equitably to apportion the total value of the milk sold
24 by any handler, or by all handlers, among producers

1 and associations of producers, on the basis of their production
2 of milk during a representative period of time.

3 “(C) In order to accomplish the purposes set forth in
4 paragraphs (A) and (B) of this subsection (5), provid-
5 ing a method for making adjustments in payments, as among
6 handlers (including producers who are also handlers), to
7 the end that the total sums paid by each handler shall equal
8 the value of the milk purchased by him at the prices fixed
9 in accordance with paragraph (A) hereof.

10 “(D) In order to accomplish the purposes set forth in
11 paragraph (A) of this subsection (5), providing that all
12 handlers shall pay the price specified in such order for milk
13 utilized for manufacturing purposes for all milk delivered to
14 them by producers who were not, upon the effective date of
15 such order, regularly selling milk for consumption in the area
16 covered thereby, for the period of ninety days from and
17 after the commencement of deliveries by such producers,
18 respectively.

19 “(E) Providing for the verification of weights, sam-
20 pling, and testing of, and security for the payment for,
21 milk purchased.

22 “(F) Nothing contained in this subsection (5) is in-
23 tended or shall be construed to prevent a cooperative market-
24 ing association qualified under the provisions of the Act of

1 Congress of February 18, 1922, as amended, known as the
2 'Capper-Volstead Act', engaged in making collective sales
3 or marketing of milk or its products for the producers
4 thereof, from blending the net proceeds of all of its sales
5 in all markets in all use classifications, and making distri-
6 bution thereof to its producers in accordance with the con-
7 tract between the association and its producers: *Provided,*
8 That it shall not sell milk or its products to any handler
9 for use or consumption in any market at prices less than
10 the prices fixed pursuant to paragraph (A) of this sub-
11 section (5) for such milk.

12 "TERMS—OTHER COMMODITIES

13 "(6) In the case of fruits (including pecans and wal-
14 nuts but not including apples and not including fruits
15 for canning) and their products, tobacco and its products,
16 vegetables (not including vegetables for canning) and their
17 products, and naval stores as defined in the Naval Stores Act,
18 orders issued pursuant to this section shall contain one or
19 more of the following terms and conditions, and (except as
20 provided in subsection (7)) no others:

21 "(A) Limiting, or providing methods for the limita-
22 tion of, the total quantity of any such commodity or product,
23 or of any grade, size, or quality thereof, produced during
24 any specified period or periods, which may be marketed in

1 or transported to any or all markets during any specified
2 period or periods by all handlers thereof.

3 “(B) Allotting, or providing methods for allotting, the
4 amount of such commodity or product, or any grade, size,
5 or quality thereof, which each handler may purchase from
6 or handle on behalf of any and all producers thereof, during
7 any specified period or periods, under a uniform rule based
8 upon the amounts produced or sold by such producers in such
9 prior period as the Secretary determines to be representa-
10 tive, or upon the current production or sales of such pro-
11 ducers, or both, to the end that the total quantity thereof to
12 be purchased or handled during any specified period or
13 periods shall be apportioned equitably among producers.

14 “(C) Allotting, or providing methods for allotting,
15 the amount of any such commodity or product, or any
16 grade, size, or quality thereof, which each handler
17 may market in or transport to any or all markets,
18 under a uniform rule based upon the amounts which each
19 such handler has available for current shipment, or upon the
20 amounts shipped by each such handler in such prior period
21 as the Secretary determines to be representative, or both,
22 to the end that the total quantity of such commodity or
23 product, or any grade, size, or quality thereof, to be mar-
24 keted in or transported to any or all markets during any

1 specified period or periods shall be equitably apportioned
2 among all of the handlers thereof.

3 “(D) Determining, or providing methods for deter-
4 mining, the existence and extent of the surplus of any such
5 commodity or product, or of any grade, size, or quality
6 thereof, and providing for the control and disposition of
7 such surplus, and for equalizing the burden of such surplus
8 elimination or control among the producers and handlers
9 thereof.

10 “(E) Establishing, or providing for the establishment
11 of, reserve pools of any such commodity or product, or of
12 any grade, size, or quality thereof, and providing for the
13 equitable distribution of the net return derived from the sale
14 thereof among the persons beneficially interested therein.

15 “(F) Fixing, or providing methods for fixing, mini-
16 mum prices at which any such commodity or product, or
17 any grade, size or quality thereof, shall be purchased by
18 the first handlers subject to such order: *Provided*, That
19 such first handlers, as a group, purchase or otherwise acquire
20 not less than 50 per centum of the total quantity of the
21 commodity or product covered by such order directly from
22 producers or associations of producers.

23 “TERMS COMMON TO ALL ORDERS

24 “(7) In the case of the agricultural commodities and
25 the products thereof specified in subsection (2) orders shall
26 contain one or more terms and conditions:

“(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

“(B) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which, among other things, shall include the powers:

“(i) To administer such order in accordance with its terms and provisions;

“(ii) To make rules and regulations to effectuate the terms and provisions of such order;

“(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

“(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (B) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

“(C) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order.

1 " ORDERS WITH MARKETING AGREEMENT

2 "(8) Except as provided in subsection (9) of this
 3 section, no order issued pursuant to this section shall become
 4 effective until the handlers (excluding cooperative associa-
 5 tions of producers who are not engaged in processing, dis-
 6 tributing, or shipping the commodity or product thereof
 7 covered by such order) of not less than 50 per centum of
 8 the volume of the commodity or product thereof covered by
 9 such order have signed a marketing agreement, entered into
 10 pursuant to section 8b of this title, which regulates the han-
 11 dling of such commodity or product in the same manner as
 12 such order.

13 " ORDERS WITH OR WITHOUT MARKETING AGREEMENT

14 "(9) (A) Any order issued pursuant to this section
 15 shall become effective in the event that, notwithstanding the
 16 refusal or failure of handlers (excluding cooperative associa-
 17 tions of producers who are not engaged in processing, dis-
 18 tributing, or shipping the commodity or product thereof
 19 covered by such order) of more than 50 per centum
 20 of the volume of the commodity or product thereof covered
 21 by such order to sign a marketing agreement relating to such
 22 commodity or product thereof, on which a hearing has been
 23 held, the Secretary of Agriculture, with the approval of the
 24 President, determines:

“(1) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

“(2) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, or by producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market during such period.

“ MANNER OF REGULATION AND APPLICABILITY

“(10) No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial

1 or commercial activity specified in, a marketing agreement
2 upon which a hearing has been held.

3 " REGIONAL RULE

4 "(11) (A) No order shall be issued under this section
5 which is applicable to all production areas or marketing
6 areas, or both, of any commodity or product thereof unless
7 the Secretary finds that the issuance of several orders appli-
8 cable to the respective regional production areas or regional
9 marketing areas, or both, as the case may be, of the com-
10 modity or product would not effectively carry out the
11 declared policy of this title.

12 "(B) Except in the case of milk and its products,
13 orders issued under this section shall be limited in their
14 application to the smallest regional production areas or
15 regional marketing areas, or both, as the case may be,
16 which the Secretary finds practicable, consistently with
17 carrying out such declared policy.

18 "(C) All orders issued under this section which are
19 applicable to the same commodity or product thereof shall,
20 so far as practicable, prescribe such different terms, appli-
21 cable to different production areas and marketing areas, as
22 the Secretary finds necessary to give due recognition to the
23 differences in production and marketing of such commodity
24 or product in such areas.

1 " COOPERATIVE ASSOCIATION REPRESENTATION

2 "(12) Whenever, pursuant to the provisions of this
3 section, the Secretary is required to determine the approval
4 or disapproval of producers with respect to the issuance of
5 any order, or any term or condition thereof, or the termi-
6 nation thereof, the Secretary may consider the approval or
7 disapproval by any cooperative association of producers,
8 bona fide engaged in marketing the commodity or product
9 thereof covered by such order, or in rendering services for
0 or advancing the interests of the producers of such com-
1 modity, as the approval or disapproval of the producers
2 who are members of, stockholders in, or under contract
3 with, such cooperative association of producers.

4 " RETAILER AND PRODUCER EXEMPTION

5 "(13) (A) No order issued under subsection (9)
6 of this section shall be applicable to any person who sells
7 agricultural commodities or products thereof at retail in
8 his capacity as such retailer, except to a retailer in his
9 capacity as a retailer of milk and its products.

0 "(B) No order issued under this title shall be appli-
1 cable to any producer in his capacity as a producer.

2 " VIOLATION OF ORDER

3 "(14) Any handler subject to an order issued under
4 this section, or any officer, director, agent, or employee of

1 such handler, who violates any provision of such order
2 (other than a provision calling for payment of a pro rata share
3 of expenses) shall, on conviction, be fined not less than
4 \$50 or more than \$500 for each such violation, and each
5 day during which such violation continues shall be deemed
6 a separate violation: *Provided*, That no person shall be
7 convicted under this title because of any violation of any
8 order or of any obligation imposed in connection there-
9 with, if such violation occurs between the date upon which
10 such person files with the Secretary a petition, with respect
11 to such order or obligation, as provided for in subsection
12 (15), and five days after the Secretary enters a ruling
13 thereon.

14 " PETITION BY HANDLER AND REVIEW

15 "(15). (A) Any handler subject to an order may file
16 a written petition with the Secretary of Agriculture, stating
17 that any such order or any provision of any such order
18 or any obligation imposed in connection therewith is not
19 in accordance with law and praying for a modification
20 thereof or to be exempted therefrom. He shall thereupon
21 be given an opportunity for a hearing upon such petition,
22 in accordance with regulations made by the Secretary of
23 Agriculture, with the approval of the President. After
24 such hearing, the Secretary shall make a ruling upon the

prayer of such petition which shall be final, if in accordance with law.

“(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, is hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. Nothing contained in this subsection (15) shall be construed to prevent, hinder, or delay the United States or the Secretary of Agriculture from pursuing the remedies provided for in section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between

1 the same parties, and covering the same subject matter,
2 instituted pursuant to this subsection (15).

3 " TERMINATION OF ORDERS AND MARKETING AGREEMENTS

4 "(16) (A) The Secretary of Agriculture shall, when-
5 ever he finds that any order issued under this section, or
6 any provision thereof, obstructs or does not tend to effectuate
7 the declared policy of this title, terminate or suspend the
8 operation of such order or such provision thereof.

9 "(B) The Secretary shall terminate any marketing
10 agreement entered into under section 8b, or order issued
11 under this section, at the end of the then current marketing
12 period for such commodity, as specified in such marketing
13 agreement or order, whenever he finds that such termination
14 is favored by a majority of the producers who, during a
15 representative period determined by the Secretary, have
16 been engaged in the production for market of the commodity
17 specified in such marketing agreement or order, provided
18 that such majority have during such representative period
19 produced for market more than 50 per centum of the volume
20 of such commodity produced for market during such period,
21 but such termination shall be effective only if announced on
22 or before such date (prior to the end of the then current
23 marketing period) as may be specified in such marketing
24 agreement or order.

1 " (C) The termination or suspension of any order or
2 amendment thereto or provision thereof, shall not be con-
3 sidered an order within the meaning of this section.

4 " PROVISIONS APPLICABLE TO AMENDMENTS

5 " (17) The provisions of this section, section 8d, and
6 section 8e applicable to orders shall be applicable to amend-
7 ments to orders."

8 SEC. 6. The Agricultural Adjustment Act, as amended,
9 is further amended by striking out subsection (4) of section
10 8 thereof and adding after section 8c thereof the following
11 new sections:

12 " BOOKS AND RECORDS

13 " SEC. 8d. (1) All parties to any marketing agree-
14 ment, and all handlers subject to an order, shall severally,
15 from time to time, upon the request of the Secretary, furnish
16 him with such information as he finds to be necessary
17 to enable him to ascertain and determine the extent to
18 which such agreement or order has been carried out or
19 has effectuated the declared policy of this title, and with
20 such information as he finds to be necessary to determine
21 whether or not there has been any abuse of the privilege
22 of exemptions from the antitrust laws. Such information
23 shall be furnished in accordance with forms of reports
24 to be prescribed by the Secretary. For the purpose of

1 ascertaining the correctness of any report made to the
2 Secretary pursuant to this subsection, or for the purpose of
3 obtaining the information required in any such report,
4 where it has been requested and has not been furnished,
5 the Secretary is hereby authorized to examine such
6 books, papers, records, accounts, correspondence, con-
7 tracts, documents, or memoranda, as he deems relevant
8 and which are within the control (1) of any such
9 party to such marketing agreement, or any such
10 handler, from whom such report was requested or (2) of
11 any person having, either directly or indirectly, actual or
12 legal control of or over such party or such handler or (3)
13 of any subsidiary of any such party, handler, or person.

14 “(2) Notwithstanding the provisions of section 7, all
15 information furnished to or acquired by the Secretary of
16 Agriculture pursuant to this section shall be kept confiden-
17 tial by all officers and employees of the Department of Agri-
18 culture and only such information so furnished or acquired
19 as the Secretary deems relevant shall be disclosed by them,
20 and then only in a suit or administrative hearing brought at
21 the direction, or upon the request, of the Secretary of Agri-
22 culture, or to which he or any officer of the United States
23 is a party, and involving the marketing agreement or order
24 with reference to which the information so to be disclosed
25 was furnished or acquired. Nothing in this section shall be

1 deemed to prohibit (A) the issuance of general statements
2 based upon the reports of a number of parties to a market-
3 ing agreements or of handlers subject to an order, which
4 statements do not identify the information furnished by any
5 person, or (B) the publication by direction of the Secre-
6 tary, of the name of any person violating any marketing
7 agreement or any order, together with a statement of the
8 particular provisions of the marketing agreement or order
9 violated by such person. Any such officer or employee
10 violating the provisions of this section shall upon conviction
11 be subject to a fine of not more than \$1,000 or to imprison-
12 ment for not more than one year, or to both, and shall be
13 removed from office.

14 " DETERMINATION OF BASE PERIOD

15 " SEC. 8e. In connection with the making of any
16 marketing agreement or the issuance of any order, if the
17 Secretary finds and proclaims that, as to any commodity
18 specified in such marketing agreement or order, the pur-
19 chasing power during the base period specified for such
20 commodity in section 2 of this title cannot be satisfactorily
21 determined from available statistics of the Department of
22 Agriculture, the base period, for the purposes of such
23 marketing agreement or order, shall be the post-war period,
24 August 1919-July 1929, or all that portion thereof for
25 which the Secretary finds and proclaims that the purchasing

1 power of such commodity can be satisfactorily determined
2 from available statistics of the Department of Agriculture."

3 SEC. 7. Subsection (5) of section 8 of the Agricultural
4 Adjustment Act, as amended, is further amended by desig-
5 nating said subsection as section 8f, by inserting said section
6 at the end of section 8e, and by striking out the last sentence
7 thereof.

8 SEC. 8. Subsection (1) of section 8a of the Agricul-
9 tural Adjustment Act, as amended, is amended as follows:

10 (a) by striking out the word "handlers" wherever it
11 appears and by inserting in lieu thereof the words "persons
12 engaged in the handling";

13 (b) by striking out the phrase "or in competition
14 with" and the comma following such phrase in paragraph
15 (B);

16 (c) by inserting the word "directly" before the words
17 "to burden" in paragraph (B);

18 (d) by striking out the words "in any way" in
19 paragraph (B).

20 SEC. 9. Subsection (6) of section 8a of the Agricul-
21 tural Adjustment Act, as amended, is amended by inserting
22 the word "or" after the comma following the word "regula-
23 tion," and by striking out the words "or license".

24 SEC. 10. Subsection (7) of section 8a of the Agri-
25 cultural Adjustment Act, as amended, is amended by insert-

1 ing at the end thereof the following new sentence: "When-
2 ever the Secretary, or such officer or employee of the Depart-
3 ment of Agriculture as he may designate for the purpose, has
4 reason to believe that any handler has violated, or is violat-
5 ing, the provisions of any order or amendment thereto issued
6 pursuant to this title, the Secretary shall have power to
7 institute an investigation and, after due notice to such
8 handler, to conduct a hearing in order to determine the
9 facts for the purpose of referring the matter to the Attorney
10 General for appropriate action."

11 SEC. 11. (a) Subsection (a) of section 9 of the Agri-
12 cultural Adjustment Act, as amended, is amended by
13 striking out all of the second sentence preceding the semi-
14 colon and inserting in lieu thereof the following: "When
15 the Secretary of Agriculture determines that any one or
16 more payments authorized to be made under section 8
17 are to be made with respect to any basic agricultural com-
18 modity, he shall proclaim such determination, and a process-
19 ing tax shall be in effect with respect to such commodity
20 from the beginning of the marketing year therefor next
21 following the date of such proclamation".

22 (b) The eighth sentence of such subsection (a) is
23 amended by striking out "rental or benefit payments"
24 and inserting in lieu thereof: "all payments authorized
25 under section 8 which are in effect".

1 SEC. 12. Subsection (b) of section 9 of the Agricul-
2 tural Adjustment Act, as amended, is amended to read as
3 follows:

4 "TAX RATE GENERALLY

5 "(b) (1) The processing tax shall be at such rate as
6 equals the difference between the current average farm
7 price for the commodity and the fair exchange value of the
8 commodity, plus such percentage of such difference, not to
9 exceed 20 per centum, as the Secretary of Agriculture may
10 determine will result in the collection, in any marketing year
11 with respect to which such rate of tax may be in effect pur-
12 suant to the provisions of this title, of an amount of tax
13 equal to (A) the amount of credits or refunds which he
14 estimates will be allowed or made during such period pur-
15 suant to section 15 (c) with respect to the commodity and
16 (B) the amount of tax which he estimates would have been
17 collected during such period upon all processings of such
18 commodity which are exempt from tax by reason of the
19 fact that such processings are done by or for a State, or
20 a political subdivision or an institution thereof, had such
21 processings been subject to tax. If, prior to the time
22 the tax takes effect, or at any time thereafter, the Sec-
23 retary has reason to believe that the tax at such rate, or
24 at the then existing rate, on the processing of the commodity
25 generally or for any designated use or uses, or on the proc-

1 essing of the commodity in the production of any designated
2 product or products thereof for any designated use or uses,
3 will cause or is causing such reduction in the quantity of
4 the commodity or products thereof domestically consumed
5 as to result in the accumulation of surplus stocks of the
6 commodity or products thereof or in the depression of the
7 farm price of the commodity, then the Secretary shall cause
8 an appropriate investigation to be made, and afford due
9 notice and opportunity for hearing to interested parties.
10 If thereupon the Secretary determines and proclaims that
11 any such result will occur or is occurring, then the processing
12 tax on the processing of the commodity generally or for any
13 designated use or uses, or on the processing of the com-
14 modity in the production of any designated product or
15 products thereof for any designated use or uses, shall be
16 at such lower rate or rates as he determines and proclaims
17 will prevent such accumulation of surplus stocks and de-
18 pression of the farm price of the commodity, and the tax
19 shall remain during its effective period at such lower rate
20 until the Secretary, after due notice and opportunity for
21 hearing to interested parties, determines and proclaims that
22 an increase in the rate of such tax will not cause such accu-
23 mulation of surplus stocks or depression of the farm price
24 of the commodity. Thereafter the processing tax shall be
25 at the highest rate which the Secretary determines will not

1 cause such accumulation of surplus stocks or depression of
2 the farm price of the commodity, but it shall not be higher
3 than the rate provided in the first sentence of this paragraph.

4 "SPECIFIC TAX RATES

5 "(2) In the case of wheat, cotton, field corn, hogs,
6 peanuts, tobacco, paper, and jute, and (except as provided
7 in paragraph (6) of this subsection) in the case of sugarcane
8 and sugar beets, the tax on the first domestic processing of
9 the commodity generally or for any particular use, or in the
10 production of any designated product for any designated use,
11 shall be levied, assessed, collected, and paid at the rate pre-
12 scribed by the regulations of the Secretary of Agriculture
13 in effect on June 1, 1935, during the period from the date
14 of the adoption of this amendment to December 31, 1937,
15 both dates inclusive.

16 "SPECIFIC TAX RATE—RICE

17 "(3) For the period from April 1, 1935, to July 31,
18 1936, both inclusive, the processing tax with respect to rice
19 shall be levied, assessed, collected, and paid at the rate of
20 1 cent per pound of rough rice.

21 "ADJUSTMENT OF RATE

22 "(4) In accordance with the formulae and standards
23 prescribed in this title, (A) any rate of tax prescribed
24 in paragraphs (2) and (3) of this subsection may be
25 decreased (including a decrease to zero), to prevent an

1 accumulation of surplus stocks of the commodity or the
2 products thereof, to prevent such reduction in the quantity
3 of the commodity or products thereof domestically consumed
4 as will result in the accumulation of surplus stocks of the com-
5 modity or products thereof, or to prevent depression in the
6 farm price of the commodity, or may be increased, or shall
7 terminate pursuant to proclamation as provided in section
8 9. (a) or pursuant to section 13, and (B) after December 31,
9 1937 (in the case of the commodities specified in para-
10 graph (2) of this subsection), and after July 31, 1936
11 (in the case of rice), rates of tax shall be determined
12 by the Secretary of Agriculture and shall thereafter be
13 effective. If the applicability to any person or circum-
14 stances of any tax under this title the rate of which is fixed
15 in pursuance of this paragraph is finally held invalid by
16 reason of any provision of the Constitution, or is finally held
17 invalid by reason of the Secretary of Agriculture's exercise
18 or failure to exercise any power conferred on him under this
19 title, there shall be levied, assessed, collected, and paid (in
20 lieu of all rates of tax fixed in pursuance of this paragraph
21 with respect to all tax liabilities incurred under this title
22 on or after the effective date of each of the rates of tax
23 fixed in pursuance of this paragraph, respectively) rates of
24 tax fixed under paragraph (2) or (3) and such rates shall
25 be in effect (unless the particular tax is terminated pur-

1 suant to proclamation as provided in section 9 (a) or pur-
2 suant to section 13) until altered by Act of Congress;
3 except that, for any period prior to the effective date of
4 such holding of invalidity, the amount of tax which repre-
5 sents the difference between tax at the rate fixed in pur-
6 suance of this paragraph and tax at the rate fixed under
7 paragraph (2) or (3) shall not be levied, assessed, collected,
8 or paid.

9 “ RICE—SPECIAL RULE

10 “(5) In the case of rice, the weight to which the rate of
11 tax shall be applied shall be the weight of rough rice when
12 delivered to a processor, except that, where the producer
13 processes his own rice, the weight to which the rate of tax
14 shall be applied shall be the weight of rough rice when
15 delivered to the place of processing.

16 “ SUGAR—SPECIAL RULE

17 “(6) In the case of sugar beets or sugarcane the rate
18 of tax shall be applied to the direct-consumption sugar,
19 resulting from the first domestic processing, translated into
20 terms of pounds of raw value according to regulations to be
21 issued by the Secretary of Agriculture, and in the event that
22 the Secretary increases or decreases the rate of tax fixed by
23 paragraph (2) of this subsection, pursuant to the provisions
24 of paragraph (4) of this subsection, then the rate of tax to
25 be so applied shall be the higher of the two following

quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (4) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.

" WHEAT PREMIUMS

"(7) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account."

SEC. 13. Subsection (c) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor

1 that will give the commodity the same purchasing power,
2 with respect to articles farmers buy, as such commodity
3 had during the base period specified in section 2; and, in
4 the case of all commodities where the base period is the
5 pre-war period, August 1909 to July 1914, will also reflect
6 interest payments per acre on farm indebtedness secured
7 by real estate and tax payments per acre on farm real
8 estate, as contrasted with such interest payments and tax
9 payments during said base period; and the current average
10 farm price and the fair exchange value shall be ascertained
11 by the Secretary of Agriculture from available statistics of
12 the Department of Agriculture. The rate of tax upon the
13 processing of any commodity, in effect on the date on which
14 this amendment is adopted, shall not be affected by the
15 adoption of this amendment and shall not be required to
16 be adjusted or altered, unless the Secretary of Agriculture
17 finds that it is necessary to adjust or alter any such rate
18 pursuant to section 9 (a) of this title."

19 SEC. 14. Paragraph (5) of subsection (d) of section 9
20 of the Agricultural Adjustment Act, as amended, is hereby
21 repealed.

22 SEC. 15. Subsection (b) of section 10 of the Agri-
23 cultural Adjustment Act, as amended, is amended to read
24 as follows:

1 “(b) (1) The Secretary of Agriculture is authorized
2 to establish, for the more effective administration of the func-
3 tions vested in him by this title, State and local committees,
4 or associations of producers, and to permit cooperative asso-
5 ciations of producers, when in his judgment they are quali-
6 fied to do so, to act as agents of their members and patrons
7 in connection with the distribution of payments authorized to
8 be made under section 8. The Secretary, in the adminis-
9 tration of this title, shall accord such recognition and en-
10 couragement to producer-owned and producer-controlled
11 cooperative associations as will be in harmony with the
12 policy toward cooperative associations set forth in existing
13 Acts of Congress, and as will tend to promote efficient meth-
14 ods of marketing and distribution.

15 “(2). Each order issued by the Secretary under this
16 title shall provide that each handler subject thereto shall
17 pay to any authority or agency established under such order
18 such handler's pro rata share (as approved by the Secretary)
19 of such expenses as the Secretary may find will necessarily
20 be incurred by such authority or agency, during any period
21 specified by him, for the maintenance and functioning of such
22 authority or agency, other than expenses incurred in receiv-
23 ing, handling, holding, or disposing of any quantity of a
24 commodity received, handled, held, or disposed of by such

1 authority or agency for the benefit or account of persons
2 other than handlers subject to such order. The pro rata
3 share of the expenses payable by a cooperative association
4 of producers shall be computed on the basis of the quantity
5 of the agricultural commodity or product thereof covered
6 by such order which is distributed, processed, or shipped by
7 such cooperative association of producers. Any such author-
8 ity or agency may maintain in its own name, or in the names
9 of its members, a suit against any handler subject
10 to an order for the collection of such handler's pro rata share
11 of expenses. The several District Courts of the United
12 States are hereby vested with jurisdiction to entertain such
13 suits regardless of the amount in controversy."

14 SEC. 16. Subsection (e) of section 10 of the Agri-
15 cultural Adjustment Act, as amended, is amended by strik-
16 ing out "rental or benefit payment" and inserting in lieu
17 thereof "payment authorized to be made under section 8".

18 SEC. 17. Section 10 of the Agricultural Adjustment
19 Act, as amended, is amended by inserting at the end thereof
20 the following new subsection:

21 " (i) The Secretary of Agriculture is authorized, in
22 order to effectuate the declared policy of this title and in order
23 to obtain uniformity in the formulation, administration, and
24 enforcement of Federal and State programs relating to the
25 regulation of the handling of agricultural commodities or

1 products thereof, to confer with and hold joint hearings with
2 the duly constituted authorities of any State, to cooperate with
3 such authorities; to accept and utilize, with the consent of the
4 State, such State and local officers and employees as may be
5 necessary; to avail himself of the records and facilities of such
6 authorities; to issue orders (subject to the provisions of sec-
7 tion 8c) complementary to orders or other regulations issued
8 by such authorities; and to make available to such State
9 authorities the records and facilities of the Department of
10 Agriculture: *Provided*, That information furnished to the
11 Secretary of Agriculture pursuant to section 8d (1) hereof
12 shall be made available only to the extent that such informa-
13 tion is relevant to transactions within the regulatory juris-
14 diction of such authorities, and then only upon a written
15 agreement by such authorities that the information so fur-
16 nished shall be kept confidential by them in a manner similar
17 to that required of Federal officers and employees under the
18 provisions of section 8d (2) hereof."

19 SEC. 18. The first sentence of subsection (a) of
20 section 12 of the Agricultural Adjustment Act, as amended,
21 is amended by striking out "rental and benefit payments
22 made with respect to reduction in acreage or reduction in
23 production for market under part 2 of this title" and insert-
24 ing in lieu thereof "payments authorized to be made under
25 section 8".

1 SEC. 19. Section 12 of the Agricultural Adjustment
2 Act, as amended, is amended by adding at the end thereof
3 the following new subsection:

4 “(d) Amounts expended under this title which are
5 expended for payments authorized to be made under section
6 8 and administrative expenses in connection with any
7 basic agricultural commodity shall not be less than a sum
8 equal to the proceeds of the taxes levied under this title
9 with respect to such commodity. For the purposes of this
10 subsection: (1) Amounts collected and expended from
11 taxes the proceeds of which under this title are held for,
12 or paid for use in, any possession of the United States
13 shall not be included; (2) the amount of all refunds and
14 abatements of taxes shall not be included; and (3) hogs and
15 field corn may be considered as one commodity.”

16 SEC. 20. (a) The second sentence of section 13 of the
17 Agricultural Adjustment Act, as amended, is amended by
18 striking out “at the end of three years after the adoption
19 of this amendment” and inserting in lieu thereof “on De-
20 cember 31, 1937”.

21 (b) Subsection (c) of section 16 of the Agricultural
22 Adjustment Act, as amended, is amended by striking out
23 the last sentence thereof.

24 SEC. 21. Subsection (a) of section 15 of the Agricul-
25 tural Adjustment Act, as amended, is amended by striking



1 out the period at the end of the subsection and inserting in
2 lieu thereof a comma and the following: "or shall credit
3 against any tax due and payable under this title the amount
4 of tax which would be refundable. During the period in
5 which any certificate under this section is effective, the
6 provisions of subsection (e) of this section shall be sus-
7 pended with respect to all imported articles of the kind
8 described in such certificate; and notwithstanding the pro-
9 visions of section 21, any compensating taxes, which have
10 heretofore, during the period in which any certificate under
11 this section has been effective, become due and payable
12 upon imported articles of the kind described in such cer-
13 tificate, shall be refunded by the Secretary of the Treasury
14 if the same have been paid, or, if the same have not been
15 paid the amount thereof shall be abated. Notwithstanding
16 the provisions of section 21, the Secretary of the Treasury
17 shall refund any processing tax paid on or before June 12,
18 1934, with respect to such amount of cotton as was used
19 in the manufacture of large cotton bags (as defined in the
20 Certificate of the Secretary of Agriculture, dated June 12,
21 1934) between June 13 and July 7, 1934, both inclusive."

22 SEC. 22. Subsection (c) of section 15 of the Agricul-
23 tural Adjustment Act, as amended, is amended by striking
24 out the next to the last sentence, which reads as follows:
25 "No refund shall be allowed under this section unless



1 claim therefor is filed within six months after delivery of
2 the products to the organization for charitable distribution,
3 or use.”.

4 SEC. 23. Subsection (e) of section 15 of the Agricul-
5 tural Adjustment Act, as amended, is amended by inserting
6 after the words “with respect to domestic processing of
7 such commodity” the following: “into such an article”.

8 SEC. 24. Subsection (a) of section 16 of the Agri-
9 cultural Adjustment Act, as amended, is amended by strik-
10 ing out subdivision (2) thereof and inserting in lieu thereof
11 the following:

12 “(2) Whenever the processing tax is wholly ter-
13 minated, (A) there shall be refunded or credited in the case
14 of a person holding such stocks with respect to which a tax
15 under this title has been paid, or (B) there shall be credited
16 or abated in the case of a person holding such stocks with
17 respect to which a tax under this title is payable, where such
18 person is the processor liable for the payment of such tax,
19 or (C) there shall be refunded or credited when the tax has
20 been paid in the case of a person holding such stocks with
21 respect to which a tax under this title is payable, where such
22 person is not the processor liable for the payment of such tax,
23 a sum in an amount equivalent to the processing tax which
24 would have been payable with respect to the commodity
25 from which processed if the processing had occurred on such

1 date: *Provided*, That in the case of any commodity with
2 respect to which there was any increase, effective prior to
3 June 1, 1934, in the rate of the processing tax, no such
4 refund, credit, or abatement, shall be in an amount which
5 exceeds the equivalent of the initial rate of the processing
6 tax in effect with respect to such commodity."

7 SEC. 25. The second sentence of subsection (b) of
8 section 16 of the Agricultural Adjustment Act, as amended,
9 is amended to read as follows: "Except as to any article
10 processed wholly or in chief value from cotton or wheat,
11 the tax refund, credit, or abatement provided in subsection
12 (a) of this section shall not apply to the retail stocks of per-
13 sons engaged in retail trade, held on the date the processing
14 tax is wholly terminated."

15 SEC. 26. Paragraph (1) of subsection (e) of section
16 16 of the Agricultural Adjustment Act, as amended, is
17 amended by inserting after the first word in the first sen-
18 tence a comma and the following: "subsequent to June 26,
19 1934," and by inserting in the proviso after the word
20 "made", the following: "in the case of hogs".

21 SEC. 27. Subsection (a) of section 17 of the Agricul-
22 tural Adjustment Act, as amended, is amended by striking
23 out the first two sentences thereof and inserting in lieu there-
24 of the following: "The consignor named in the bill of lading
25 under which any product (if such product or the commodity

1 from which processed is under this title subject to tax) is
2 exported, or the exporter of such product, if the bill of lading
3 bears the proper disclaimer by the consignor, or the manu-
4 facturer of such product, if the bill of lading bears the proper
5 disclaimer by the consignor and the exporter, shall be
6 entitled, upon the exportation of such product to any for-
7 eign country (or to the Philippine Islands, the Virgin
8 Islands, American Samoa, the Canal Zone, or the island of
9 Guam) to the refund of the amount of tax due and paid
10 under this title with respect to such product so exported, or
11 to a credit against any tax due and payable under this title
12 of the amount of tax which would be refundable under this
13 section with respect to such product so exported."

14 SEC. 28. Subsection (b) of section 19 of the Agri-
15 cultural Adjustment Act, as amended, is amended by insert-
16 ing in the proviso, after the words "of the payment of"
17 the following: "not exceeding three-fourths of the amount
18 of the".

19 SEC. 29. The Agricultural Adjustment Act, as
20 amended, is amended by adding after section 20 the
21 following new section:

22 "SEC. 21. (a). No suit or proceeding shall be brought
23 or maintained in, nor shall any judgment or decree be
24 entered by, any court for the recoupment, set-off, refund, or
25 credit of, or on any counterclaim for, any amount of any

1 tax assessed, paid, collected, or accrued under this title
2 prior to the date of the adoption of this amendment. Ex-
3 cept pursuant to a final judgment or decree entered prior
4 to the date of the adoption of this amendment, no recoup-
5 ment, set-off, refund, or credit of, or counterclaim for, any
6 amount of any tax, interest, or penalty assessed, paid, col-
7 lected, or accrued under this title prior to the date of the
8 adoption of this amendment shall be made or allowed. The
9 provisions of this subsection shall not apply to (1) any
10 overpayment of tax which results from an error in the com-
11 putation of the tax, or (2) duplicate payments of any tax,
12 or (3) any refund or credit under subsection (a) or (c)
13 of section 15 or under section 17.

14 “(b) No suit, action, or proceeding (including pro-
15 bate, administration, receivership, and bankruptcy proceed-
16 ings) shall be brought or maintained in any court if such
17 suit, action, or proceeding is for the purpose or has the effect
18 (1) of preventing or restraining the assessment or collec-
19 tion of any tax imposed or the amount of any penalty or
20 interest accrued under this title on or after the date of the
21 adoption of this amendment, or (2) of obtaining a declara-
22 tory judgment under the Federal Declaratory Judgments
23 Act in connection with any such tax or such amount of any
24 such interest or penalty. In probate, administration, receiv-
25 ership, bankruptcy, or other similar proceedings, the claim

1 of the United States for any such tax or such amount of
2 any such interest or penalty, in the amount assessed by the
3 Commissioner of Internal Revenue, shall be allowed and
4 ordered to be paid, but the right to claim the refund or credit
5 thereof and to maintain such claim pursuant to the provisions
6 of law made applicable by section 19 may be reserved in
7 the court's order.

8 “(c) The taxes imposed under this title, as deter-
9 mined, prescribed, proclaimed and made effective by the
10 proclamations and certificates of the Secretary of Agricul-
11 ture and or of the President by the regulations of the
12 Secretary with the approval of the President prior to the
13 date of the adoption of this amendment, are hereby legalized
14 and ratified, and the assessment, levy, collection, and accrual
15 of all such taxes prior to said date are hereby legalized and
16 ratified and confirmed as fully to all intents and purposes as
17 if each such tax had been made effective and the rate thereof
18 fixed specifically on May 12, 1933, by Act of Congress.
19 All such taxes which have accrued and remain unpaid on
20 the date of the adoption of this amendment shall be assessed
21 and collected pursuant to section 19, and to the provisions
22 of law made applicable thereby. Nothing in this section
23 shall be construed to import illegality to any act, determina-
24 tion, proclamation, certificate, or regulation of the Secretary

1 of Agriculture or of the President done or made prior to
2 the date of the adoption of this amendment.

3 “(d) No refund or credit shall be made or allowed
4 of any amount of any tax which acerued on or after the date
5 of the adoption of this amendment under this title (includ-
6 ing any overpayment of such tax), unless (1) the claimant
7 establishes to the satisfaction of the Commissioner of
8 Internal Revenue, (A) that he has not included such amount
9 in the price of the article with respect to which it was im-
10 posed or of any article processed from the commodity with
11 respect to which it was imposed, and that he has not col-
12 lected from the vendee any part of such amount, or (B)
13 that he has repaid such amount to the producer or the
14 ultimate purchaser of the article, and (C) in the case of
15 hogs that such amount has not been deducted from the price
16 paid to the producer, or (2) the claimant files with the
17 Commissioner of Internal Revenue the written consent of
18 such producer and ultimate purchaser to the allowance of
19 the credit or refund. The provisions of this subsection shall
20 not apply to any refund under section 15 (a), section 16,
21 or section 17.

22 “(e) No refund or credit shall be made or allowed of
23 the amount of any tax, under section 15, section 16, or
24 section 17, unless, within one year after the right to such re-
25 fund or credit has accrued, a claim for such refund or credit



1 (conforming to such regulations as the Commissioner of
2 Internal Revenue, with the approval of the Secretary of
3 the Treasury, may prescribe) is filed by the person entitled
4 to such refund or credit, except that if the right to any
5 such refund or credit accrued prior to the date of the
6 adoption of this amendment, then such one year period
7 shall be computed from the date of this amendment. No
8 interest shall be allowed or paid, or included in any judg-
9 ment, with respect to any such claim for refund or credit.

10 “(f) The provisions of section 3226, Revised Statutes,
11 as amended, are hereby extended to apply to any suit for
12 the recovery of any amount of any tax which accrued, on
13 or after the date of the adoption of this amendment, under
14 this title, and to any suit for the recovery of any amount of
15 tax which results from an error in the computation of the
16 tax or from duplicate payments of any tax.

17 “(g) Whenever in this title a refund of any tax is
18 authorized to be made to any person other than the person
19 required to pay the tax with respect to which an applica-
20 tion for refund is made, upon statement under oath by the
21 applicant for refund that he has no knowledge, information
22 or belief that such tax has not in fact been paid, then for
23 the purpose of such refund to said applicant such tax shall
24 be deemed to have been due from and paid by the person
25 liable therefor. Any other provision of the law notwith-

standing, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of the tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue. Whoever makes any false statement under oath in connection with applying for or securing such refund of any tax shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding six months, or both."

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

" IMPORTS

" SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, to determine such facts. Such investigation shall be made after such notice and hearing and subject to such regulations as the President shall specify.

1 “(b) If, after such investigation and report to him of
2 findings and recommendations made in connection therewith,
3 the President finds the existence of such facts, he shall by
4 order direct that the entry into the United States of such
5 article or articles shall, for such time as may be specified
6 by him, be permitted subject to (1) such terms and condi-
7 tions, (2) such limitations on the total quantities thereof
8 which may be imported, or (3) the payment of such com-
9 pensating taxes as he finds necessary to prescribe in order
10 that the entry of such article or articles will not render
11 or tend to render ineffective or materially interfere with
12 such program or operation undertaken under this title.
13 Any compensating tax imposed under this section shall be
14 in addition to any tax imposed under section 15 (e) and
15 the provisions of such section shall apply thereto.

16 “(c) Any decision of the President as to facts under
17 this section shall be final.

18 “(d) Upon information of any order of the President
19 under subsection (b), the Secretary of the Treasury shall
20 permit entry of any article or articles specified therein only
21 in conformity with such order.

22 “(e) After investigation, report, and finding in the
23 manner provided in the case of an original order, any order
24 or provision thereof may be suspended or revoked by the
25 President whenever he finds that the circumstances requir-

ing the order or provision no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the provisions of this section."

SEC. 31. There is authorized to be appropriated for each fiscal year an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of such fiscal year. Sums appropriated in pursuance of such authorization shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to: (1) Encourage the exportation of major agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation, (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; (3) purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands; and (4) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated in pursuance of this section shall be expended for such of the above-specified purposes, and at such times, in



1 such manner, and in such amounts as the Secretary of Agri-
2 culture finds will tend to eliminate unprofitable agricultural
3 and grazing lands, bring about the utilization of only such
4 lands as can be profitably utilized, increase the exporta-
5 tion of agricultural commodities and products thereof, and
6 increase the domestic consumption of agricultural commodi-
7 ties and products thereof: *Provided*, That no part of the
8 funds authorized to be appropriated by this section shall be
9 expended pursuant to (3) or (4) hereof unless the Secretary
10 of Agriculture determines that the expenditure of such part
11 pursuant to clauses (1) and (2) is not necessary to effectu-
12 ate the purposes of this section.

13 SEC. 32. The Secretary of Agriculture is authorized
14 to use as much as he finds advisable of the funds appro-
15 priated by the second paragraph of Public Resolution Num-
16 bered 27, Seventy-third Congress, approved May 25, 1934,
17 to carry out section 6 of the Act entitled "An Act to amend
18 the Agricultural Adjustment Act so as to include cattle
19 and other products as basic agricultural commodities, and
20 for other purposes", approved April 7, 1934, for experi-
21 mentation and efforts to eradicate Bang's disease in cattle.
22 Such funds shall be available to carry out such section 6 and
23 for the purposes for which funds are made available by this
24 section until December 31, 1937, and may be used for all
25 necessary expenses in connection therewith, including the



employment of persons and means in the District of Columbia and elsewhere.

SEC. 33. Nothing contained in this Act shall invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, nor shall anything contained in this Act impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license.



74TH CONGRESS } 1st Session }	HOUSE OF REPRESENTATIVES	{ }	REPORT No. 1241
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AGRICULTURAL ADJUSTMENT ACT AMENDMENTS

JUNE 15, 1935.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. JONES, from the Committee on Agriculture, submitted the following

REPORT

[To accompany H. R. 8492]

The Committee on Agriculture, to whom was referred the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, having had the same under consideration, report it back to the House without amendment and recommend that the bill do pass.

GENERAL STATEMENT

The proposed amendments to the Agricultural Adjustment Act have two principal purposes. The first is to supplement the provisions of the present act in such a way as to permit the agricultural adjustment program to operate more effectively in achieving its objectives. The second is to make certain that the program will be carried out within the limits of the regulatory power given Congress under the Constitution and that no authority to carry out the program will be conferred in conflict with the principle that power cannot be delegated to an executive officer unless adequate standards are provided by Congress to guide him in exercising such power.

The bill proposes to supplement the agricultural adjustment program by (1) providing for the so-called "ever-normal granary plan"; (2) providing for payments in connection with the exportation of basic agricultural commodities and products and for removal of quantities thereof from the normal channels of trade and providing for payments on that part of the production thereof which is for domestic consumption; (3) providing for effective marketing agreements and orders to accomplish the objective of parity price for certain nonbasic agricultural commodities, milk, and tobacco; (4) redefining parity price so as to include increases in tax and interest payments in the computations for determining parity; (5) providing

a fund, which is in addition to and apart from Agricultural Adjustment Act funds, which is to be used for exportation of major agricultural commodities and products, removal of agricultural commodities and products from the normal channels of trade and commerce, acquisition of submarginal lands, and financing acreage and production adjustments of agricultural commodities; and (6) authorizing restrictions on imports from abroad which threaten the agricultural program. It is believed that the effect of these amendments will be to safeguard the present act, to extend its usefulness, and to provide programs flexible enough to establish and maintain the rehabilitation of the country's agriculture.

The bill confines the exercise of power to the Federal field of regulation of interstate and foreign commerce and spells out specific standards, guides, and courses of action in such a manner as to find support in the Supreme Court cases establishing the principles of constitutional law applying to the exercise of administrative powers.

An exposition of each of the important points in the bill is set forth below under an appropriate heading. This matter contrasts the particular provision of the bill with the present law, describes how the new provision is designed to operate, indicates the necessity for the provision dealt with, and, where necessary, explains the legal and constitutional basis for it.

PARITY PRICE

The declaration of policy in the Agricultural Adjustment Act has as its objective the reestablishment of prices paid to farmers at a level that will give agricultural commodities a current purchasing power equivalent to that of the base period. Section 1 (a) of the bill amends this provision of the act to provide that, in the case of all commodities for which the base period is the pre-war period (August 1909 to July 1914), such prices will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate as contrasted with such payments during the base period. This provision is intended to give the Agricultural Adjustment Administration a somewhat more adequate standard for determining parity prices. The present method of calculation is composed of an index of prices of goods which farmers buy in relation to the pre-war level and does not cover expenditures for taxes and for debt service. At the present time, taxes per acre and mortgage interest per acre are probably about 160 to 170 percent of the pre-war level. The combination of these two items, together with the index of prices paid by farmers, may be expected to give parity standards approximately 5 percent higher than at present. The corresponding amendment to section 9 (c) of the act, which defines parity price, is made by section 13 of the bill. It is there provided that this amendment shall not affect the rates of any processing taxes now in effect, and shall not require their adjustment until the Secretary finds such adjustment necessary in order to effectuate the declared policy of the act.

DECLARATION OF POLICY—CONSUMER'S INTEREST

Certain changes have been made by section 1(b) of the bill "Declaration of policy" contained in section 2 of the present act, in order more clearly to delimit the scope of the Secretary's authority under

that section. Subsection (3) of the "Declaration of policy" contained in the present act, which was inserted in order to protect consumers against unwarrantably rapid or excessive price increases, is ambiguously worded and has met with some criticism from the courts as being a vague and unintelligible standard, from which the Secretary can derive no adequate guide in the exercise of his powers. This language has, accordingly, been reworded to make it clear that the act confers no authority upon the Secretary to utilize his powers in order to maintain farm prices above the parity level. The amendment does not require either a change in the current rate of the processing tax or a change in the amount of benefits to be paid under the rental and benefit payment provisions of the act.

RENTAL AND BENEFIT PAYMENTS AND NEW PROGRAMS

Section 4 of the bill contains a new provision revising section 8 (1) of the Agricultural Adjustment Act which confers the power to make rental or benefit payments and designating the new provisions as section 8. There has been added by the new provisions the authority to make (1) payments in connection with the removal of any basic agricultural commodity or product thereof from the normal channels of trade and commerce; (2) payments to expand domestic or foreign commerce for any basic agricultural commodity and products thereof; and (3) payments in connection with the production of that part of any basic agricultural commodity which is required for domestic consumption. These powers are added to the powers to make rental or benefit payments contained in the present law, and the new payments which are authorized in the bill may be made independently or in combination with acreage or production adjustment. This provision of the act has also been amended to strike out the word "reduction" and substitute the word "adjustment" so that hereafter the agricultural program need not be one of reduction alone. The addition of the new powers plus the authorization of adjustment rather than reduction will, it is believed, provide an adequate basis for a comprehensive farm relief plan which will be sufficiently adaptable to meet the needs of each of the particular basic commodities as well as to meet changed conditions in production and consumption of them.

The provisions of section 8 have been rewritten for the further purpose of making certain that in the exercise of the powers conferred under the section the Secretary of Agriculture is bound by definite rules laid down by Congress, acts only in pursuance of findings of fact made after investigation, and puts into effect action set forth in the statute and determined on the basis of the finding made by him. The provisions of the bill thus conform in every respect to the requirements laid down in the *Schechter case*. As a prerequisite to the exercise of any of the powers granted with respect to any commodity, the Secretary must determine that the current farm price of such commodity is below the parity level or is likely to be below the parity level during the current or next succeeding marketing year for the commodity, that the exercise of any such power would tend to raise the price of the commodity toward parity, and that its exercise is administratively practicable. Upon such findings, it is made a mandatory duty of the Secretary to undertake the exercise of such of the powers conferred by section 8 as are administratively

practicable and best calculated to effectuate the declared policy with respect to the commodity. Similarly, the Secretary is directed to cease exercising such powers after the end of the marketing year current at the time when he determines that the circumstances described above no longer exist. These provisions make it clear beyond doubt that the exercise or non-exercise of the powers conferred by section 8 is to be determined by the existence or nonexistence of certain definite circumstances, the existence of which the Secretary is required to find as a condition precedent to the exercise of his powers, and the nonexistence of which terminates his authority further to exercise them.

Section 3 makes important changes in section 12 (b) of the Agricultural Adjustment Act which sets forth the purposes for which the proceeds of processing taxes may be used. First, a technical amendment is made to make certain that the payments made under such section 12 (b) are for the purpose of effectuating the policy of the Agricultural Adjustment Act. Second, the funds available under section 12 (b) may be used for the acquisition of any agricultural commodity pledged as security for a loan made by any Federal agency, which loan was conditioned upon the borrower agreeing to cooperate with a program of production or marketing adjustment adopted under the act. (See "Ever-normal granary".) Third, the purposes for which processing tax proceeds may be used have been grouped together and treated generally as payments authorized under section 8. The authority to use tax proceeds for administrative expenses and refunds of taxes is not disturbed.

The necessary technical amendments to the present act to include the new payments along with rental or benefit payments wherever such payments are dealt with in the present act are made by sections 11, 16, and 18.

Section 11 (a) amends the section 9 (a) of the Agricultural Adjustment Act which provides that when the Secretary determines that rental or benefit payments are to be made a processing tax is automatically imposed. This amendment provides that when the Secretary determines that payments for any one or more of the purposes specified in section 8 (rental or benefit payments, payments for expansion of domestic or foreign markets, payments for removal of basic commodities, or their products, and payments in connection with the production of that part of a basic commodity required for domestic consumption) are to be made, a processing tax shall automatically be in effect with respect to such commodity from the beginning of the marketing year next following the proclamation. The effect of the amendment is to add the new purposes to the extent that they are authorized by the amendment made by section 2 of the bill to the purposes for which processing taxes shall be imposed, to forbid such payments unless there is an accompanying processing tax, and to provide that the tax is imposed following the Secretary's declaration that the particular payment is to be made.

Section 11 (b) amends section 9 (a) of the Agricultural Adjustment Act so as to terminate the processing tax levied to make payments for the purposes outlined in the preceding paragraph at the end of the marketing year current at the time of the proclamation that all such payments are to be terminated. The subsection also provides that if any one or more of such payments are in effect the tax terminates

at the end of the marketing year only if the Secretary proclaims that all such payments are to be discontinued. The amendments made by this subsection have no effect on the present law in a case in which rental or benefit payments alone are being made.

Section 16 amends section 10 (e) of the Agricultural Adjustment Act which provides that neither the determination of the amount of, nor the making of, any rental or benefit payment is subject to the review of any governmental officer, except the Secretary of Agriculture and the Secretary of the Treasury, by extending the provision to apply to the determination and making of payments for expansion of domestic or foreign markets, removal of surpluses, or payments on the portion required for domestic consumption.

Section 18 specifically authorizes the use of the remainder of the \$100,000,000 fund appropriated under section 12 (a) of the Agricultural Adjustment Act for any of the payments authorized by the new section 8 which, as indicated above, include payments for average or production adjustment of basic commodities, payments for expansion of domestic or foreign markets, payments to remove quantities of basic agricultural commodities and their products, and payments on the portion required for domestic consumption. This provision is complementary to the provisions of section 3 of the bill which authorize payments out of processing tax receipts for such purposes.

Section 19 adds a new subsection to section 12 of the Agricultural Adjustment Act which provides that the amounts expended for administrative expenses, and pursuant to section 8 in connection with any basic agricultural commodity, shall not be less than the amount of the taxes levied under the act with respect to that commodity. For the purpose of the calculations required under this provision, amounts collected and expended from taxes which are held for, or paid for use in, any possession are not to be included, refunds and abatements of taxes are not to be included, and hogs and field corn may be considered a single commodity.

Nothing in the provisions of the bill dealing with rental or benefit payments or conferring power to make the new payments which are authorized by the bill changes the voluntary character of the present act in its effort to reestablish farm prices by these methods.

EVER-NORMAL GRANARY

Of real importance in the agricultural program which the proposed amendments are intended to make possible are those which will enable the Secretary of Agriculture to put into operation the plan which has been described and is generally known as the "ever-normal granary." The Government is authorized to acquire agricultural commodities which have been pledged as security for Government loans, and to make payments "in kind" to producers who cooperate in the adjustment programs. Adequate reserves of food and fiber can in this manner be maintained, and fluctuations in price can be smoothed out.

The authorization for such payments in kind is contained in section 2 of the bill which amends section 8 of the present act. The amendment (sec. 8 (6)) further provides that no payment in kind may be made in a commodity other than the one with respect to which the payment is being made but hogs and field corn may be considered a

single commodity for this purpose. Thus, wheat may not be used to make rental or benefit payments in carrying out the cotton or tobacco program but may be used in connection with the wheat program.

Under section 3 of the bill, which amends section 12 (a) of the Agricultural Adjustment Act, the necessary changes are made in order that the proceeds of processing taxes may be available for the acquisition of the commodities to be used in making such payments in kind.

THIRTY-PERCENT FUND

An important addition to the present agricultural program is contained in section 31 of the bill which authorizes an annual appropriation for each fiscal year of 30 percent of the gross customs receipts during the preceding calendar year. This authorization contemplates the use of money without regard to the Agricultural Adjustment Act and outside of it for the purposes specified in the section. Since the farm population of the United States is roughly 30 percent of the total population, this provision will make available for the benefit of the farmer a sum equivalent to his fair share of the tariff receipts. Upon the basis of the total customs receipts during the past 3 years, it is anticipated that in the neighborhood of \$100,000,000 can annually be made available for the purposes described in the bill. The first of the enumerated purposes for which this fund may be used is that of encouraging the exportation of major agricultural commodities and products thereof by paying benefits and indemnifying losses in connection with such exportation. This provision (as well as the provision authorizing the imposition of a processing tax and the making of payments out of its proceeds for exportation of basic agricultural commodities) gives recognition to the necessity of insuring that, so far as possible, adjustment of production and consequent price increases within the United States shall not operate to deprive American farmers of their share of foreign trade in agricultural commodities.

The second purpose to which the fund may be devoted is that of encouraging domestic consumption of the major agricultural commodities and products thereof by diverting them from the normal channels of trade and commerce. This diversion is to be accomplished by the payment of benefits and indemnities or by other means, such as the purchase of these commodities for relief distribution. It is not contemplated that the effect of making such payments will be to put agricultural commodities and their products so acquired in competition with normal business, but rather to remove them from the field of such competition. Expansion of domestic markets is in the interest of the fullest utilization of our agricultural resources. The current depression has revealed more than ever the existence of areas of substandard consumption of farm products in this country. Even in normal times, the low-income groups could consume more of farm products than has been the case in the past. An expansion of the domestic markets will serve to build up the low-consuming areas within our own population to a level adequate for the maintenance of health, and to bring about a permanently larger volume of consumption so as to require a minimum of restriction of our agricultural resources.

The funds appropriated are to be used mainly for the two purposes indicated above and the bill so provides. However, they are also

authorized to be used for the retirement of submarginal agricultural and grazing lands by purchasing or leasing them on behalf of the United States, and in order to finance acreage or production adjustment of agricultural commodities.

MARKETING AGREEMENTS AND ORDERS

The provisions of the present act which relate to marketing agreements and licenses are of vital importance to 2,000,000 or more farmers. The producers of fruits and vegetables and other commodities which have not been named in the act as "basic" commodities have been forced to rely for the most part upon marketing agreements and licenses in order to achieve the goal set forth in the declaration of policy. The proposed amendments substitute the word "order" for "license" in order more accurately to describe the nature of the Secretary's regulatory power. The operations of cooperative marketing associations will be reenforced by the new sections of the bill dealing with these matters and these provisions will assure the cooperation of processors and distributors in programs intended to raise farm prices. The marketing agreements and licenses which have been issued and entered into pursuant to the Agricultural Adjustment Act have contained a great variety of provisions in order to adapt each particular program to the peculiar problems and circumstances presented in a given area by a particular commodity. The essential purpose of these agreements and licenses has, however, always been to raise producer prices.

The proposed amendments, insofar as they relate to marketing agreements and orders, are primarily intended to implement and spell out in more detail and with greater freedom from ambiguity the powers which were provided for in the original act. The present language of the statute is, unfortunately, subject to serious misconstruction. This has given rise to obstacles in connection with the enforcement of the marketing agreements and licenses which have seriously endangered their successful operation.

Under the amendment proposed in the bill, the orders can be made applicable only to certain commodities named in the bill, and can contain only such terms and conditions as are expressly authorized in the bill. Furthermore, the amendments contain provisions intended to safeguard the exercise of and prevent abuses in the application of the regulatory power conferred upon the Secretary. Specific exemption of producers from the power to issue orders has been provided for, and, except in the case of retailers of milk and its products, the issuance of orders applicable to retailers is restricted as set forth below. A congressional policy that orders shall be limited in their application to the smallest practicable region, and that they shall contain different terms applicable to different areas, has been carefully spelled out. These and other restrictive provisions are, in the opinion of the committee, adequately drawn to guard against any fear that the regulatory power is so broad as to subject its exercise to the risk of abuse.

Section 5 of the bill eliminates the present licensing section (sec. 8 (3)) of the Agricultural Adjustment Act, and in lieu thereof authorizes the Secretary of Agriculture to issue orders covering the marketing and distribution of specific agricultural commodities. Because

the provisions of the present law for administrative revocation have been eliminated in the proposed bill, the term "license" has been discarded, and the term "order", in general usage with respect to administrative regulations, such as those of the Interstate Commerce Commission and of the Federal Trade Commission, has been substituted. To eliminate questions of improper delegation of legislative authority raised by the decisions in *Schechter, et al. v. United States*, the provisions relating to orders enumerate the commodities to which orders issued by the Secretary of Agriculture may be applicable, prescribe fully the administrative procedure to be followed by the Secretary in issuing, enforcing and terminating orders, and specify the terms which may be included in orders dealing with the enumerated commodities. The powers to be exercised under the proposed bill are confined within the limitations upon the Federal Authority over interstate commerce as expressed by the Supreme Court in the *Schechter case* and other cases. A comparison of the proposed provisions and the present law, and a detailed discussion of the proposed provisions with respect to orders is set forth below.

First. Orders may be issued by the Secretary of Agriculture applicable to those engaged in the handling of milk, fruits (except apples and fruits for canning), pecans, walnuts, tobacco, vegetables (except vegetables for canning), and naval stores as defined in the Naval Stores Act, and applicable to those engaged in the handling of products of all of the enumerated commodities except naval stores. Under the present section 8 (3) of the Agricultural Adjustment Act there is no restriction upon the number or type of agricultural commodities concerning which licenses may be issued.

The scope of orders under the proposed section 8c is limited to the regulation of the handling of the specified commodities in the current of interstate or foreign commerce or to the handling thereof which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities or products thereof. Section 8 (2) of the Agricultural Adjustment Act now authorizes the Secretary of Agriculture to enter into marketing agreements with processors and others engaged in the handling of any agricultural commodity or product thereof "in competition with" interstate or foreign commerce. This phrase has been omitted from the proposed section 8c (1) of the bill which deals with orders, as well as from the proposed section 8b, which deals with marketing agreements, because the proposed language makes it clear that the full extent of the Federal power over interstate and foreign commerce and no more is intended to be vested in the Secretary of Agriculture in connection with orders.

Second. Specific provisions governing the Secretary of Agriculture in determining when to issue and in issuing orders are included in the proposed bill. Orders may not become effective until the handlers of not less than 50 percent of the volume of the commodity to be covered by the proposed order have signed a marketing agreement which regulates the handlers in the same manner as the proposed order. But when such a marketing agreement has been signed, if the Secretary finds that the issuance of an order would tend to effectuate the declared policy with respect to the commodity and transactions covered in the order, the Secretary must issue an order. Without such consent of the handlers to be covered thereby, a proposed order may become effective only if the Secretary of Agriculture, with the

approval of the President, finds (1) that the failure of the requisite number of handlers to sign a marketing agreement, upon which a hearing has been held, tends to prevent the effectuation of the declared policy; (2) that the issuance of the proposed order is the only practicable means of carrying out the declared policy; and (3) that the issuance of the proposed order is approved or favored by at least two-thirds, by number or volume, of those producing the commodity for market. But, if the Secretary finds the facts set forth in the preceding sentence, he must issue an order, notwithstanding the failure of the required number of handlers to sign the marketing agreement. An order issued without such consent of the handlers to be covered thereby may not, except in the case of milk and its products, be applicable to any person selling agricultural commodities at retail in his capacity as a retailer, nor may it in any case be applicable to any producer in his capacity as a producer.

So that proper recognition may be given to local differences which may exist in production or marketing methods or conditions, orders are required to be limited in their application to the smallest practicable regional production or marketing areas, and orders applicable to the same commodity or product are required to prescribe such terms applicable to different production or marketing areas as will recognize local production and marketing differences. Orders relating to milk and its products are exempted from the requirement that they be limited in their application to the smallest practicable regional production or marketing areas.

Prior to the issuance of any order, the Secretary of Agriculture is required to give notice of and an opportunity for hearing upon the order proposed. He cannot issue the order unless he finds from the evidence introduced at such hearing that the issuance of the proposed order and each of its terms and conditions will effectuate the declared policy of title 1.

Third. Subsection (5) of the proposed section 8c states specifically the terms which may be included in orders relating to milk and its products. These terms follow the methods employed by cooperative associations of producers prior to the enactment of the Agricultural Adjustment Act and the provisions of licenses issued pursuant to the present section 8 (3) of the Agricultural Adjustment Act. Such orders may contain provisions classifying milk in accordance with its ultimate utilization, and may fix, or provide a method for fixing, minimum prices which shall be paid by handlers to producers for milk in each use classification. This provision makes it possible to take into consideration in orders dealing with milk, the difference in value between milk sold for consumption in fluid form and that used in the manufacture of such products as butter, evaporated milk, etc.

Minimum prices fixed in such orders are required to be uniform as to all handlers, subject to adjustments for differences in the grade and quality of the milk delivered, for differences in transportation costs from the place at which delivery is made to the handler to the distributing or processing plant, and for volume, market, and production differentials customarily applied by handlers. The volume differential is a differential which is paid when the operations of several country plants are consolidated into one plant. The inconvenience which is caused to producers by closing up plants to which they have been delivering and requiring that all of their milk be handled by one plant, is

compensated by an additional payment to the producers. The production differential is the differential which is paid to a producer, compensating him for keeping his farm and milk qualified for a city market even though his milk may actually be going into manufactured use. It is necessary to keep this supply of reserve milk available for periods in which consumption of milk goes up so that the effect is that the producers must keep their farm in the same condition as if they were shipping milk into the city every day. The production differential is a payment to the farmer for performing this function in the market.

The market differential is a differential which is given to the producer to compensate him for delivering his milk to a city market instead of to a country plant. These differentials vary with the markets and cannot be qualified as a "location" differential, because of the fact that location is usually determined on the distance from a primary market whereas market differentials are usually paid in secondary markets.

The authority conferred with respect to price-fixing deals only with prices to be paid by handlers; fixing of prices at which milk and its products may be sold by handlers is not permitted in the proposed bill.

The validity of State legislation fixing minimum prices at which milk may be purchased from producers was sustained in *Nebbia v. New York* (291 U. S. 502), and *Hegeman Farms Corporation v. Baldwin* (293 U. S. 163) against an attack upon the ground that such legislation violated the due-process clause of the fourteenth amendment. Since the requirements of due process under the fourteenth amendment and under the fifth amendment are identical (*Heiner v. Donnan*, 285 U. S. 312, 326), the price-fixing provisions authorized to be included in orders issued under the proposed section 8c conform to the requirements of due process under the fifth amendment. That regulations fixing the price at which an agricultural commodity may be purchased are proper exercises of the Federal power over interstate commerce is established by such decisions as *Lemke v. Farmers' Grain Co.* (258 U. S. 50), and *Baldwin v. Seelig* (55 Sup. Ct. Rep., 497).

Alternative methods of distributing the total dollar value of all milk sold in the market among the producers supplying the market are provided. Uniform prices are required to be paid to all producers and associations of producers for all milk delivered by them irrespective of the use to which such milk is put by the particular handler to whom any producer or association of producers sells its milk. An alternative provision may be included, requiring instead the payment of uniform prices by each handler to all producers and associations of producers delivering milk to him, but, except in the case of orders covering manufactured milk products only, such a provision may not be included unless the Secretary finds that its inclusion is approved or favored by three-fourths of the producers by number or by volume of production.

In order to eliminate, so far as possible, violent seasonal fluctuations in the available milk supply with their attendant disturbing effect upon returns to producers, and to encourage a uniform volume of production throughout the year, an adjustment in payments to producers upon the basis of their production records during a representative period may be included in such orders, in addition to the adjustments described above. Milk orders may also provide a method for adjustments among handlers so that the payments for

milk made by each handler shall equal the value of the milk to the handler in the use classification to which it is devoted by him.

To prevent the destruction of the minimum price schedules which may be fixed in an order, handlers subject to it may be required to pay, for a period of 90 days, the price fixed for milk classified for manufacturing purposes to producers not theretofore selling milk for consumption in the area covered by the order. This time limitation is designed to prevent assaults upon the price structure by the sporadic importation of milk from new producing areas, while permitting the orderly and natural expansion of the area supplying any market by the introduction of new producers or new producing areas. This is the only limitation upon the entry of new producers—wherever located—into a market, and it can remain effective only for the specified 90-day period. Provisions for verification of weights, for sampling and testing milk, and for insuring that producers will be paid for milk purchased from them may also be included in milk orders.

A specific provision is included in this proposed subsection safeguarding the right of cooperative marketing associations qualified under the Capper-Volstead Act to make distribution of the proceeds of milk sold by them to their members in accordance with the contracts between the cooperatives and their members.

Fourth. Subsection (6) of the proposed section 8c enumerates the provisions which may be included in orders relating to the handling of fruits, pecans, walnuts, tobacco, and vegetables, and the products of each of them, and relating to the handling of naval stores. Like the provisions which may be included in orders relating to milk, these provisions embody methods which have been employed by cooperative associations and in licenses issued under the present section 8 (3) of the Agricultural Adjustment Act. In these commodities the chief obstacle to the attainment of the declared policy is the existence of market supplies far in excess of quantities sufficient to meet an effective consumer demand. Therefore, it is provided that orders dealing with the handling of these commodities may limit, or provide methods for the limitation of, the total quantity of any such commodity, or any grade, size, or quality thereof, which may be marketed or transported to market by handlers during any specified period. They may also allot, or provide methods for allotting, the amount of any such commodity which each handler may purchase from producers. So that the total quantity to be handled may be equitably allotted among producers, any such allotment is required to be made in accordance with a uniform rule based upon the amounts of the commodity produced or sold by producers during a representative period to be determined by the Secretary of Agriculture, or upon the current production or sales. The validity of regulations allotting the supply of a commodity sufficient to meet the consumer demand was sustained in *Champlin Refining Co. v. Corporation Commission* (286 U. S. 210).

Such orders may also allot, or provide methods for allotting, the amount of such commodity, or of any grade, size, or quality thereof, which each handler may market or transport to markets. To secure a just allotment among all handlers of the commodity, allotments to individual handlers are required to be made in accordance with a uniform rule based upon the amount of the commodity which individual handlers have available for current shipment, or upon the volume of shipments made by such a handler during a representative period to be determined by the Secretary.

Such orders may also contain provisions determining, or providing methods for the determination of, the extent of the surplus of any of the enumerated commodities, or of any grade, size, or quality thereof, providing for the control and distribution of such surplus, and for equalization of the burden of the surplus among producers and handlers. In this manner supplies of a commodity above the amount required to satisfy an effective consumer demand may be diverted for relief and charitable purposes.

To prevent violent seasonal fluctuations in price caused by excessive market offerings immediately following the harvesting season, such orders may also establish, or provide for the establishment of, reserve pools of any such commodity which will be disposed of from time to time as market conditions warrant, and for the equitable distribution of returns from reserve pools among the persons beneficially interested in them. If the first handlers who are subject to an order regulating any of the enumerated commodities purchase not less than 50 percent of the total quantity of the product directly from producers, orders regulating the handling of such commodities may fix, or provide methods for fixing, minimum prices at which any such commodity, or any grade, size, or quality thereof may be purchased by such first handlers. Considerations similar to those stated above with reference to the validity of provisions fixing the price at which milk may be purchased from producers thereof, support the validity of price-fixing provisions with respect to orders relating to the handling of these commodities.

Fifth. Subsection (7) of the proposed section 8c states specifically the provisions which may be included in orders dealing with the handling of any agricultural commodity within the scope of section 8c. Terms prohibiting unfair methods of competition and unfair trade practices may be included, and the Secretary of Agriculture may select, or provide a method of selecting, agencies to administer the orders and may specify the powers and duties of such agencies. Unless they receive compensation for personal services from funds of the United States, persons acting as members of such agencies are exempted from the provisions of section 10 (g) of the Agricultural Adjustment Act which prohibit speculation in agricultural commodities and stocks on the part of those acting in any official capacity in the administration of the act.

Sixth. Subsection (2) of the proposed section 8c provides that whenever the Secretary of Agriculture is required to determine the fact of approval or disapproval of producers with respect to the issuance, provisions, or termination of any order, he may consider the approval or disapproval of any bona fide cooperative association as the approval or disapproval of its members, stockholders, or contracting producers.

Seventh. Section 15 of the bill adds a new paragraph to section 10 (b) of the act which provides that orders issued under the title shall provide that each handler shall pay to the authority established under the order that handler's pro rata share of the expenses incurred by the authority, but no payment is required to be made for any part of the expenses of the authority incurred in receiving, handling, holding, or disposing of commodities for the benefit of persons other than handlers subject to such order. The provision also authorizes a suit by the authority in its own name to collect such expenses and authorizes the district courts to entertain such suits.

Eighth. Section 14 adds a provision to section 10 (b) of the Agricultural Adjustment Act which authorizes the Secretary of Agriculture to utilize the services of State and local committees and associations of producers. The amendments permit the Secretary to utilize cooperative associations of producers in connection with the distribution of rental or benefit payments or payments for expansion of domestic or foreign markets. This section of the bill also requires the Secretary to accord such recognition and encouragement to cooperative associations owned or controlled by producers as will be in harmony with the policy toward them set forth in existing acts of Congress and will tend to promote efficient methods of marketing and distribution. It is not intended by this language to discriminate against other handlers, processors, or dealers, but it has been found from experience that the participation by local committees and associations of producers has been of material value in administering the program.

A new section (8d) is inserted which enables the Secretary to secure information with respect to the operation of marketing agreements and orders. Parties to marketing agreements and orders are required, on request of the Secretary, to furnish him with information he finds necessary to determine the extent to which the agreement or order has been carried out or has effectuated the policy of the act and with information to enable him to determine if there has been abuse of the privilege of antitrust exemptions. To ascertain the correctness of a report furnished, or to secure the information when not furnished, the Secretary may examine books, records, etc., which he deems relevant. He may examine such data if it is within the control of the person from whom requested or within the control of any person having actual or legal control of the person from whom requested, or any subsidiary of any person from whom requested, or of any subsidiary of the person controlling the person from whom the information is requested. The information secured is required to be kept confidential by persons in the Department of Agriculture. So much of it as the Secretary deems relevant may be disclosed in a suit or administrative hearing to which the Secretary or some other officer of the United States is a party if the suit or hearing involves the agreement or order with respect to which the information was furnished or acquired. General statements may be issued which do not identify the information furnished by any person and, by direction of the Secretary, the name of any person violating an agreement or order, together with the provision violated, may be disclosed. Officers or employees of the Department violating the subsection are subject to fine and imprisonment and removal from office.

Ninth. Section 8e authorizes the Secretary to use as a base period, for the purposes of any marketing agreement or order, the post-war period (August 1919 to July 1929) or all that portion thereof for which the Secretary can satisfactorily determine the purchasing power of a commodity from available statistics of the Department if he finds and proclaims that as to that commodity the purchasing power during the pre-war period cannot be satisfactorily determined from available statistics of the Department.

Tenth. The penalty for violation of a license issued pursuant to the present section 8 (3) of the Agricultural Adjustment Act is revocation of the license and a fine of not more than \$1,000 per day.

each day on which business is done without a license. Subsection (14) of the proposed section 8c eliminates the penalty of revocation and fixes a penalty of not less than \$50 nor more than \$500 for each violation of an order.

Specific provision is made for administrative and judicial review of orders. No similar provision is contained in the present act. It is provided that any handler may file a petition with the Secretary of Agriculture alleging that an order or any provision of an order or any obligation imposed in connection with an order is not in accordance with law. After holding a hearing upon the petition, the Secretary is to make an order with reference to the validity or invalidity of the order in its application to the petitioner, which shall be final if in accordance with law. The petitioner may then, if he desires, file a bill in equity in the Federal courts in order to obtain a review of the Secretary's order, and, if the courts finally determine that the order is not in accordance with law, the proceedings are to be remanded to the Secretary with directions to enter such order or take such further proceedings as in the opinion of the court are required by law.

During the period while any such petition is pending before the Secretary and for 5 days thereafter, the penalties imposed by the act for violation of an order cannot be imposed upon the petitioner, but the Secretary may, nevertheless, during this period proceed to obtain an injunction against the petitioner pursuant to section 8a (6) of the Agricultural Adjustment Act. But whenever, in proceedings brought by the handler to review the Secretary's order, a final decree is entered by the district court, then any separate injunction proceedings which may have been instituted by the Secretary against the handler pursuant to section 8a (6) shall abate. When, however, a handler has instituted proceedings in equity to review the Secretary's order and the Secretary files a counterclaim (i. e., a crossbill for injunctive relief) in such proceedings, then upon the rendition of a final decree the counterclaim will not abate, and the respective parties may appeal, pursuant to the applicable Federal statutes, relating to appeals from final decrees, from the final decree rendered by the district court upon both the bill to review the Secretary's order and the counterclaim. It is believed that these provisions establish an equitable and expeditious procedure for testing the validity of orders, without hampering the Government's power to enforce compliance with their terms.

Eleventh. Subsection (16) of the proposed section 8c provides that the Secretary shall terminate any order, or any provision thereof, whenever he finds that such order or provision obstructs or does not tend to effectuate the declared policy. In addition, he is required to terminate any marketing agreement or order at the end of the then current marketing season, whenever he finds that such termination is favored by a majority of the producers which majority has, during a representative period, produced for market more than 50 percent of the total volume of the commodity specified in such marketing agreement or order which was produced for market during such period.

Twelfth. Section 5 of the bill eliminates the present section 8 (3) of the Agricultural Adjustment Act. Therefore, no additional licenses may be issued. It is provided by the proposed section 32, however, that nothing in the bill shall invalidate any existing marketing

agreement or license or any act done pursuant thereto, or impair any remedy for the enforcement thereof.

TAX PROVISIONS

RATES OF PROCESSING TAX

The important amendments to the processing tax provisions of the act relating to rates of the tax are contained in section 12 of the bill.

Section 9 (b) of the present law provides a processing tax rate equal to the difference between the current average farm price for the commodity and its fair exchange value. Since the tax upon articles delivered to any organization for charitable distribution or use is refundable under section 15 (c) of the act, and since processings by or for a State or its political subdivisions are exempt from tax, the total proceeds of the tax and hence the amount available for rental or benefit payments are at present reduced to the extent of such exemptions and such refunds. The bill eliminates this reduction through an amendment to section 9 (b) which permits the addition to the tax rate of an amount sufficient to make up for charitable refunds and the exemption of processings by a State or its political subdivisions. Such addition cannot, however, exceed 20 percent of the difference between the current average farm price for the commodity and the fair exchange value.

Section 9 (b) of the present law also contains a provision allowing the Secretary of Agriculture, when he finds that the effect of the tax is to cause such a reduction in domestic consumption as to cause an accumulation of surplus stocks of a commodity or its products, or a depression in the farm price, to set a rate which will prevent such consequences. Although it is clear that Congress intended to provide for reductions in the rate of tax when the existing rate does not equal the difference between the current average farm price and the fair exchange value, or in the event that these circumstances continued even after such a reduction, the language at present used does not explicitly state that such readjustments are permissible. The proposed amendment to section 9 (b) expressly authorizes reductions under these circumstances, and also empowers the Secretary to increase a rate of tax which has been theretofore reduced. An increase in rate is, of course, contingent upon the Secretary's finding that such increase will not cause a recurrence of stock accumulations or price depressions. After such a finding the processing tax is to be at the highest rate which will not cause such accumulation of stocks or depression in price, but it cannot be higher than the difference between the current average farm price and the fair exchange value.

Section 12 of the proposed bill also fixes each of the processing taxes now levied under the act, except one, at the rate prescribed by regulations of the Secretary of Agriculture in effect on June 1, 1935. (The rate of tax for rice, which is specifically fixed in the present law, constitute the sole exception and that rate is proposed to be reenacted in the bill.) The rates so specifically fixed are to remain in effect until December 31, 1937 (in the case of rice, July 31, 1936), unless increased or decreased under certain new provisions contained in section 9 (b) (4) or terminated. By virtue of the enactment of

rates of tax at present in effect, until such rates are adjusted, any possible contention that Congress has invalidly delegated legislative power to the Secretary of Agriculture to fix the rate of tax is obviated.

Since the rates of tax which are specifically fixed in the amendments may require adjustment, provision is made that the Secretary of Agriculture may raise or lower these rates. Accordingly, the proposed new section 9 (b) (4) authorizes the Secretary to reduce such rates (including a reduction to zero) in order to prevent an accumulation of surplus stocks of a commodity or its products, or to prevent such reduction in the quantity of a commodity or its products which is domestically consumed as will result in the accumulation of surplus stocks, or in order to prevent depression of the farm price of the commodity. The new section 9 (b) (4) also authorizes the Secretary to increase these rates in accordance with the formulae now contained in section 9 (b) of the act. It is further provided that these taxes the rate of which is specified in the amendments shall terminate at the end of the marketing year current at the time when the Secretary proclaims that all payments authorized under section 8 which are in effect are to be discontinued with respect to the commodity in question, or pursuant to section 13 of the act which provides for termination of the whole act by the President or for termination of any provisions of the act by the President with respect to any basic agricultural commodity. In the case of a rate of tax specifically fixed in the bill or a rate of tax adjusted by the Secretary in accordance with new section 9 (b) (4), the tax does not automatically terminate with the attainment of parity any more than the tax terminates under the present law under such circumstances. But machinery is provided in the proposed amendment to section 9 (b) under which if there is an accumulation of stocks or a depression in the farm price of a commodity (which, of course, may occur after parity is reached) the tax may be reduced, including a reduction to zero.

At the end of the period for which the rates of tax are specifically fixed in the bill (July 1, 1936, in the case of rice and Dec. 31, 1937, in the case of other commodities), the rates of tax are to be determined by the Secretary of Agriculture in accordance with the standards already contained in the act which are applicable to processing taxes generally.

In any case in which a rate of tax which is determined by the Secretary in pursuance of the new section 9 (b) (4) is held invalid by reason of the Constitution or by reason of any exercise or failure to exercise power by the Secretary of Agriculture, all the rates of tax which are specifically fixed in the bill are to become effective at once. These rates are to be effective from the time when the adjusted rate was first made applicable. In any such case in which the adjusted rate is declared invalid if that rate is higher than the rate expressly fixed in the bill, the difference is not to be collected from the taxpayer for the prior period. In case the rate expressly fixed is lower than the adjusted rate the taxpayer is entitled to a refund of the difference subject to the new limitations of the bill limiting refunds to cases in which the tax is absorbed by the taxpayer.

Other provisions of section 12 which are not discussed above are merely formal reenactments of the present law with technical and perfecting changes.

FLOOR STOCKS

The present act provides that there shall be no floor stocks refunds in the case of sugar beets and sugarcane or the products thereof upon the termination of the act. It appears that when the tax is terminated all articles processed wholly or in chief value from sugar which have paid a processing tax will have to compete with similar articles which have been processed after termination and thus have not paid a processing tax and this will undoubtedly cause numerous hardships to persons having large stocks on hand and will possibly disrupt the market for sugar. The amendment proposed in section 20 (b) will permit payment of floor stocks refunds upon articles manufactured wholly or in chief value from sugar beets or sugarcane, held upon the date upon which the tax on sugar beets and sugarcane is terminated.

In the case of hogs the processing tax originally took effect at the rate of 50 cents per hundred pounds and it was at this rate that the floor stocks taxes were paid. When the tax on hogs was subsequently increased up to the present rate of \$2.25, the Flannagan amendment (sec. 16 (e)) had not been enacted and hence no floor stocks adjustment was made upon the increase in rate. The proviso as it now reads in section 16 (e) (1) was put in so that the holders of hog products would not, in the event of a decrease in the rate, receive floor stocks refunds or credits until the rate had been reduced below the original 50-cent rate upon which they paid floor stocks taxes.

It was not intended that this proviso should affect any other commodity than hogs. However, under the wording of the proviso it applies to other commodities. Thus, in the case of burley tobacco, the original October 1, 1933, rate of 2 cents was increased on October 1, 1934, to 6.1 cents and was subsequently reduced on February 1, 1935, as to the burley used in chewing tobacco, to a rate of 2.5 cents. Due to the language in this proviso, no refund of floor stocks could be made with respect to this burley, although such a result was not intended when the section was enacted. Section 26 of the bill amends section 16 (e) of the act to limit the provision to the case of hogs and thus confine its operation to the circumstances to which it was originally intended to relate.

In the present act section 16 (b) provides that no refund or abatement shall be made with respect to retail stock upon termination of a tax. It appears that if no such refund or abatement is made on retail stocks upon the termination of the tax this will cause considerable hardship since all of the goods on hand upon which a tax has been paid will be entering competition with newly processed goods not subject to tax. The amendment proposed in section 25 is designed to give a floor tax refund to retailers when the tax wholly terminates. The provision is limited, however, to the case of wheat and cotton, for it was on articles processed from these commodities only that any substantial amount of floor stocks tax was paid by retailers when the tax went on.

Section 16 (a) (2) of the present law provides that upon termination of the tax there shall be an abatement as to floor stocks upon which the tax has not been paid. In the case of floor stocks a holder other than the processor has presumably paid the tax to the processor and

the processor should not receive an abatement of the tax in such a case. Section 24 of the bill so provides.

In the case of hogs, the processing tax was increased before section 16 (e) became effective and hence, there was no floor stocks tax adjustment made when the increase took effect. In the case of the final termination of the processing tax with respect to hogs, it is desirable that the refund of floor stocks taxes upon the termination shall not be at a rate of tax exceeding that rate which was in effect at the time of the imposition of the processing tax and at which rate the floor stocks tax upon hog products was paid. Section 24 of the bill amends section 16 (e) of the act so that in such a case the refund of the floor-stocks tax will not exceed the rate at which the floor-stocks tax was paid.

MISCELLANEOUS REMEDIAL PROVISIONS

Section 15 (a) provides that upon a certification by the Secretary of Agriculture to the Secretary of the Treasury that the processing tax is preventing the use of a commodity in connection with the manufacture of low-value products, there may be such suspension or refund of the taxes paid or payable as will prevent the reduction in consumption caused thereby. Since the provision does not provide for credits, a processor who is entitled to a remission of taxes, which under its terms are already owing, would have to pay the tax and then await a refund. The amendment to section 15 (a) made by section 21 of the bill allows him to receive a credit instead of being limited to the former more cumbersome process.

Section 15 (a) is further amended by section 21 of the bill to entitle importers of products which have been found to be low-value products to a remission of the compensating tax which they are obligated to pay in all cases where the processing tax has been suspended with respect to the domestic product. This remedies the inadequacy evidenced by a Bureau of Internal Revenue ruling that there is no authority under the act, as it now stands, to refund compensating taxes paid upon imported cotton bags, even though a certificate has issued directing a refund of the tax paid on the cotton used in the manufacture of such bags. It seems clear that Congress did not intend to have imported products bear a compensating tax in cases where similar domestic products are not liable to the processing tax. The bill, in addition, provides for the refund of such compensating taxes as have already been paid, and abatement of amount where the taxes have not yet been paid.

Section 21 of the bill also contains a provision to take care of a situation with respect to large cotton bags which has caused a great deal of complaint on the part of the manufacturers of these products. On June 12, 1934, when the Secretary issued his first certificate under section 15 (a), effective June 13, 1934, with respect to the amount of cotton used in the manufacture of large cotton bags, that section of the act only permitted an abatement or refund of taxes assessed or paid after the date of the certificate. Subsequent to June 12, 1934, and before the issuance of the second certificate on July 7, 1934, some large cotton bags were manufactured from cotton materials on which the tax was paid prior to June 13, 1934.

In the meantime, on June 26, 1935, the Flannagan amendment was passed, greatly expanding the scope of the measures which the Sec-

retary could undertake pursuant to section 15 (a), and among other things permitting the refund of taxes paid prior to the date of certification.

The result was that with respect to some bags manufactured between June 13 and July 7, 1934, both inclusive, the tax paid on the amount of cotton used in the manufacture of those bags was subject to refund and with respect to others it was not subject to refund. Section 21 of the bill in specific terms seeks to remedy the inequitable result to large cotton bag manufacturers caused by the wording of section 15 (a) before it was revised by the Flannagan amendment.

Section 17 (a) of the present act, which deals with exportations, provides for a refund only. Section 27 of the bill provides that a credit may be allowed in the case of exported articles processed wholly or partly from a taxed commodity.

Section 19 (b) of the present law provides for an extension of not exceeding 180 days of time within which taxes covered by any return shall be paid. Where a processor obtains such a 6 months' extension and where products processed by him are subsequently exported or delivered to charity, the exporter or person delivering to charity frequently has to wait a substantial length of time for his refund due to the fact that the tax has not been paid. The processor, of course, has collected the tax from his vendee. It has been suggested that this situation might be remedied by requiring that a processor pay with his return a proportion of the tax from which refunds could be made to exporters and persons delivering to charity. The proposed amendment to section 19 (e) contained in section 28 of the bill, will require that one-fourth of the tax be paid at the time of the filing of the return and it is estimated that this one-fourth will be sufficiently large to permit the prompt payment of refunds.

One of the difficulties which persons entitled to charitable or export refunds have had under the present act has been the difficulty of proving that the processing tax upon the processing of the commodity from which the article is made has been actually paid. This is particularly burdensome when the commodity has passed through a number of hands before being made into the particular article. The bill proposes to remedy this situation by the addition to the act of a new subsection (sec. 21 (g)) which will presume the payment of the processing tax for the purpose of the refund upon a statement by the applicant that he has no knowledge that the tax has not been paid.

Section 15 (e) of the present act requires clarification in one important particular. It provides, broadly, that compensating taxes be levied upon articles imported into the United States for which processing taxes are in effect, and specifies that the amount of the compensating tax be equal to the amount in effect with respect to the "domestic processing of such commodity". Since it is possible under the act to have more than one rate of tax in effect on the processing of any commodity, depending upon the use for which the specific processing prepares commodity, the provision is verbally defective, although the legislative intent seems clear. Where one or more distinct processing tax rates are in effect with respect to any one commodity, the schedule of compensating tax should be similarly diversified in accordance with the specific use to which the commodity has

been put or the article created. Section 23 of the bill accordingly specifies that the rate of the compensating tax be equivalent to the rate in effect "with respect to domestic processing of such commodity into such an article."

CERTAIN REFUNDS PROHIBITED

Section 29 of the bill proposes to add to the act a new section (sec. 21 (a)), which prohibits the bringing of suits for refunds or credits of any taxes paid under the act prior to the adoption of the amendment. It is further provided that except pursuant to a final judgment or decree entered prior to the adoption of the amendment no refund or credit of any taxes paid or accrued prior to the adoption of the amendment shall be made or allowed. However, it is specifically provided that the foregoing provisions shall not apply to (1) overpayments resulting from errors in computations of the tax; (2) duplicate payments of the tax; and (3) refunds or credits under subsection (a) or (c) of section 15, or under section 17 of the act. The practical effect of this provision will be to prevent any refunds of taxes already collected upon the ground that the act or the actions of the Secretary thereunder are illegal. The justification for such a provision denying refunds is found in the fact that the taxes paid have been passed on to the consumer. The constitutional basis for such a provision is found in the power of the United States at any time to assert its sovereign right not to be sued.

Section 29 also proposes to add a new subsection 21 (d), prohibiting refunds or credits of any tax under this title accruing subsequent to the date of this amendment, unless the claimant establishes that he has neither passed the tax on, nor passed it back to the producer, or that he has repaid it, or that the person actually bearing it has consented in writing to the refund. This provision, however, does not apply to refunds on low-value products, nor to floor stocks, nor export refunds. This provision is aimed to deny refunds to those who have not themselves borne the tax.

INJUNCTIONS AND DECLARATORY JUDGMENTS

Section 29 contains a proposed new section to the act (sec. 21 (b)), which specifically denies the right to enjoin or restrain the collection of any tax under the act imposed after the date of adoption of the amendment, or to obtain a declaratory judgment in connection with any such tax. The purpose of this amendment is to prevent the difficulties and embarrassments to the administration of the act which such actions cause and to confine the taxpayer to the usual and orderly procedure of paying the tax and then suing for refund.

VALIDATION OF TAXES

Section 29 of the bill adds a new subsection (sec. 21 (c)) specifically legalizing and ratifying the assessment and collection of all taxes prior to date of the adoption of this amendment. The effect of this ratifi-

cation is to give to all of the taxes which have been levied and collected precisely the same effect as if each such tax had been specifically fixed in the Agricultural Adjustment Act on May 12, 1933. The provision carries with it the validation of all proclamations and certificates of the Secretary of Agriculture or the President and of all regulations adopted by the Secretary of Agriculture with the approval of the President. The purpose of this amendment is to make Congress itself the enactor of the tax rate, and thereby meet any possible contention that the initial exercise of power by the Secretary of Agriculture or by the President involved the unlawful delegation of legislative power. Legislative precedent for such a provision is found in the ratification of the unauthorized imposition of the Philippine tariff. This act of Congress was held to be constitutional in the case of *United States v. Heinszen* (1907), 206 U. S. 307.

LIMITATIONS

Section 29 of the bill also contains two new sections (sec. 21 (e) and (f)), establishing a limitation of time of 1 year for the filing of claims for refunds under sections 15, 16, and 17, and making the provisions of section 3226, Revised Statutes, applicable to all suits to recover taxes which accrued subsequent to the date of the amendment. The present provision of section 15 (c), which allows only a 6 months' period of limitation, is stricken out by section 22 of the bill as the new provision will be applicable to charitable as well as other refunds.

IMPORTS

Efforts to restore agricultural prices in this country will not be wholly successful if competitive foreign imported articles are allowed to take the domestic market away from the domestic products. To obviate that danger and to provide the necessary flexibility in order that whatever restriction of imports is required may not be absolute and may be adjusted to meet the situations as they arise the bill (sec. 30) adds a new section to the Agricultural Adjustment Act (sec. 22) authorizing certain limitations on imports in connection with the agricultural adjustment program. Whenever the President has reason to believe that any article or articles are being imported or are likely to be imported under such conditions and in sufficient quantities to render ineffective or materially interfere with any operation or program under the act, he is to order an investigation to determine these facts. The United States Tariff Commission is to conduct the investigation and is to give precedence to such investigations. The investigation is to be made after such notice and hearing and subject to such regulations as the President specifies.

If the President finds the existence of the facts required, after the investigation and report to him, he is to direct that the article or articles causing such situation shall be imported subject to such terms and conditions, such limitations on quantity, or the payment of such compensating taxes as he finds necessary to prescribe so that the entry of the things specified will not render or tend to render ineffective or materially interfere with the operation or program. If com-

pensating taxes are levied, they are to become available for expenditure under the act, and they are not to be in substitution for the processing tax on imported articles imposed under the present law. The President's decision on facts is final, the Secretary of the Treasury is required to carry out the order of the President, and the President, after investigation and finding, may suspend, revoke, or modify an order issued under the section.

3 This section has been very carefully considered in its constitutional aspects and has been drafted to conform to requirements of such legislation as laid down in the case of *J. W. Hampton, Jr., & Co. v. United States* (1928) 276 U. S. 394 which upheld the flexible tariff. The legislative justification for using the device contained in the section is the same as in the case of the flexible tariff. Congress cannot now ascertain and provide specifically for the varieties of circumstances under which and the commodities the importation of which will endanger the effort to attain parity price. Accordingly, under limitations, it can confer the power to ascertain the requisite facts and provide what shall be done when they are found. In all respects—finding, investigation, action, and termination of action, this provision has the practical and constitutional support of the flexible tariff.

COOPERATION WITH STATES

Section 17 adds to the section of the present act which gives the Secretary of Agriculture miscellaneous powers a new subsection which is designed to provide for cooperation between the Secretary and State agencies. This power probably exists under the present law, but it is deemed advisable to make specific provision for it. The new subsection authorizes, but does not require, the Secretary to confer and hold joint hearings with, cooperate with, avail himself of the services, records, and facilities of, duly constituted State and Territorial authorities, and to issue orders under the provisions of section 8 (c) of the act complementary to orders or other regulations issued by the State authorities. This authorization is to further carry out the declared policy of the title and looks to securing voluntary uniformity in the formulation, administration, and enforcement of State and Federal programs relating to the regulation of the production, handling, marketing, and sale of agricultural commodities and their products.

The Secretary is also authorized to make available to the State authorities records and facilities of the Department of Agriculture. Information furnished to the Secretary pursuant to the books and records section inserted in the present act by the bill is to be made available to such authorities only to the extent that such information is relevant to transactions within their jurisdiction. The authorities are required to agree that the information furnished them shall be kept confidential in a manner similar to that required of Federal officers and employees under the books and records provisions.

Notwithstanding the authorization of cooperation contained in the section there is nothing in it to permit or require the Federal Government to invade the field of the States, for the limitations of the act and

the Constitution forbid Federal regulation in that field, and this provision does not indicate the contrary. Nor is there anything in the provision to force States to cooperate. Each sovereignty operates in its own sphere but can exert its authority in conformity rather than in conflict with that of the other.

MISCELLANEOUS

Section 14 strikes out the provision of section 9 of the Agricultural Adjustment Act which defines the processing of peanuts to mean the cleaning, polishing, grading, shelling, crushing, or other processing thereof. The effect of the repeal of this provision is to apply the residual definition of processing contained in section 9 (d) (8) in such cases. That provides that processing means any manufacturing or other processing involving a change in the form of the commodity or its preparation for distribution or use as defined by regulations of the Secretary of Agriculture and in prescribing such regulations the Secretary is to give due weight to the customs of the industry.

Section 15 adds a provision to section 10 (b) of the Agricultural Adjustment Act which authorizes the Secretary of Agriculture to utilize the services of State and local committees and associations of producers. The amendments permit the Secretary to utilize cooperative associations of producers in connection with the distribution of rental or benefit payments or payments for expansion of domestic or foreign markets. This section of the bill also requires the Secretary to accord such recognition and encouragement to cooperative associations owned or controlled by producers as will be in harmony with the policy toward them set forth in existing acts of Congress and will tend to promote efficient methods of marketing and distribution. It is not intended by this language to discriminate against other handlers, processors, or dealers, but it has been found from experience that the participation by local committees and associations of producers has been of material value in administering the program.

Section 20 (a) amends section 13 of the present act so that the termination of the taxes on sugar beets and sugarcane, and the powers vested in the President and the Secretary of Agriculture with respect to sugar beets and sugarcane in the Agricultural Adjustment Act, is postponed from May 9, 1937, to December 31, 1937.

Section 32 makes certain existing appropriations available to the Secretary of Agriculture for use by him in experimentation and efforts to eradicate Bang's disease in cattle. Under the Jones-Connally Cattle Act passed last year and the appropriation in pursuance of it, the Secretary was authorized to spend money to eradicate this disease and to eradicate tuberculosis in cattle. The proposed section provides that the Secretary shall use as much as he deems advisable of the remainder of that fund for experiments in developing cures of or prevention of infection by Bang's disease. The appropriation was originally available until December 31, 1935, and by this new section is available for the original purpose as well as for the new purpose specified in the section until December 31, 1937.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in the Agricultural Adjustment Act made by the bill are shown as follows: Existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman.

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress—

(1) **[To]** *Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base [period] period; and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments, and tax payments during the base period.* The base period in the case of all agricultural commodities except tobacco shall be the pre-war period, August 1909–July 1914. In the case of tobacco, the base period shall be the postwar period, August 1919–July 1929.

[(2)] To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets. **]**

[(3)] To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmers, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914. **]**

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.

SEC. 8. **[I]**n order to effectuate the declared policy, the Secretary of Agriculture shall have power—

(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments; **]**

(1) *Whenever the Secretary of Agriculture has reason to believe that:*

(a) The current average farm price for any basic agricultural commodity is less than, or is likely during the current or next succeeding marketing year for such commodity to be less than, the fair exchange value thereof, and

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title, and that the exercise of any one or more of such powers would be administratively practicable, he shall cause an immediate investigation to be made to determine such facts. If upon the basis of such investigation, the Secretary finds the existence of such facts, he shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of such investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

- (2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods,
- (a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and
- (b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.
- (3) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:
- (a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;
- (b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;
- (c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.
- (4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:
- (a) The current average farm price for such commodity is not less than, and is not likely during the current or next succeeding marketing year for such commodity to be less than, the fair exchange value thereof, or
- (b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title or that the exercise thereof would not be administratively practicable,
- he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such finding is made and prior to a new finding under subsection (1) of this section.
- (5) In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.
- (6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection hogs and field corn may be considered as one commodity.
- [and, in]** (7) In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall **[to]** make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.
- (8) In the case of rice, the Secretary of Agriculture, in exercising the **[discretion]** power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to **[this section]** such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of **[the Act]** this title, that the producer may pledge for pro-

duction credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

(9) Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing[.] but no deduction may be made for interest.

NOTE.—The above amendments are made by section 2 of the bill.

* * * * *
[SEC. 8. (2)] [(2)] SEC. 8b. [After] *In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others, engaged in the handling of any agricultural commodity or product thereof, in the current of interstate or foreign commerce, [or in competition with,] or so as directly to burden, obstruct, or [in any way] affect, interstate or foreign commerce. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this Act. For the purpose of carrying out any such agreement the parties thereto shall be eligible for loans from the Reconstruction Finance Corporation under section 5 of the Reconstruction Finance Corporation Act. Such loans shall not be in excess of such amounts as may be authorized by the agreements.*

NOTE.—The above amendments are made by section 4 of the bill.

* * * * *
[SEC. 8] [(3)] *To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions, not in conflict with existing Acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof. The Secretary of Agriculture may suspend or revoke any such license, after due notice and opportunity for hearing, for violations of the terms or conditions thereof. Any order of the Secretary suspending or revoking any such license shall be final if in accordance with law. Any such person engaged in such handling without a license as required by the Secretary under this section shall be subject to a fine of not more than \$1,000 for each day during which the violation continues.]*

ORDERS

SEC. 8c. (1) *The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others, engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, the handling of such agricultural commodity, or product thereof, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect, interstate or foreign commerce in such commodity or product thereof.*

COMMODITIES TO WHICH APPLICABLE

(2) *Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof, or to any regional, or market classification of any such commodity or product (except products of naval stores): Milk, fruits (including pecans and walnuts but not including apples and not including fruits for canning), tobacco, vegetables (not including vegetables for canning), and naval stores as defined in the Naval Stores Act. As used in this section, the term "vegetables" includes soybeans.*

NOTICE AND HEARING

(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

FINDING AND ISSUANCE OF ORDER

(4) After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this title with respect to such commodity.

TERMS—MILK AND ITS PRODUCTS

(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

(A) Classifying milk in accordance with the form in which it is ultimately used or consumed, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: Provided, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section: or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered: subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk sold by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection (5), providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) hereof.

(D) In order to accomplish the purposes set forth in paragraph (A) of this subsection (5), providing that all handlers shall pay the price specified in such order for milk utilized for manufacturing purposes for all milk delivered to them by producers who were not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, for the period of ninety days from and after the commencement of deliveries by such producers, respectively.

(E) Providing for the verification of weights, sampling, and testing of, and security for the payment for, milk purchased.

(F) Nothing contained in this subsection (5) is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance

with the contract between the association and its producers: *Provided, That it shall not sell milk or its products to any handlers for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection (5) for such milk.*

TERMS—OTHER COMMODITIES

(6) *In the case of fruits (including pecans and walnuts but not including apples and not including fruits for canning) and their products, tobacco and its products, vegetables (not including vegetables for canning) and their products, and naval stores as defined in the Naval Stores Act, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:*

(A) *Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets during any specified period or periods by all handlers thereof.*

(B) *Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.*

(C) *Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets during any specified period or periods shall be equitably apportioned among all of the handlers thereof.*

(D) *Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.*

(E) *Establishing, or providing for the establishment of, reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.*

(F) *Fixing, or providing methods for fixing, minimum prices at which any such commodity or product, or any grade, size, or quality thereof, shall be purchased by the first handlers subject to such order: Provided, That such first handlers, as a group, purchase or otherwise acquire not less than 50 per centum of the total quantity of the commodity or product covered by such order directly from producers or associations of producers.*

TERMS COMMON TO ALL ORDERS

(7) *In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more terms and conditions:*

(A) *Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.*

(B) *Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which, among other things, shall include the powers:*

(i) *To administer such order in accordance with its terms and provisions;*

(ii) *To make rules and regulations to effectuate the terms and provisions of such order;*

(iii) *To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and*

(iv) *To recommend to the Secretary of Agriculture amendments to such order.*

No person acting as a member of an agency established pursuant to this paragraph (B) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

(C) *Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order.*

ORDERS WITH MARKETING AGREEMENT

(8) *Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order.*

ORDERS WITH OR WITHOUT MARKETING AGREEMENT

(9) (A) *Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof covered by such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:*

(1) *That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and*

(2) *That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, or by producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market during such period.*

MANNER OF REGULATION AND APPLICABILITY

(10) *No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.*

REGIONAL RULE

(11) (A) *No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.*

(B) *Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.*

(C) *All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.*

COOPERATIVE ASSOCIATION REPRESENTATION

(12) *Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary may consider the approval or disapproval by any cooperative association of producers,*

bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

RETAILER AND PRODUCER EXEMPTION

(13) (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this title shall be applicable to any producer in his capacity as a producer.

VIOLATION OF ORDER

(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: Provided, That no person shall be convicted under this title because of any violation of any order or of any obligation imposed in connection therewith, if such violation occurs between the date upon which such person files with the Secretary a petition, with respect to such order or obligation, as provided for in subsection (15), and five days after the Secretary enters a ruling thereon.

PETITION BY HANDLER AND REVIEW

(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, is hereby vested with jurisdiction in equity to review such ruling provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. Nothing contained in this subsection (15) shall be construed to prevent, hinder, or delay the United States or the Secretary of Agriculture from pursuing the remedies provided for in section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

TERMINATION OF ORDERS AND MARKETING AGREEMENTS

(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, as specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, provided that such majority have during such representative period produced for market more than 50 per centum of the volume of such commodity produced for market during such period, but such termination shall be effective only if announced on

or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

PROVISIONS APPLICABLE TO AMENDMENTS

(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders.

NOTE.—The above amendments are made by section 5 of the bill.

* * * * *
[SEC. 8.] [(4) To require any licensee under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such systems of accounts, as may be necessary for the purpose of part 2 of this title.]

BOOKS AND RECORDS

SEC. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, and for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

DETERMINATION OF BASE PERIOD

SEC. 8e. In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the post-war period, August 1919–July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture.

NOTE.—The above amendments are made by section 6 of the bill.

* * * * *

[SEC. 8.] [(5)] *SEC. 8f.* No person engaged in the storage in a public warehouse of any basic agricultural commodity in the current of interstate or foreign commerce, shall deliver any such commodity upon which a warehouse receipt has been issued and is outstanding, without prior surrender and cancellation of such warehouse receipt. Any person violating any of the provisions of this subsection shall, upon conviction, be punished by a fine of not more than \$5,000, or by imprisonment for not more than two years, or both. **[The Secretary of Agriculture may revoke any license issued under subsection (3) of this section, if he finds, after due notice and opportunity for hearing, that the licensee has violated the provisions of this subsection.]**

NOTE.—The above amendments are made by section 7 of the bill.

* * * * *

SEC. 8a. (1) Having due regard to the welfare of domestic producers and to the protection of domestic consumers and to a just relation between the prices received by the domestic producers and the prices paid by domestic consumers, the Secretary of Agriculture may, in order to effectuate the declared policy of this Act, from time to time, by orders or regulations—

(A) (i) Forbid processors, **[handlers]** *persons engaged in the handling* of sugar, and others from importing sugar into continental United States for consumption, or which shall be consumed, therein, and/or from transporting to, receiving in, processing or marketing in, continental United States, and/or from processing in any area to which the provisions of this title with respect to sugar beets and sugarcane may be made applicable, for consumption in continental United States, sugar from the Virgin Islands, the Philippine Islands, the Canal Zone, American Samoa, the island of Guam, and from foreign countries, including Cuba, respectively, in excess of quotas fixed by the Secretary of Agriculture, for any calendar year, based on average quantities therefrom brought into or imported into continental United States for consumption, or which was actually consumed, therein, during such three years, respectively, in the years 1925–1933, inclusive, as the Secretary of Agriculture may, from time to time, determine to be the most representative respective three years, adjusted, together with the quotas established pursuant to paragraph (ii), (in such manner as the Secretary shall determine) to the remainder of the total estimated consumption requirements of sugar for continental United States, determined pursuant to subsection (2) of this section, after deducting therefrom the quotas for continental United States, provided for by paragraph (B) of this subsection: *Provided, however,* That in such quotas there may be included, in the case of the Virgin Islands, the Philippine Islands, the Canal Zone, American Samoa, and the island of Guam, direct-consumption sugar up to an amount not exceeding the respective quantities of direct-consumption sugar therefrom brought into or imported into continental United States for consumption, or which was actually consumed, therein during the year 1931, 1932, or 1933, whichever is greater, and in the case of Cuba, direct-consumption sugar up to an amount not exceeding 22 per centum of the quota established for Cuba: *And provided further,* That any imported sugar, with respect to which a drawback of duty is allowed, under the provisions of section 313 of the Tariff Act of 1930, shall not be charged against the quota established by the Secretary of Agriculture hereunder for the country from which such sugar was imported, and the Secretary of Agriculture may, by orders or regulations, readjust any quota subject to the provisions of this section, except quotas fixed by paragraph (B) of this subsection; and may allot (or appoint an officer, including the Governor General of the Philippine Islands for that area, in his name to allot) any quota, and readjust any such allotment, from time to time, among the processors, **[handlers]** *persons engaged in the handling* of sugar and others; and/or

(ii) Forbid processors, **[handlers]** *persons engaged in the handling* of sugar, and others from transporting to, receiving in, processing or marketing in, continental United States, and/or from processing in the Territory of Hawaii or Puerto Rico for consumption in continental United States, sugar from the Territory of Hawaii or Puerto Rico, in excess of quotas fixed by the Secretary of Agriculture, for any calendar year, based on average quantities therefrom brought into continental United States for consumption, or which was actually consumed, therein during such three years, respectively, in the years 1925–1933, inclusive, as the Secretary of Agriculture may, from time to time, determine to be the most representative respective three years, adjusted, together with the quotas established pursuant to paragraph (i), (in such manner as the Secretary shall determine) to the remainder of the total estimated consumption requirements of sugar

for continental United States, determined pursuant to subsection (2) of this section, after deducting therefrom the quotas for continental United States, provided for by paragraph (B) of this subsection: *Provided, however*, That in such quotas there may be included direct-consumption sugar up to an amount not exceeding the respective quantities of direct-consumption sugar therefrom brought into continental United States for consumption, or which was actually consumed, therein during the year 1931, 1932, or 1933, whichever is greater, and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such allotment, from time to time, among the processors, [handlers] *persons engaged in the handling of sugar, and others; and/or*

(B) Forbid processors, [handlers] *persons engaged in the handling of sugar, and others from marketing in, or in the current of, [or in competition with,] or so as directly to burden, obstruct, or [in any way] affect, interstate or foreign commerce, sugar manufactured from sugar beets and/or sugarcane, produced in the continental United States beet-sugar-producing area, the States of Louisiana and Florida, and any other State or States in excess of the following quotas, for any calendar year, except as provided for in subsection (2) of this section: United States beet-sugar area, one million five hundred and fifty thousand short tons raw value; the States of Louisiana and Florida, except as may be provided under paragraph (C) of this subsection, two hundred and sixty thousand short tons raw value; and the Secretary of Agriculture may, by orders or regulations, allot such quotas and readjust any such allotment, from time to time, among the processors, [handlers] persons engaged in the handling of sugar, and others; and/or*

(C) For any calendar year, determine the quota, but not less than the quota provided in paragraph (B), for any area producing less than two hundred and fifty thousand long tons of sugar raw value during the next preceding calendar year; and/or

(D) Establish a separate quota or quotas for edible molasses and/or sirup of cane juice produced in continental United States, in addition to, and/or for edible molasses, sirups, and sugar mixtures produced in any other area or areas to which this title relates, as part of or in addition to, the quotas established pursuant to paragraphs (A) to (C), inclusive, of this subsection, for use as such and not for the extraction of sugar.

NOTE.—The above amendments are made by section 8 of the bill.

* * * * *

[SEC. 8a] (6) The several district courts of the United States are hereby vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, the provisions of this section, or of any order, regulation, or agreement, [or license] heretofore or hereafter made or issued pursuant to this title, in any proceeding now pending or hereafter brought in said courts.

NOTE.—The above amendments are made by section 9 of the bill.

* * * * *

(SEC. 8a) (7) Upon the request of the Secretary of Agriculture, it shall be the duty of the several district attorneys of the United States, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to, this title. *Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this title, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.*

NOTE.—The above amendments are made by section 10 of the bill.

PROCESSING TAX

SEC. 9. (a) To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency, there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that [rental or benefit payments] *any one or more payments authorized to be made under section 8 are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next follow-*

ing the date of such proclamation; except that (1) in the case of sugar beets and sugarcane, the Secretary of Agriculture shall, on or before the thirtieth day after the adoption of this amendment, proclaim that rental or benefit payments with respect to said commodities are to be made, and the processing tax shall be in effect on and after the thirtieth day after the date of the adoption of this amendment, and (2) in the case of rice, the Secretary of Agriculture shall, before April 1, 1935, proclaim that rental or benefit payments are to be made with respect thereto, and the processing tax shall be in effect on and after April 1, 1935. In the case of sugar beets and sugarcane, the calendar year shall be considered to be the marketing year and for the year 1934 the marketing year shall begin January 1, 1934. In the case of rice, the period from August 1 to July 31, both inclusive, shall be considered to be the marketing year. The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (b). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements. The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that [rental or benefit payments] *all payments authorized under section 8 which are in effect* are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided, That upon any article upon which a manufacturer's sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.*

NOTE.—The above amendments are made by section 11 of the bill.

* * * * *

TAX RATE GENERALLY

[SEC. 9] (b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, *plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. [; except that (1) if] If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any [particular] designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then [he] the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties [and, if]. If thereupon the Secretary [finds] determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally [,] or for any designated use or uses, [or as to any designated product or products thereof] or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and [(2)] the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression*

of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

SPECIFIC TAX RATES

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (6) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on June 1, 1935, during the period from the date of the adoption of this amendment to December 31, 1937, both dates inclusive.

SPECIFIC TAX RATE—RICE

(3) [for] For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice [], subject, however, to any modification of such rate which may be made pursuant to any other provision of this title].

ADJUSTMENT OF RATE

(4) In accordance with the formulae and standards prescribed in this title, (A) any rate of tax prescribed in paragraphs (2) and (3) of this subsection may be decreased, (including a decrease to zero) to prevent an accumulation of surplus stocks of the commodity or the products thereof to prevent such reduction in the quantity of the commodity or products thereof domestically consumed as will result in the accumulation of surplus stocks of the commodity or products thereof, or to prevent depression in the farm price of the commodity, or may be increased, or shall terminate pursuant to proclamation as provided in section 9 (a) or pursuant to section 13, and (B) after December 31, 1937 (in the case of the commodities specified in paragraph (2) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture and shall thereafter be effective. If the applicability to any person or circumstances of any tax under this title the rate of which is fixed in pursuance of this paragraph is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph, respectively) rates of tax fixed under paragraph (2) or (3) and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between tax at the rate fixed in pursuance of this paragraph and tax at the rate fixed under paragraph (2) or (3) shall not be levied, assessed, collected, or paid.

RICE—SPECIAL RULE

(5) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

SUGAR—SPECIAL RULE

(6) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (4) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value [(1)] (A) of a ton of sugar beets and [(2)] (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of

raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); [except that such rate shall not] *the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (4) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.*

WHEAT PREMIUMS

(7) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

NOTE.—The above amendments are made by section 12 of the bill.

* * * * *

[SEC. 9.] (c) For the purposes of part 2 of this title, the fair-exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; [and the current average farm price and the fair-exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture] *and, in the case of all commodities where the base period is the prewar period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair-exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title.*

NOTE.—The above amendments are made by section 13 of the bill.

* * * * *

(SEC. 9. (d)) [(5) In case of peanuts, the term "processing" means the cleaning, polishing, grading, shelling, crushing, or other processing thereof.]

NOTE.—The above amendment is made by section 14 of the bill.

* * * * *

(SEC. 10) (b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of [rental or benefit payments] *payments authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.*

(2) *Each order issued by the Secretary under this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.*

NOTE.—The above amendments are made by section 15 of the bill.

[SEC. 10] (e) The action of any officer, employee, or agent in determining the amount of and in making any **[rental or benefit payment]** *payment authorized to be made under section 8* shall not be subject to review by any officer of the Government other than the Secretary of Agriculture or Secretary of the Treasury.

* * * * *

(2) *The Secretary of Agriculture is authorized, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: Provided, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof.*

NOTE.—The above amendments are made by section 16 and 17 of the bill.

* * * * *

APPROPRIATION

SEC. 12. (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this title and for **[rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title]** *payments authorized to be made under section 8.* Such sum shall remain available until expended.

To enable the Secretary of Agriculture to finance, under such terms and conditions as he may prescribe, surplus reductions and production adjustments with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section (12) and to support and balance the markets for the dairy- and beef-cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000: *Provided, That not more than 60 per centum of such amount shall be used for either of such industries.*

NOTE.—The above amendment is made by section 18 of the bill.

(b) In addition to the foregoing, *for the purpose of effectuating the declared policy of this title, the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for (1) [expansion of markets and removal of surplus agricultural products] the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, [rental and benefit payments,] payments authorized to be made under section 8, and refunds on taxes.* The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection.

NOTE.—The above amendments are made by section 3 of the bill.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the

Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this title.

(d) *Amounts expended under this title which are expended for payments authorized to be made under section 8 and administrative expenses in connection with any basic agricultural commodity shall not be less than a sum equal to the proceeds of the taxes levied under this title with respect to such commodity. For the purposes of this subsection: (1) Amounts collected and expended from taxes the proceeds of which under this title are held for, or paid for use in, any possession of the United States shall not be included; (2) the amount of all refunds and abatements of taxes shall not be included, and (3) hogs and field corn may be considered as one commodity.*

NOTE.—The above amendment is made by section 19 of the bill.

* * * * *

TERMINATION OF ACT

SEC. 13. Title shall cease to be in effect whenever the President finds and proclaims that the national economic emergency in relation to agriculture has been ended; and pending such time the President shall by proclamation terminate with respect to any basic agricultural commodity such provisions of this title as he finds are not requisite to carrying out the declared policy with respect to such commodity. In the case of sugar beets and sugarcane, the taxes provided by this title shall cease to be in effect, and the powers vested in the President or in the Secretary of Agriculture shall terminate [at the end of three years after the adoption of this amendment] on December 31, 1937, unless this title ceases to be in effect at an earlier date, as hereinabove provided. The Secretary of Agriculture shall make such investigations and reports thereon to the President as may be necessary to aid him in executing this section.

NOTE.—The above amendment is made by section 20 (a) of the bill.

* * * * *

SUPPLEMENTARY REVENUE PROVISIONS

EXEMPTIONS AND COMPENSATING TAXES

SEC. 15. (a) If at any time the Secretary of Agriculture finds, upon investigation and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, considering the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, specifying whether such result will in his judgment most effectively be prevented by a suspension of the imposition of the processing tax or a refund of the tax paid, with respect to such amount of the commodity or any product thereof as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (1) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products, and thereafter, as shall be specified in such certification, (2) the imposition of the processing tax shall be suspended with respect to such amount of the commodity as is used in the manufacture of such products until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to interested parties, revokes his certification to the Secretary of the Treasury, or (3) the Secretary of the Treasury shall refund (in accordance with the provisions of, to such persons and in such manner as shall be specified in, such certification) the amount of any tax paid (prior to the date of any revocation by the Secretary of Agriculture of his certification to the Secretary of the Treasury, upon further investigation and after due notice and opportunity for hearing to interested parties) under this title with respect to such amount of the commodity or any product thereof as is used after the date of such certification in the manufacture of such products or shall credit against any tax due and payable under this title the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles

of the kind described in such certificate; and notwithstanding the provisions of section 21, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 21, the Secretary of the Treasury shall refund any processing tax paid on or before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture dated June 12, 1934) between June 13 and July 7, 1934, both inclusive.

NOTE.—The above amendments are made by section 21 of the bill.

* * * * *

[SEC. 15] (c) Any person, including any State or Federal organization or institution, delivering any product to any organization for charitable distribution, or use, including any State or Federal welfare organization, for its own use, whether the product is delivered as merchandise, or as a container for merchandise, or otherwise, shall, if such product or the commodity from which processed is under this title subject to tax, be entitled to a refund of the amount of any tax due and paid under this title with respect to such product so delivered, or to a credit against any tax due and payable under this title of the amount of tax which would be refundable under this section with respect to such product so delivered: *Provided, however,* That no tax shall be refunded or credited under this section, unless the person claiming the refund or credit establishes, in accordance with regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury (1) that he has not included the tax in the price of the product so delivered or collected the amount of the tax from the said organization, or (2) that he has repaid, or has agreed in writing to repay, the amount of the tax to the said organization. **[No refund shall be allowed under this section unless claim therefor is filed within six months after delivery of the products to the organization for charitable distribution, or use.]** The word "State" as used in this section shall include a State and any political subdivision thereof.

NOTE.—The above amendment is made by section 22 of the bill.

* * * * *

[SEC. 15] (e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity *into such an article* at the time of importation: *Provided,* (1) That in the event any of the provisions of this title have been or are hereafter made applicable to any possession of the United States in the case of any particular commodity or commodities, but not generally, this title, for the purposes of this subsection, shall be deemed applicable to such possession with respect to such commodity or commodities but shall not be deemed applicable to such possession with respect to other commodities; and (2) That all taxes collected under this subsection upon articles coming from the possessions of the United States to which this title does not apply shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the Treasury of the said possessions, respectively, to be used and expended by the governments thereof for the benefit of agriculture. Such tax shall be paid prior to the release of the article from customs custody or control.

NOTE.—The above amendment is made by section 23 of the bill.

FLOOR STOCKS

SEC. 16. (a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with

respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

(1) Whenever the processing tax first takes effect, there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date. Such tax upon articles imported prior to, but in customs custody or control on, the effective date, shall be paid prior to release therefrom. In the case of sugar, the tax on floor stocks, except the retail stocks of persons engaged in retail trade, shall be paid for the month in which the stocks are sold, or used in the manufacture of other articles, under rules and regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

[(2) Whenever the processing tax is wholly terminated, there shall be refunded to such person a sum (or if it has not been paid, the tax shall be abated) in an amount equivalent to the processing tax with respect to the commodity from which processed.]

(2) *Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited when the tax has been paid in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: Provided, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity.*

NOTE.—The above amendments are made by section 24 of the bill.

* * * * *

[SEC. 16] (b) The tax imposed by subsection (a) shall not apply to the retail stocks of persons engaged in retail trade, held at the date the processing tax first takes effect; but such retail stocks shall not be deemed to include stocks held in a warehouse on such date, or such portion of other stocks held on such date as are not sold or otherwise disposed of within thirty days thereafter. [The] *except as to any article processed wholly or in chief value from cotton or wheat, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, held on the date the processing tax is wholly terminated.*

NOTE.—The above amendments are made by section 25 of the bill.

* * * * *

[SEC. 16] (c) (1) Any sugar, imported prior to the effective date of a processing tax on sugar beets and sugarcane, with respect to which it is established (under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury) that there was paid at the time of importation a duty at the rate in effect on January 1, 1934, and (2) any sugar held on April 25, 1934, by, or to be delivered under a bona fide contract of sale entered into prior to April 25, 1934, to, any manufacturer or converter, for use in the production of any article (except sugar) and not for ultimate consumption as sugar, and (3) any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, shall be exempt from taxation under subsection (a) of this section, but sugar held in customs custody or control on April 25, 1934, shall not be exempt from taxation under subsection (a) of this section, unless the rate of duty paid upon the withdrawal thereof was the rate of duty in effect on January 1, 1934. [The provisions of paragraph (2) of subsection (a) of this section shall not apply in the case of sugar beets or sugarcane or the products thereof.]

NOTE.—The amendment to this subsection is made by section 20 (b) of the bill.

* * * * *

[SEC. 16.] (e) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which the existing rate of the processing tax is to be increased, or decreased, that on the date such

increase, or decrease, first takes effect with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, and upon the production of any article from a commodity in process on the date on which the rate of the processing tax is to be increased or decreased, there shall be made a tax adjustment as follows:

(1) Whenever, *subsequent to June 26, 1934*, the rate of the processing tax on the processing of the commodity generally or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is decreased, there shall be credited or refunded to such person an amount equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the decrease in rate and the rate of the processing tax which would have been payable with respect to the commodity from which processed, if the processing had occurred on such date: *Provided, however*, That no such credit or refund shall be made *in the case of hogs* unless the rate of the processing tax immediately preceding said decrease is equal to, or less than, the rate of the processing tax in effect on the date on which any floor stocks tax was paid prior to the adoption of this amendment.

(2) Whenever the rate of the processing tax on the processing of the commodity generally, or for any designated use or uses, or as to any designated product or products thereof for any designated use or uses, or as to any class of products, is increased, there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the difference between the rate of the processing tax payable or paid at the time immediately preceding the increase in rate and the rate of the processing tax which would be payable with respect to the commodity from which processed, if the processing had occurred on such date.

(3) Whenever the processing tax is suspended or is to be refunded pursuant to a certification of the Secretary of Agriculture to the Secretary of the Treasury, under section 15 (a) of this Act, the provisions of subdivision (1) of the subsection shall become applicable.

(4) Whenever the Secretary of Agriculture revokes any certification to the Secretary of the Treasury under section 15 (a) of this Act, the provisions of subdivision (2) of the subsection shall become applicable.

(5) The provisions of this amendment shall be effective on and after June 1, 1934.

(f) The provisions of this section shall not be applicable with respect to rice.

NOTE.—The amendments to this subsection are made by section 26 of the bill.

* * * * *

EXPORTATIONS

SEC. 17. (a) [Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product with respect to which a tax has been paid under this title, or of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid under this title, the tax due and paid shall be refunded. The refund shall be paid to the exporter or to the consignor named in the bill of lading under which the product is exported, as determined under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury] *The consignor named in the bill of lading under which any product (if such product or the commodity from which processed is under this title subject to tax) is exported, or the exporter of such product, if the bill of lading bears the proper disclaimer by the consignor, or the manufacturer of such product, if the bill of lading bears the proper disclaimer by the consignor and the exporter, shall be entitled, upon the exportation of such product to any foreign country (or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, or the island of Guam) to the refund of the amount of tax due and paid under this title with respect to such product so exported, or to a credit against any tax due and payable under this title of the amount of tax which would be refundable under this section with respect to such product so exported.*

In the case of rice, a tax due under this title which has been paid by a tax-payment warrant shall be deemed for the purposes of this subsection to have been paid; and with respect to any refund authorized under this section, the amount scheduled by the Commissioner of Internal Revenue for refunding shall be paid, any provision of law notwithstanding.

In the case of sugar beets and sugarcane, this subsection shall be applicable to exports of products thereof to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam only if this title with respect to sugar beets and sugarcane is not made applicable thereto. The term "product" includes any product exported as merchandise, or as a container for merchandise, or otherwise.

NOTE.—The above amendments are made by section 27 of the bill.

* * * * *

[SEC. 19] (b) All provisions of law, including penalties, applicable with respect to the taxes imposed by section 600 of the Revenue Act of 1926, and the provisions of section 626 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable in respect of taxes imposed by this title: *Provided*, That the Secretary of the Treasury is authorized to permit postponement, for a period not exceeding one hundred and eighty days, of the payment of *not exceeding three-fourths of the amount of the taxes covered by any return under this title.*

NOTE.—The above amendment is made by section 28 of the bill.

* * * * *

The following new sections are added to the Agricultural Adjustment Act:

SEC. 21. (a) *No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed. The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15 or under section 17.*

(b) *No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the provisions of law made applicable by section 19 may be reserved in the court's order.*

(c) *The taxes imposed under this title, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture and or of the President by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically on May 12, 1933, by Act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.*

(d) *No refund or credit shall be made or allowed of any amount of any tax which accrued on or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless (1) the claimant establishes to the satisfaction of the Commissioner of Internal Revenue (A) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, and that he has not collected*

from the vendee any part of such amount, or (B) that he has repaid such amount to the producer or the ultimate purchaser of the article, and (C) in the case of hogs that such amount has not been deducted from the price paid to the producer, or (2) the claimant files with the Commissioner of Internal Revenue the written consent of such producer and ultimate purchaser to the allowance of the credit or refund. The provisions of this subsection shall not apply to any refund under section 15 (a), section 16, or section 17.

(e) No refund or credit shall be made or allowed of the amount of any tax, under section 15, section 16, or section 17, unless, within one year after the right to such refund or credit has accrued, a claim for such refund or credit (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund or credit, except that if the right to any such refund or credit accrued prior to the date of the adoption of this amendment, then such one-year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

(f) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax which accrued, on or after the date of the adoption of this amendment, under this title, and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax.

(g) Whenever in this title a refund of any tax is authorized to be made to any person other than the person required to pay the tax with respect to which an application for refund is made, upon statement under oath by the applicant for refund that he has no knowledge, information, or belief that such tax has not in fact been paid, then for the purpose of such refund to said applicant such tax shall be deemed to have been due from and paid by the person liable therefor. Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of the tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue. Whoever makes any false statement under oath in connection with applying for or securing such refund of any tax shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding six months, or both.

IMPORTS

SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, to determine such facts. Such investigation shall be made after such notice and hearing and subject to such regulations as the President shall specify.

(b) If, after such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by order direct that the entry into the United States of such article or articles shall, for such time as may be specified by him, be permitted subject to (1) such terms and conditions, (2) such limitations on the total quantities thereof which may be imported, or (3) the payment of such compensating taxes as he finds necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with such program or operation undertaken under this title. Any compensating tax imposed under this section shall be in addition to any tax imposed under section 15 (e) and the provisions of such section shall apply thereto.

(c) Any decision of the President as to facts under this section shall be final.

(d) Upon information of any order of the President under subsection (b), the Secretary of the Treasury shall permit entry of any article or articles specified therein only in conformity with such order.

(e) After investigation, report, and finding in the manner provided in the case of an original order, any order or provision thereof may be suspended or revoked by the President whenever he finds that the circumstances requiring the order or provision no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the provisions of this section.

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THE HISTORY OF THE UNITED STATES OF AMERICA

BY

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. BYRNS. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes more.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. BYRNS. If we expect to adjourn at anything like a reasonable date, I submit to Members on both sides of the aisle that we will have to make some sacrifices in time. We will have to come here perhaps a little earlier, and we certainly will have to sit a little later and perhaps have night sessions.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. Yes.

Mr. BOLAND. If I understand the gentleman, he is trying to advise the House that it is quite necessary for Members to stay on the floor for the next couple of weeks, I believe, to expedite these matters.

Mr. BYRNS. I think the gentleman has correctly sized up what I was trying to say and to put over.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. Yes.

Mr. BLANTON. I am unalterably opposed to the Wagner bill, but if the House with all of its good judgment and discretion can pass the N. R. A. bill with only an hour debate, does not the Speaker think that we can pass upon, and get a vote on, each one of these other 10 bills with about an hour of debate on each? Every Member of this House has his mind already made up on how he is to vote on these different measures, and, in my judgment, it would be a waste of time to devote more than an hour to general debate on each of them.

Mr. BYRNS. I do not know that I would advocate passing them in that way, but what I do say is that within the next 2 weeks this House can give these bills to which I have called attention, full consideration and act upon all of them, if we make up our minds to do it. [Applause.] I do not think there is any question but what the Members will all agree with me that the best interest of the country, as well as our own interests, physical, and otherwise, demand that we have an early adjournment. [Applause.] We ought to adjourn as quickly as we can. We will not be able to adjourn unless we make up our minds to come here and, as the gentleman from Pennsylvania [Mr. BOLAND] has suggested, keep a quorum in attendance and dispose of this business, sitting sometimes rather late in the evening. Surely we can do that for the next 2 weeks. I think I know the temper of this House; I know the individual sentiments on both sides of this chamber possibly as well as any other Member. I know how you all feel about it. I felt that all that was necessary for me to do was to show you the condition of the calendar and you will do the rest.

Mr. MAPES. Will the Speaker yield?

Mr. BYRNS. I yield.

Mr. MAPES. If expedition is the main consideration, I should like to ask the Speaker what he would think about this procedure: It has been suggested that all of these bills be put into one omnibus bill, and that we vote upon them as we did this afternoon on the tax bill, under suspension of the rules. What would the Speaker think of that procedure?

Mr. BYRNS. I assume that I think just as the gentleman does. I do not know whether the inquiry of the gentleman indicates that he would favor that in the interest of early adjournment or not, but I take it otherwise.

Mr. MAPES. No. I will say to the Speaker that I think other considerations ought to be kept in mind than speed.

Mr. BYRNS. Undoubtedly. I do not want anybody to understand that I am advocating passage of these bills without giving them the fullest consideration, but I do say that under the circumstances it is not necessary for this House, as is being demonstrated in the other body on the social security bill, to consume unnecessary time. What we should do is refrain from asking the privilege of making speeches on outside matters. [Applause.] If we will devote ourselves to the consideration of this legislation, I repeat that every

Member of this House will have the fullest opportunity to understand just what he is voting on and we can get through with the bills to which I have referred in the next 2 weeks.

The SPEAKER pro tempore. The time of the gentleman from Tennessee has again expired.

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent that the gentleman from Tennessee may have 3 additional minutes.

The SPEAKER pro tempore. Without objection it is so ordered.

There was no objection.

Mr. SABATH. Will the gentleman yield?

Mr. BYRNS. I yield.

Mr. SABATH. Is it not also of the greatest importance that the committees report out the bills as speedily as possible? There are some bills which have been before the committees for months which have not yet been acted upon. Should not the committees get busy and report those matters that are before them?

Mr. BYRNS. Of course, I am not asking any committee to report any bill until it has given such consideration as it thinks necessary, but the point is that several bills have been reported and are now on the calendar and they can be taken up while the other bills are being considered before the committees.

Mr. SNELL. Will the gentleman yield?

Mr. BYRNS. I yield.

Mr. SNELL. The gentleman referred to an adjournment within a reasonable time. Has the gentleman any definite time in mind that he would desire to make public, which he would consider a reasonable time, or would he rather leave that in abeyance?

Mr. BYRNS. I would rather leave that in abeyance. I made a prediction once that we would adjourn on June 15. I was such a poor prophet that I do not care to make any other prophecy, but I hope we can get away from here not later than the middle of July, and we can do so if we will make up our minds to attend to the legislation here on this floor. [Applause.]

Mr. RANKIN. Will the gentleman yield?

Mr. BYRNS. I yield.

Mr. RANKIN. I agree with what the gentleman has said. We ought to expedite this legislation as much as possible. The utilities bill has been before the Committee on Interstate and Foreign Commerce for more than 5 months. It has already passed the Senate. I should like to ask the gentleman from Tennessee, the distinguished Speaker, if he can give us any information or any suggestion as to when that bill is likely to come out and when we will have an opportunity to vote on it.

Mr. BYRNS. No. I have understood that it will possibly be reported the latter part of this week, but I have no information on that subject, and it is not my purpose in what I have said to complain about any committee for failure to report out any bill. The utilities bill and the bus and truck bill are two of the most important pieces of legislation that have come before the Congress in many months. We expect the committees to give fullest consideration to this legislation, because evidently we cannot do it on the floor and we must rely upon the committees to give us proper information.

Mr. RANKIN. I should like to ask the gentleman from Tennessee about the T. V. A. bill that is now tied up in the Committee on Military Affairs. I think this information would be interesting.

The SPEAKER pro tempore. The time of the gentleman from Tennessee has again expired.

Mr. ZIONCHEK. Mr. Speaker, I ask unanimous consent that the gentleman be granted 5 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. RANKIN. I want to say to the gentleman from Tennessee that Washington is full of power lobbyists who have been blocking this legislation all winter, all spring, and all summer. There are many Members of the House who are anxious to vote on it. We would like to have some in-

formation, if we can get it, as to when these two bills will come out: The T. V. A. bill and also the utilities bill which is now before the Committee on Interstate and Foreign Commerce.

Mr. BYRNS. I cannot give the gentleman any information on that subject. I hope that the committees will report out the bills at the earliest possible moment. That is all I can say.

Mr. RAYBURN. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. I yield.

Mr. RAYBURN. I should like to say for the benefit of the gentleman from Illinois [Mr. SABATH] and for the benefit of the gentleman from Mississippi [Mr. RANKIN] that there has been no unnecessary delay with reference to the holding-company bill so far as any intent on the part of the chairman or a vast majority of the committee is concerned.

Mr. RANKIN. We know that as to the chairman, I will say to the gentleman from Texas; but somebody seems to be holding this legislation up.

Mr. RAYBURN. The Committee on Interstate and Foreign Commerce, however, I think, long ago established the reputation in this House and before the country of not reporting legislation they did not fully consider. We had the securities bill before us in 1933, one of the most controversial bills ever before Congress. We were a long time on that, but we reported a bill and passed a bill that did a good job.

We had the stock-exchange bill in 1934. That was as controversial as the holding-company bill we are now considering. We considered it, we heard people on it, we took it into the full committee and into executive session, and brought forward a bill that works and does the job; and that is exactly what we intend to do with the utilities bill. I trust we will have the bill out of the committee the latter part of this week, ready as soon as the House can act on it next week.

Mr. RANKIN. That is the information I wanted from the gentleman from Texas. I hope we may get to a vote on it without delay.

Mr. RAYBURN. And I want to say this, that the bus and truck bill is ready for report by the subcommittee, or will be on Thursday, and the Committee on Interstate and Foreign Commerce for the next week or two, if we can get the opportunity, will keep the House very busy.

Mr. KVALE. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. I yield.

Mr. KVALE. It might help the Speaker to make the announcement that the fish are biting ravenously in every one of Minnesota's 10,000 sparkling lakes. [Applause.]

Mr. KNUTSON. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. I yield.

Mr. KNUTSON. I wish to question the gentleman with reference to the conference at the White House the other day at which the President is reported to have pounded the table and laid down his "must" program. Can the gentleman, or will the gentleman—I know he can if he will—will the gentleman inform the House just what part of the "must" program must be enacted before we will be permitted to adjourn?

Mr. BYRNS. I never attended a conference where the President pounded the table as the gentleman suggested.

Mr. KNUTSON. I did not mean to say that our Speaker was there.

Mr. BYRNS. And I am not undertaking to say that all these bills are on the "must" program, but a number of them, the gentleman will readily understand, must be considered before Congress adjourns. I think he himself will agree to that. Now, whether all these bills must be considered, I do not know; but what I do say is that if we are to consider these bills we must proceed with a little dispatch, for there are conference reports and various other matters which will intervene to take time of Congress. [Applause.]

Mr. KNUTSON. I agree with the gentleman.

LABOR-DISPUTES BILL

Mr. CONNERY. Mr. Speaker, I ask unanimous consent that a privileged status be given to the bill (S. 1959) to promote equality of bargaining power between employers and employees, to diminish the causes of labor disputes, to create

a national labor relations board, and for other purposes, that general debate be confined to the bill, and continue not to exceed 4 hours, to be equally divided and controlled by the gentleman from California [Mr. WELCH] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. SNELL. What is the bill?

Mr. CONNERY. It is the Wagner labor-disputes bill.

Mr. SNELL. For the present, Mr. Speaker, I object. We have a Rules Committee to take care of such matters.

SHOSHONE POWER PLANT

Mr. WHITE. Mr. Speaker, I ask unanimous consent to file a supplemental report on the bill (H. R. 6875) providing for the allocation of net revenues of the Shoshone power plant of the Shoshone reclamation project in Wyoming.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Idaho?

There was no objection.

RICHMOND, FREDERICKSBURG & POTOMAC RAILROAD CO.

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate Concurrent Resolution No. 18, which is on the Speaker's desk.

The Clerk read as follows:

Senate Concurrent Resolution 18

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate be, and he is hereby, authorized and directed in the enrollment of the bill (S. 1611) to authorize an exchange of lands between the Richmond, Fredericksburg & Potomac Railroad Co. and the United States at Quantico, Va., to make the following correction, viz: On page 5, line 22, of the Senate engrossed bill, in lieu of the numeral "4" insert the numeral "14."

The concurrent resolution was agreed to.

~~A motion to reconsider was laid on the table.~~

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT

Mr. O'CONNOR. Mr. Speaker, I call up House Resolution 230.

The Clerk read as follows:

Resolution

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of H. R. 8052, a bill to amend the Agricultural Adjustment Act, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendments under the 5-minute rule. At the conclusion of the reading of the bill for amendments the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent to amend the rule as follows: On page 1, line 4, strike out the figures "8052" and insert in lieu thereof the figures "8492."

The Clerk read the amendment as follows:

Amendment offered by Mr. O'CONNOR: Page 1, line 4, strike out the figures "8052" and insert in lieu thereof the figures "8492."

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. LEHLBACH. Mr. Speaker, reserving the right to object, and I do not contemplate objecting under certain circumstances to the unanimous-consent request, but the point occurs to me that the amendment is clearly out of order.

Mr. O'CONNOR. That is why I am asking unanimous consent to make the change. I admit it is not in order to offer the amendment.

Mr. LEHLBACH. It is to protect the procedure of the House that I make this statement. The rules provide that by motion from the floor one bill may not be substituted for another bill upon the same subject.

Mr. O'CONNOR. I agree with the gentleman.

Mr. LEHLBACH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The amendment was agreed to.

Mr. O'CONNOR. Mr. Speaker, I yield 30 minutes to the gentleman from Pennsylvania [Mr. RANSLEY].

Mr. RANSLEY. Mr. Speaker, I yield 20 minutes to the gentleman from Massachusetts [Mr. MARTIN].

The SPEAKER. The gentleman from Massachusetts [Mr. MARTIN] is recognized for 20 minutes.

Mr. ANDREWS of New York. Will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield to the gentleman from New York.

Mr. ANDREWS of New York. Mr. Speaker, I thank the gentleman from Massachusetts who has yielded to me for a half minute in order that I may make an announcement in connection with legislation affecting veterans of the World War.

The gentleman from New Jersey, Mr. SUTPHIN, on January 3 introduced a bill, H. R. 1421, in the House to waive all interest on veterans' service-compensation certificates. This particular measure seems to be the best drawn of all the bills which have been introduced to accomplish its purpose for the veterans. On Saturday I filed a petition at the Clerk's desk to discharge the Ways and Means Committee from the consideration of this bill, so that the Members will have an opportunity to vote upon it. I understand the American Legion and the Veterans of Foreign Wars are solidly behind this measure.

Mr. MARTIN of Massachusetts. The processing tax is a Roosevelt tax on the necessities of life; upon the poor man's food and clothing. It falls hardest upon the submerged millions and prevents them from seeing a little sunshine. These taxes bring poverty, distress, and despair to millions of Americans and benefits temporarily to only a small part of our farming population. In the end, the tax will be a Frankenstein to the southern and western farmers, who are being lured into a blind alley, at the end of which is destruction to the farming industry through the loss of markets both at home and abroad.

This bill not only seeks to strengthen the legal status of the processing taxes but also would bar equity suits for the recovery of such taxes which it is claimed were unlawfully assessed. Think of that. They take taxes from a man and then deprive him of the opportunity of seeking justice in courts. If such legislation can be held constitutional, I would be greatly surprised. As a matter of fact, the constitutionality doubt runs all through this legislation and is prompted through the spirit of might makes right and does not contemplate the even justice for which England and America have hitherto been noted.

A new policy of export subsidy is included in this measure. It has been only slightly debated and may have far-reaching effects on industry. Unquestionably it will for a while cause exports to be suspended. No one will care to buy goods unless urgently needed while they wait for the announcement of how much of a subsidy is to be paid. Its effect on home industries and particularly the cotton-spinning industry is quite likely to be harmful. With all his present handicaps the cotton spinner of the North and South will be obliged to compete with a foreign manufacturer getting his raw material at a cheaper figure. It may result in a two-price system and that can result only in uncertainty and unsettlement at a time when business needs most stabilization.

When the bonus to veterans was pending the President came out strongly to insist upon some method of paying the increased costs. I ask if he will take a similar position on a bill which would divert one-third of the custom receipts to an export subsidy. That will leave the Treasury \$125,000,000 at least poorer off and eventually will mean new taxes. Why not demand now, as in the case of the veterans, that the taxes be provided? Who is going to be assessed for this new adventure?

Let us look at the record of the 2 years of cotton-processing tax.

There is distress and increased unemployment in the cotton mills; many factories have closed their doors for all time and the employees have been forced upon the tender mercy of charity. And it is no small disaster to a country when an industry employing 500,000 workers and giving a livelihood in one way or another to 10,000,000 people is pushed to the brink of disaster. Hundreds of thousands of cotton-field workers and handlers of cotton have lost their employment. The suffering in some of the cotton-field sections has not been so acute at any time since the days following the close of the Civil War. The promised abundant life is a ghastly joke to these undernourished and suffering Americans. The politically minded farmers may be improved but not the real workers and the toilers of the South. They have been forced in many instances to leave their homes and in a number unparalleled in modern times have sought an opportunity elsewhere. I have read a newspaper item where it is estimated in the State of New Jersey alone there are over 100,000 former workers in the southern cotton fields on the relief rolls.

More unemployment in the cotton mills means more on the relief rolls. It means declining valuations of mill property for tax purposes, and that in turn means no hope of restored pay cuts to underpaid policemen, firemen, school teachers, and other city employees. It means declining revenues for the merchant, the baker, and the candlestick maker. In brief, I know of no better way to spread the poverty of cotton manufacturing communities than to pass this bill.

The avalanche of protests from cotton manufacturing communities a few weeks ago spurred the President to appoint a Cabinet committee to investigate the effects of the processing tax and foreign importations upon the American textile industry. Hearings were held and the industry presented its case. Weeks have passed and we have been waiting patiently for a report upon the results of that study. And before any report has been made as to whether the cotton-processing tax is for good or evil, this bill is brought in to strengthen the law and to freeze the tax. Moreover, it is brought in with the full approval of the administration or manifestly it would not be here.

Does this mean, as many suspect, that the supposed investigation of the Cabinet committee was merely for show purposes, to put the industry and its employees off their guard? Does it mean the case was tried before a hung jury? Does it mean we were licked before we started? I ask, in all earnestness, is this the kind of treatment the cotton-textile communities of this country must expect from this administration? There is one thing which the enactment of this law will do. It will tell us in no uncertain terms just where we stand in the consideration of this administration and what we can expect for the future.

New York City lately has been the scene of many food riots. Food shops have been picketed and the people have demanded prices which will permit them to live. A California city has experienced similar demonstrations. Continue this administration policy and you will find the scene enacted in every densely populated city in this country. The people who dwell in the cities are willing to pay good farm prices but they must have the earning power to pay the prices. They will not tolerate a policy which stands for high living costs and a low wage scale.

How is the poor man going to pay these high prices, when his purchasing power is at a very low level? How much food and clothing can he buy at the new wage scale recently established for relief workers by President Roosevelt, in some instances \$19 a month and varying from 23 cents an hour in towns under 5,000 population and 31.7 cents in cities in excess of 100,000 population? With 23,000,000 people being cared for through relief, the demand is not for higher prices, which further impoverish the under dog, but for increased purchasing power that he may buy these necessary goods.

The farmer can read his answer in the 22,000,000 more pounds of fish handled through New England ports in the first 3 months of this year over the same period in 1934. He can read his fate when it is realized in the same period the American people consumed 756,000,000 less pounds of beef, veal, and pork than they did in 1934.

Continue this policy of scarcity and high prices and the end is ruin to the farmer who now thinks he is being aided.

The farmer can read his future in the increased importations from foreign countries. Bleached cotton cloth rose from 6,043,845 yards in the entire year of 1934, to 10,835,284 yards in the first 3 months of 1935. Cottonseed meal and cake importations were 474,014 pounds in the first 3 months of 1934, and in the same period this year there were 35,402,698 pounds.

Butter was imported to the extent of 127,501 pounds in the first 3 months of 1934, and this year, in the same period, the importations were 8,538,140 pounds. Corn entered in the amount of 50,051 bushels in the first 3 months of last year, and for the same period this year the importations were 7,017,558 bushels. Oats in March of 1934 were imported to the extent of 153 bushels, and in March this year, 2,596,241 bushels were brought in from foreign countries.

This administration talks of expanding foreign markets and then with characteristic zigzagging does everything to stifle the expansion. In the 9 months ending April 1, the cotton exports were 3,044,240 bales less and the accumulation of cotton in the hands of the Government are over 5,000,000 bales. These figures are worthy of serious consideration. We may continue through Government manipulation to postpone the evil day of adjustment, but come it will eventually, and when it does come it will shake the very foundations of the South.

Higher prices for the American fiber than its world prices bring brighter hopes to Brazil, Egypt, and India. They can continue to expand their fields and gain a firm grip on the foreign market. Brazil alone can raise more cotton than the South is now raising and with their ships running regularly to New England, there is something for the American cotton grower to think about when he scans the horizon of the future. If he can complacently contemplate a South with a 6,000,000-bale maximum production, he should support this legislation, for that is the goal toward which we are drifting.

Mr. FISH. I would like to ask the gentleman where he got his figures.

Mr. MARTIN of Massachusetts. These are supposed to be official figures.

Mr. FISH. The figures, as I understand them, are very much below the ones I have received. The gentleman, referred to imports of oats amounting to 2,000,000 bushels.

Mr. MARTIN of Massachusetts. Two and one-half million bushels in 1 month.

Mr. FISH. My information is that the imports amounted to about 12,000,000 bushels during the year.

Mr. MARTIN of Massachusetts. They went from 153 bushels to over two and a half million in just 1 month.

These figures show that there is no surplus or overproduction in this country.

There is eternal talk of surpluses and overproduction. It is idle chatter. There are no surpluses in this country. Millions of people are clamoring for food; millions more have gone for years without the clothing absolutely necessary for decency. Instead of making their plight worse by putting the costs beyond their reach, we should devote our energies to getting them work at real wages; to increase their purchasing powers. Do this and surpluses will vanish and we will have a sustained prosperity.

In the State of Alabama, last September, to show you the need for cotton cloth, there were thousands of school children who could not go to school until the relief authorities gave the cloth necessary to properly clothe them.

The progress of the rest of the world along the road to recovery in comparison to our record shows the folly of many of the Roosevelt experiments. Fifteen countries have started back on the recovery trail, Sweden leading with a 41-

percent gain; Hungary is 33 percent ahead of 2 years ago; Italy, 31 percent; Germany, 26 percent; Japan, 17 percent; Canada, 17 percent. Only four countries are worse off than they were 2 years ago; Norway, 1 percent; Belgium, 3 percent; United States, 9 percent; and France, 16 percent.

When this legislation was brought into existence the President said frankly it was experimental, and if it proved unwise he would be the first to urge their discontinuance. The record shows plainly what is apparent to all except those who have a selfish interest, and in behalf of the American people he should discontinue a ruinous policy.

Mr. PIERCE. Will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield.

Mr. PIERCE. The country the gentleman represents has been made wealthy and prosperous by the tariff law. Does the gentleman think it is right to have a tariff law in the interest of a special group and deny it to the agricultural interests of the West?

Mr. MARTIN of Massachusetts. In reply to the gentleman, I do not believe in giving special tariff laws to any group of people. I believe in giving a tariff that will spread its benefits into the 48 States and give full protection to all of the American people. I do not believe in class legislation, I do not believe in special legislation, I do not believe in legislation that takes from one class of people and gives it to another class of people, whether they live in the North, the South, the East, or the West. That is the type of legislation now presented.

Mr. PIERCE. Is that the result of the tariff law?

Mr. MARTIN of Massachusetts. Oh, the gentleman is trying to draw a red herring across the trail.

Mr. HARLAN. Will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield.

Mr. HARLAN. The gentleman in the early part of his speech gave out some figures. I should like to ask him where he got those figures?

Mr. MARTIN of Massachusetts. They were printed in yesterday's Sunday newspapers, in a report quoted from the League of Nations.

Mr. LEE of Oklahoma. Will the gentleman yield?

Mr. MARTIN of Massachusetts. Yes.

Mr. LEE of Oklahoma. The gentleman gave the figures and said that the United States had fallen off 9 percent since 1932.

Mr. MARTIN of Massachusetts. The figures so show, taking the country as a whole.

Mr. LEE of Oklahoma. The gentleman would favor a protective tariff to keep out the importation of farm products?

Mr. MARTIN of Massachusetts. Absolutely.

Mr. LEE of Oklahoma. What would be the difference between a tariff on farm products and the processing tax?

Mr. MARTIN of Massachusetts. It is vastly different. If you put a processing tax on one industry—take cotton for instance—you put a 50-percent tax on the pay roll of that industry, and that industry is unable to bear the burden. The result is that you bring misery to great communities, you diminish purchasing power.

Mr. LEE of Oklahoma. Is not the processing tax spread out over all, the same as the tariff?

Mr. MARTIN of Massachusetts. No; I wish I had the time to go into that and explain the difference. In some instances it is spread out; where one is making novelties and has a monopoly; but in many mills in Georgia, North Carolina, and New England, where competition is keen, it cannot be passed along.

Mr. LEE of Oklahoma. Does not the gentleman think that the same argument would apply against the tariff now on manufactured articles?

Mr. MARTIN of Massachusetts. My answer is "no."

Mr. LEE of Oklahoma. Would not that be—

Mr. MARTIN of Massachusetts. I want to complete my answer. The people who work in the factories in New England, the South, and all over the country cannot compete with Japan and Czechoslovakia. They must have protection or they perish. When you pay good wages to the factory

workers you give them the purchasing power that makes it possible to buy the products of the South and the West. I do not yield any more.

Mr. Speaker, in closing, I think we should give serious consideration to the pending legislation, because it is vital. It is vital to a hundred million consumers of the country, who already are finding it impossible to pay the high prices. It is important to the farmer, and we all want a prosperous agriculture; but we do not want to ruin him while striving to give a little temporary aid. I do not believe this is a sound way to bring prosperity to the agricultural section of the country. I know it is very detrimental to 90 percent of the people. Let us go slowly with these un-American experiments. Let us stop trying to make water run up hill. Let us stop trying to do the fantastic and the spectacular, and let us give the American people a chance to live. In the last 150 years the American people have done fairly well when they had the opportunity to do so, and I believe they would again if given half a chance. What we need in this country is less experimenting and a restoration of confidence. [Applause.]

Mr. GREENWOOD. Mr. Speaker, I yield 15 minutes to myself. The gentleman from Massachusetts [Mr. MARTIN] began his discussion by saying that the Rules Committee had not discussed this particular bill in granting the rule. We had discussed the amendments offered by the Committee on Agriculture which covered all the points covered by the present bill, and a rule was granted. In the meantime the Supreme Court decision was rendered and they felt that the Committee on Agriculture should take some further time in revamping some of their amendments to make them come within the decision of the Supreme Court. Substituting the present bill with its amendments is merely granting the privilege of consideration that was granted by the first rule.

The gentleman from Massachusetts, of course, is opposed to farm relief that is based on the theory of the processing tax. I am a little surprised that a man from his part of the Nation that has used the powers of Federal taxation for more than half a century to build up manufacturing industries in New England, at a sacrifice of the consumers of the Nation of manufactured goods, should find fault with the theory of taxation which permits the Federal Government to levy a tax to bring relief to agriculture. By this bill we are not stifling production. We are doing what the manufacturers of New England and other portions of the Nation have done for many decades. We are planning a better production, a better marketing, a better distribution of farm products, so as to develop a better purchasing power in that largest group of all the American people, those who live on the farms of our Nation, so that they might buy the products from the factories. Because this tax is working there seems to be some opposition to it, but under the levying of a processing tax and paying that to the farmer who will cooperate with his Nation to curtail and plan his production there can be a better control of marketing and marketing processes and give more purchasing power to the farming class. We have raised the price of cotton from 5 cents as it was under Mr. Hoover's administration to 12 and 13 cents under this plan of agricultural relief. We have raised the price of hogs from 2½ to 7½ cents per pound and the price of wheat from 30 to 35 cents a bushel to in the neighborhood of \$1. And the farmer is now going to receive some return on his investment and his labor, then he can buy shoes and clothing and other products of the factory in New England and other parts of the country. By this processing tax we are bringing a more uniform prosperity to all the people. The gentleman will remember that the farmers for 10 or 12 years have been in a position where they could not buy the products of manufacturing.

It is true that this bill proposes to use some of the money that is raised by tariff taxation to provide a subsidy to sell the surplus abroad if found necessary. Whether it will be necessary or not will be determined by whether the processing tax will bring returns to the farmer. The use of these tariff taxes will supplement present methods if found necessary.

Mr. Wallace, before the Committee on Rules, said that they were reducing the surplus carry-over of cotton by approximately 1,000,000 bales a year.

In other words, the surplus inherited from the Republican Party by the Democratic is now being consistently reduced every year, and the price of cotton is up to around 12 cents per pound. I do not agree with the gentleman from Massachusetts that this is an unwise program or policy. It is right to solve the problems of the depression among 30,000,000 who live on the farms and give them a new hope and a purchasing power that they have not had, helping them to pay their debts and buy commodities which will promote industrial employment. Upon this foundation the hope of these 30,000,000 people for any permanent prosperity must rest, because it is the largest group of all and who are engaged in raising the raw materials that feed and clothe this Nation.

Mr. O'MALLEY. What is the sense of paying the farmers to curtail their crops when on the other hand the Department of the Interior is opening up new land to raise crops by irrigation and reclamation?

Mr. GREENWOOD. I would not divert the attention of the House to the policies of the Department of the Interior. I am not responsible for any particular project. I am arguing about the general policies of the administration of this law. The gentleman can reach his own conclusion about whether any particular project is wise or not. It does not enter into this debate.

Mr. FARLEY. Will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. FARLEY. Is it not true that the Department of the Interior is likewise buying up a great deal of submarginal land and retiring it at this time?

Mr. GREENWOOD. That is true. The Interior Department is retiring nonproductive land and helping to build up the Department of Forestry Reservation. In other words, we are engaged in a gigantic enterprise, and you can always check some one project against some other policy if you desire to do it. But this is a general principle of helping all classes that are producing farm products, to lift the prices of their products and their purchasing power, in order to help turn the wheels of industry and help all people.

Mr. DICKSTEIN. Will the gentleman yield for a question?

Mr. GREENWOOD. I yield.

Mr. DICKSTEIN. Has the gentleman's committee, or has the gentleman himself given any study to the constitutionality of this processing tax? If I am correctly informed, I feel that if the N. R. A. was unconstitutional, certainly the confiscation of property and the restraint of trade as it appears in the gentleman's own report, would seem to me to be unconstitutional.

Mr. GREENWOOD. The gentleman can take that up with the Chairman of the Committee on Agriculture after the House goes into the Committee of the Whole. I assume that that committee did study the constitutional features of this bill, because they revamped their amendments after the decision of the Supreme Court. I am sure he can give more and better information about that than a member of the Committee on Rules.

Mr. CHRISTIANSON. Will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. CHRISTIANSON. The gentleman has given some figures showing that there have been increases in prices of agricultural products, and has told us that the increases were due to a reduction in the production. Does not the gentleman concede that most of that reduction was accomplished by the weather man and not by the Democratic Party?

Mr. GREENWOOD. I am not making that concession. I would say it was a contributing factor, but, according to my mind, it was a minor contributing factor.

Mr. CHRISTIANSON. Has the gentleman considered the fact that since the crop prospects have improved the price of wheat has dropped 20 cents?

Mr. GREENWOOD. There are always seasonal variations in that, according to the future production. I would not enter into any split-penny argument on that. There are variations at all times in the year because of future production. The prospect of next crop and the manipulation of buyers frequently cause fluctuations.

Mr. CHRISTIANSON. How much actual net reduction of acreage does the gentleman think the allotment plan has accomplished?

Mr. GREENWOOD. I am making the comparison that under the Republican administration under Mr. Hoover, wheat went down to 30 cents a bushel, and now it is a dollar a bushel. I say that on a comparative basis it justifies what we have done to decrease the acreage of wheat.

Mr. CHRISTIANSON. I assume, therefore, that the gentleman would give Mr. Hoover and the Republican Party credit for the good weather which produced the good crops?

Mr. GREENWOOD. I will give them credit for one of the worst depressions that ever hit the farming class in this Nation. It happened under a high protective tariff and under a gold standard and all of the sacred policies which they have always claimed was a guaranty to prosperity.

Mr. CHRISTIANSON. I would like to remind the gentleman that the agricultural depression did not begin in October 1929, but followed the adoption of the Federal Reserve order of May 1920, when Woodrow Wilson was President of the United States, a policy which was initiated by the Federal Reserve Board which he created.

Mr. GREENWOOD. I did not yield for a speech; but we had some pretty good times after that happened, between 1920 and 1930.

Mr. CHRISTIANSON. Under Republican administrations; yes.

Mr. GREENWOOD. The gentleman can get time from his side and can discuss all he desires these policies to which he has referred.

Mr. MEAD. Will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. MEAD. The interjection of a partisan motive by the gentleman from Minnesota [Mr. CHRISTIANSON] permits me to interject this little partisan idea: I understand that the "grass roots convention" O. K'd the McNary-Haugen policy, and I understand that one of the distinguished leaders on the Republican side, candidate for President, also approves the McNary-Haugen bill. I wanted to ask the gentleman if that bill and every other similar effort to relieve agriculture was not killed under the administration of President Hoover and his immediate predecessor?

Mr. GREENWOOD. Certainly. I voted for every one of those, and a Republican President proceeded to kill them by veto.

Mr. CHRISTIANSON. Will the gentleman yield further?

Mr. GREENWOOD. I yield.

Mr. CHRISTIANSON. During the last 2 years the President of the United States and the Secretary of Agriculture have had the power to put into effect the principles of the McNary-Haugen bill, and they have not done so. Therefore, the present Democratic President is taking exactly the same position that two Republican Presidents took when they vetoed the bill.

Mr. GREENWOOD. I do not yield further.

Mr. MEAD. At least the Democratic President is taking an affirmative attitude.

Mr. GREENWOOD. The Democratic Secretary of Agriculture is putting into effect, and it is working, the contents of this bill which we are now proposing to continue with certain amendments which we think are essential.

I take it that the constituency of the gentleman from Minnesota is pretty well satisfied with the conditions as they now are compared to what they were under the former administration.

Mr. LEE of Oklahoma. If the gentleman will permit this observation, under Mr. Hoover they started out with the Farm Board and 16-cent cotton and wound up with 4-cent

cotton. This program started out with 4-cent cotton and wound up with 12-cent cotton.

Mr. CHRISTIANSON. To be fair, the gentleman should note that the price declines during the latter part of Hoover's administration which he has cited were world-wide and resulted from a world-wide depression.

Mr. GREENWOOD. Mr. Speaker, I do not yield further to the gentleman from Minnesota. I do not yield to him now and have not yielded to him for a speech. He can make his speech later on.

Mr. Speaker, I have given comparative figures showing the progress we have made in agriculture under this bill. The farmers are now able to plan on a cooperative basis with the right to sign a contract with their Government, which they certainly have the right to do under the Constitution of the United States, and where they do they are compensated for cooperating with their Government. Crop reduction is encouraged and the surplus is being controlled, even in regard to cotton. The surplus is being reduced, and the price is holding up under crop reduction.

Mr. FOCHT. Mr. Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. FOCHT. May I ask the gentleman in the matter of importation of agricultural products if he will please tell the House and tell the world how it contributes to the prosperity of the American farmer to import millions of tons of lard, millions of tons of butter, and hundreds of thousands of cattle from South America?

Mr. GREENWOOD. If my memory serves me right, we are operating under a Republican tariff at the present time, a tariff that was passed at a special session called by Mr. Hoover for the purpose, he said, of revising the tariff for the benefit of American agriculture.

Mr. FOCHT. If the gentleman will yield further, we are operating under a flexible tariff bill with a flexibility of 50 percent.

Mr. GREENWOOD. I do not recall that the President has used his powers to reduce on any of the items the gentleman has mentioned.

Mr. FOCHT. The gentleman still has not answered my question. Does the gentleman think it contributes to the happiness and prosperity of the American farmer to have this lard, this butter, and these cattle come in here in competition with his products?

Mr. GREENWOOD. I can agree with the gentleman on that, but I can say that a lot of those figures are not applicable; that farm policy has been effective in a great many places in stopping importations.

[Here the gavel fell.]

Mr. RANSLEY. Mr. Speaker, I yield 10 minutes to the gentleman from Massachusetts [Mr. GIFFORD].

Mr. GIFFORD. Mr. Speaker, must we again say to this House, and in emphatic language, that the cotton textile industry is not fighting farm relief? To say it is, is unwarranted, is insidious and false. In spite of the propaganda of the Department of Agriculture, in spite of the obstinacy of the Secretary of Agriculture, in spite of the 5,000 articles that have been issued from that Department, many of which have been strictly propaganda, tending to align one section of the country against another, the cotton textile industry is not fighting agriculture. It is high time that these unwarranted attacks upon the textile industry are terminated.

We wish the farmer success. We will join in almost any form of relief for him that would not ruin our industry. Why help one industry only to ruin another and at the same time draw a picture depicting us as against farm relief? It is unfair; it is wrong; it may lead to serious trouble.

All we ask is that the tax be not placed on the back of one industry; find a broader base. We are not complaining about the benefits paid to the farmer. Take \$100,000,000, if you please, by this bill from the customs revenues and pay it to the farmer and we shall not object. But why has Mr. Wallace been over the country attacking the textile industry? At Peoria, Ill.—think of such a speech, in which

he flatly stated that New England is opposed to the farmers' tariff! It is an absolute misstatement. Sixteen thousand farmers applauded and were made to believe it. As if the farmer already did not have all the benefits of a tariff on all agricultural products; and we want him to have it. Certainly he must be satisfied or he would have asked for more. If he needs more we would want him to have all he requires to protect him against foreign competition. Again I ask how it can be satisfying to collect this all from one industry and ruin that industry. That is the whole problem. Do not try to drag any other red herrings across this trail. We want the farmers to prosper and we shall be glad to vote for this bill if you will put in any other way of financing the cotton-processing taxes.

There is another phase of which I must speak, the moral break-down of the nations of the world has made men everywhere fearful of their own governments. There has been put into this bill a provision—and I ask you to consider it carefully—that if any taxes have been illegally collected we shall have no redress against our Government for their recovery. That is indeed a new doctrine. It does not apply to any other taxpayer in the country. The only argument you can possibly make in favor of it is that it has already been collected from the consumer, and therefore the Government should not pay it back.

We have an abundance of evidence, which has been presented week after week to the Cabinet officers in their special sessions, that the textile mills have not been able to pass that tax on and have lost a lot of money in consequence; and it is their right under the law, their moral right, to reclaim it. It is dishonest to take it away from them. Practically all of these payments of taxes were made under protest, yet now the payers are to be stripped of their lawful rights.

If it is found they were illegally collected, they should have the right of recovery, and God knows they need it. Do not go on the assumption that they have taken it out of the consuming public, because generally they have not. Do not commit another unmoral act and again deliberately violate the Constitution.

Mr. PARSONS. Will the gentleman yield?

Mr. GIFFORD. I yield to the gentleman from Illinois.

Mr. PARSONS. Naturally, of course, the gentleman would like to have the tariff for manufactured goods for New England, but the gentleman very well knows that the tariff for the protection of farm products, this being an export nation, has not worked.

Mr. GIFFORD. We will give you all the tariff you want. If you have not enough, we will give you more. We will give you all there is in this bill if you will not ruin our industry. I should like to have the gentleman take my place in New England today. I represent an industry that is being ruined, and there is no necessity for doing it. Why persist in this?

Mr. Speaker, why is it that the New England manufacturing industry is always attacked especially? Are there no industries located in Wisconsin, Pennsylvania, and many other States? The finger, however, is always pointed at New England, where exists only a small part of the manufacturing industry of this country. Why purposely destroy our textile industry?

Mr. MARTIN of Massachusetts. Will the gentleman yield?

Mr. GIFFORD. I yield to the gentleman from Massachusetts.

Mr. MARTIN of Massachusetts. I want the gentleman to have clearly in the RECORD that there is just as much industry in Illinois that shares in this as any other part of the country.

Mr. GIFFORD. Yes. But New England is always mentioned.

Mr. Speaker, we may take the floor again later, as we must do everything that is humanly possible to save our textile industry. The gentleman from Massachusetts [Mr. MARTIN] and myself are particularly affected. Why not let the burden of this tax fall upon a broader base or provide it from general revenue? The so-called "tax bill" reenacted today, was not for any one particular purpose.

Mr. PARSONS. The gentleman knows that for the last 15 or 20 years the American farmers of the Middle West and West have paid the tariff duties which have been levied for the protection of the industries in the gentleman's region.

Mr. GIFFORD. Perhaps, in a measure, but we have been very good customers of yours. When the South was down and out and could not build manufacturing plants, New England built them for it, that it might have a larger market for its cotton. We have lived in reasonable harmony ever since, until now this sectionalism feeling is brought forward. We want you to have this relief. We want you to have all there is in the bill, if you will remedy the one condition which can easily be done. Is that not fair?

Mr. KNUTE HILL. The gentleman said the farmer has been protected by the protective tariff.

Mr. GIFFORD. He is supposed to be protected.

Mr. KNUTE HILL. Will the gentleman explain how the wheat farmer was protected by the 42-cent wheat tariff when they were selling wheat for far less than that?

Mr. GIFFORD. Would he have that tariff repealed? Our industries have actually been threatened! Secretary Wallace said at Peoria that if this processing tax is defeated they will take the tariff off manufacture. Would they still retain the tariff for the farmer?

Mr. KNUTE HILL. But just explain how the wheat farmers are protected. A 42-cent wheat tariff is of no value to the farmer when we export millions of bushels. The tariff could be \$1 per bushel and of no benefit, as price on exported wheat sets price on all domestic wheat.

Mr. GIFFORD. It may not be effective, I agree with the gentleman. The "whole" question is, why make this one industry bear the tax, and bring about its ruin? That is all there is to the question.

Mr. LEE of Oklahoma. Why did not the "grass roots" convention condemn the A. A. A. then?

Mr. GIFFORD. Are we condemning the A. A. A.? No. We want you to have it. Are you people over there so blind that you cannot understand all we are criticizing is the method of collections?

Mr. LEE of Oklahoma. Where would you put the tax?

Mr. GIFFORD. Place it under the general revenues, of course.

Mr. McFARLANE. The gentleman wants a general sales tax.

Mr. GIFFORD. In whatever general tax is levied. You raised \$500,000,000 today. Take it out of that.

Mr. LEE of Oklahoma. How can the tariff do the farmers any good when we are an exporting Nation?

Mr. GIFFORD. That is not the question. All that I am objecting to is the method of the collection of this tax. Can you not get that? Are you going to allow Secretary Wallace to portray it in this unjust manner, and pay for all the propaganda stuff out of the taxpayers' money? Why should he be allowed to poison the minds of the farmers against New England? It is wrong. It will have a lasting unfavorable effect on the Nation.

Mr. McFARLANE. Will the gentleman yield?

Mr. GIFFORD. I yield to the gentleman from Texas.

Mr. McFARLANE. Have we not had that same kind of propaganda coming out of New England for years and years?

Mr. GIFFORD. No.

Mr. McFARLANE. Poisoning the rest of the country. We have heard all about the protective tariff to protect your industry and the South has heard it for years until you bled us to death and now we are tired of it.

Mr. GIFFORD. No. We had to build mills in order to manufacture your cotton. The people down there were delighted to have us do it. In general, farmers are protected today from foreign goods coming into this country exactly as the manufacturers are protected. A tariff is not required for cotton and we are glad to assist in this relief, if the collection of the tax is differently made so as not to destroy the industry itself.

[Here the gavel fell.]

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. JONES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days after the House concludes its consideration of this bill to extend their own remarks on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. JONES. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8492, with Mr. Cox in the chair.

The Clerk read the title of the bill.

The first reading of the bill was dispensed with.

Mr. JONES. Mr. Chairman, I shall yield to the gentleman from Illinois [Mr. BEAM] 45 minutes, with the understanding he will take care of those on this side who are opposed to the bill.

I now yield myself 30 minutes.

Mr. Chairman, I was a little surprised this morning to hear the gentleman from Massachusetts quoting with approval statistics furnished by the League of Nations.

This is not a partisan bill. The Committee on Agriculture for weeks has been trying to fashion a bill that would accomplish the purpose which was sought by the measure which was first enacted, a purpose which I believe is desired by all right-thinking American people. How well we have succeeded may be a matter of opinion, but I want to say that Members on both sides of the aisle, in the Committee on Agriculture, have worked earnestly. I regard this as the most important bill that that committee has ever presented to the House of Representatives.

The business of farming is the biggest individual business in America.

The farms and ranches of America include 986,000,000 acres. The total estimated value of these lands and improvements is \$31,655,000,000. This does not include the value of farm personal property and equipment, nor does it include livestock. In round numbers there are 65,000,000 cattle, 26,000,000 milk cows, 51,000,000 sheep and lambs, 61,000,000 hogs. We produce annually great quantities of corn, wheat, cotton, barley, rice, flax, and many other commodities.

There is no other business in this land comparable to it either in value, volume, or number of people affected.

Engaged directly on the farm and ranch in the United States are about 30,000,000 people. Until recent years they were almost wholly unorganized. The farmer is the last great American individualist.

Mr. FISH. Mr. Chairman, will the gentleman yield for a question?

Mr. JONES. I am sorry, but I want to finish my statement. I will yield a little later. If I get into questioning now I shall not finish my statement.

Living thousands of miles apart, producing an infinite variety of crops in widely separated areas, the farmer has been hedged about by organized groups on every side. Had there been no legislation in behalf of these groups, had there been no regulations of commerce, had there been no trade barriers and no monopolies, he would have needed no legislation. I subscribe to the doctrine here and now that we ought to have a tariff for all or a tariff for none. [Applause.] Standing on a dead level with every other citizen, he could have fought his own battles, protected his own interests, and carved his own niche in the affairs of our common country.

However, for more than a half century this country has been breaking up into groups. These groups have descended upon our State and National capitals, insisting upon legislation to protect their interests. They have insisted upon trade barriers; they have insisted upon commercial regu-

lations; they have insisted upon corporate organizations. They have secured all these privileges; they have organized vast companies and engaged in monopolistic practices.

Regardless of the merits or demerits of any of these matters, they have produced a situation and certain advantages in which the farmer could have no part. In the very nature of things the agricultural sections were bled white, with inevitable final paralysis. Just as the human body cannot properly function with a portion of it paralyzed, our economic structure is subject to the same inexorable rules. It became necessary to restore the purchasing power of the farmer if our Nation was to live and prosper.

This is the basis of the present move. It may not be—it is not—perfect. In many respects it may be crude, but it is an essential piece of machinery, and it is a short-sighted citizen who would scrap it because of apparent defects.

If these gentlemen whose sections have had some of these advantages—right or wrong, I am not going into that—can suggest a better plan, let them come in and lay it on the table, and we will talk to them; but we will not talk about backing up until they back up or present something else. [Applause.]

ACTION NECESSARY

Of course, this program is not perfect. If you will go down to the Smithsonian Institution and look at the first automobile that was built, you will find it almost has to be labeled an auto in order to be recognized as such. A man would be foolish to start anywhere in it; but did they run it into a ditch and junk it just because it was not perfect? We would not have done any of the fine things that have been done in America if we had deserted every new mechanical contrivance simply because it did not attain overnight the acme of perfection. I am proud of the fact that the Committee on Agriculture, representing the greatest industry in America, is determined to complete this circle and put every American on the same dead level of equality with every other American. [Applause.]

That is what we earnestly tried to do in this bill. Has the agricultural program accomplished anything? If you will put in deadly parallel the prices before the program started and the prices today, you will see that it has. Here are some of them:

Farm price of basic agricultural commodities

Commodity	Farm price, December 1932	Present price (May 15, 1935)
Wheat.....	31.6 cents per bushel.....	87.8 cents per bushel.
Rye.....	21.1 cents per bushel.....	62 cents per bushel.
Flaxseed.....	82.8 cents per bushel.....	1.56 cents per bushel.
Barley.....	19.3 cents per bushel.....	66 cents per bushel.
Cotton.....	5.4 cents per pound.....	12 cents per pound.
Corn.....	18.8 cents per bushel.....	\$4.8 cents per bushel.
Hogs.....	\$2.73 per hundredweight.....	\$7.92 per hundredweight.
Beef cattle.....	\$3.41 per hundredweight.....	\$6.80 per hundredweight.
Rice.....	40 cents per bushel.....	86 cents per bushel.
Peanuts.....	1.2 cents per pound.....	4.4 cents per pound.
Wholesale milk.....	\$1.26 per hundredweight.....	\$1.73 per hundredweight.
Butterfat.....	21.1 cents per pound.....	27.5 cents per pound.
Butter.....	21.3 cents per pound.....	27 cents per pound.

SEASONAL CROPS

	1932 seasonal price	1934 seasonal price
Tobacco.....	10.5 cents per pound.....	22 cents per pound.
Grain sorghums.....	19.1 cents per bushel.....	1.15 cents per bushel (May 15 price).

These increased prices were necessary to restore the purchasing power of the farmer in the interest of the common welfare of the country. This has not brought any commodity up beyond the range of a fair and just price.

BUSINESS PRACTICES

We grow used to certain things and they seem commonplace. A new practice causes comment.

It is interesting to hear business men criticize the farmers for adjusting their production when they themselves have been practicing the same thing for years and take it for granted.

No merchant buys a double stock of goods when conditions are bad; no manufacturer runs his mills full tilt when there

is no demand for the goods he is producing; no manufacturer of automobiles or implements constructs vast thousands of cars and plows which he knows he cannot sell simply because he does not believe in the doctrine of scarcity. And yet he criticizes the farmers for practicing the same policy which he would not think of abandoning in his own business, simply because overproduction would ruin his prices and bankrupt him. It will have the same effect on the farmer or anybody else. It is the A B C of business.

Through depression years industry in the main reduced its volume and largely maintained its prices. Agriculture largely maintained its volume and its prices were greatly reduced.

I have in my hand an interesting table. Let us assume that both agricultural production and industrial production were 100 percent in 1929. In 1932, agriculture had reduced her production 18 percent, while industry had reduced her production 59 percent. By what species of logic can industry criticize agriculture when industry had decreased its volume three times as much as agriculture?

What was the result of this reduction on the price structure of the two? Agricultural prices went down to 46 percent of the 1929 level, while industrial prices went down to only 79 percent. In other words, industry reduced its production nearly three times as much as agriculture, and by inverse ratio agricultural prices went down nearly three times as much as industrial prices went down. By what form of glorified logic can the business man justify the one while criticizing the other?

If industrial production had been continued at the same ratio during the depression years that agricultural volume was maintained, automobiles would probably have sold for \$100 apiece, plows would probably have sold for \$10 apiece, and other commodities in proportion. No; the whole philosophy of the agricultural adjustment program is to apply business principles to agriculture.

In spite of defects; in spite of captious criticism; in spite of violent protests by affected interests that have long profited at the expense of the farmer, many fine results have been achieved without unfairness to the other citizens of our country.

NECESSARY CHANGES

The whole reduction program was an adjustment, a deck-clearing proposition. We are now moving into the long-range program, not to abandon what we already have, but to improve it. We strike out the word "reduction" by this amendment, and we insert the word "adjustment." The processing taxes are collected and paid into the Treasury. It is a general tax. The money is paid into the General Treasury, and a similar amount is appropriated for specified purposes. Under the original program, the benefit payment could be made only for reduction. We realize that world trade is important. Any man who does not, any man who will simply cry that we have better prices and therefore do not need to pay any attention to world trade, has not half thought through this proposition. We all recognize the importance of world trade. Of course, other countries will have to recover before they can purchase our commodities in large quantities. Much of their trade during the period from 1925 to 1929 was carried on with the money that was borrowed from us. It is not of very great value if you have to furnish the money to the man who buys your commodity, but as we get out of the mist of this thing, of course, our world trade must be increased.

PURPOSES

We add to the purposes for which the funds may be used not only adjustment in production but expansion of domestic and foreign markets, a removal of surpluses, and the paying of premiums on the domestic percentage, a two-price system that is used in many countries; and the Secretary may use any or all or a combination of any or all of the various plans in carrying out the purpose of the Agricultural Adjustment Act which is simply to restore the price of the farmer's product to a parity, to the same purchasing power that he had before we got into all this trouble through which we have passed since 1929. With the processing fee

added it simply makes up that price and compels a fair price to the farmer for his product. The amendments broaden the program and fit it into the new and changing conditions.

A special fund is made available for the exportation of products of American agriculture. That may be very desirable. It certainly tallies with the program many of the critics say they are interested in. We cannot see anything wrong with that course. So long as we have trade barriers and tariffs which protect certain commodities, I cannot see any reason why that protection should not also go to the others. When a man grows a bale of cotton or a bushel of wheat, harvesting one in the hot July sun and picking the other under a blazing September sky, and carries them to market, he has a right as an American citizen to the same market conditions as any other man, and until somebody can show us a better plan I say let us ride on this train.

NONBASIC COMMODITIES

There are certain commodities classed as basic commodities; a distinct program is available for them. There are about 2,000,000 farmers engaged in the production of other commodities that do not lend themselves to the character of program that has been handled in the main as covering basic commodities. An effort was made at the time of the passage of the original act to have marketing agreements and a licensing provision to carry out those agreements so that these other commodities could be given a part of the protection in price adjustments in markets that was given to the basic commodities. The principal ones on which there seems to be an opportunity of planning something are milk and its products and fruits and vegetables. In the light of the Supreme Court decision it was thought wise to limit those products at least to the main ones until such time as we could work out a program that would meet all the requirements of the Supreme Court decision. I believe that especially on milk and its products we have succeeded in accomplishing that purpose.

ORDERS

The program for these commodities is covered by what is termed "orders" in the proposed amendments. These orders may cover only the marketing in interstate commerce of milk and its products, fruits, and vegetables, and two or three other named commodities, but do not include canned fruits and vegetables. We have undertaken to set out specifically just what these orders may and may not contain, thus furnishing a definite yardstick to guide the Department of Agriculture in making out the program under these "orders."

In reference to milk, the Secretary is given the authority to establish a minimum price to the producer. We believe this course is justified under the terms of the Supreme Court decision in the case of *Nebbia v. New York* (291 U. S. 502). In that particular case a State law fixing a minimum price to the producer as well as the resale price on the part of the handler was sustained by the Court. The Court commented on the fact that milk is an essential item of diet, that it is an excellent medium for the growth of bacteria, and that these facts necessitate safeguards in its production and handling for human consumption which greatly increase the cost of the business; that failure of producers to receive a reasonable return for their labor and investment over an extended period threatens a relaxation of vigilance against contamination; that it is a very important industry and that if price chaos is to prevail it would be difficult to maintain proper sanitary regulations in the field of production in such a way as to protect public health.

In passing on this question, the Court states that—

Neither property rights nor contract rights are absolute, for government cannot exist if the citizen may at will use his property to the detriment of his fellows or exercise his freedom of contract to work them harm. Equally fundamental with the private right is that of the public to regulate it in the common interest.

The Court also uses the following language:

The Court has repeatedly sustained curtailment of enjoyment of private property in the public interest. The owner's rights may be subordinated to the needs of other private owners whose pursuits are vital to the paramount interests of the community. The

State may control the use of property in various ways; may prohibit advertising billboards except of a prescribed size and location, or their use for certain kinds of advertising; may, in certain circumstances, authorize encroachments by party walls in cities; may fix the height of buildings, the character of materials, and methods of construction, the adjoining area which must be left open, and may exclude from residential sections offensive trades, industries, and structures likely injuriously to affect the public health or safety; or may establish zones within which certain types of buildings or businesses are permitted and others excluded. And, although the fourteenth amendment extends protection to aliens as well as citizens, a State may for adequate reasons of policy exclude aliens altogether from the use and occupancy of land.

Laws passed for the suppression of immorality, in the interest of health, to secure fair trade practices, and to safeguard the interests of depositors in banks, have been found consistent with due process. These measures not only affected the use of private property, but also interfered with the right of private contract. Other instances are numerous where valid regulation has restricted the right of contract, while less directly affecting property rights.

The Constitution does not guarantee the unrestricted privilege to engage in a business or to conduct it as one pleases. Certain kinds of business may be prohibited; and the right to conduct a business, or to pursue a calling, may be conditioned. Regulation of a business to prevent waste of the State's resources may be justified. And statutes prescribing the terms upon which those conducting certain businesses may contract, or imposing terms if they do enter into agreements, are within the State's competency.

Legislation concerning sales of goods, and incidentally affecting prices, has repeatedly been held valid. In this class fall laws forbidding unfair competition by the charging of lower prices in one locality than those exacted in another, by giving trade inducements to purchasers, and by other forms of price discrimination. The public policy with respect to free competition has engendered State and Federal statutes prohibiting monopolies, which have been upheld. On the other hand, where the policy of the State dictated that a monopoly should be granted, statutes having that effect have been held inoffensive to the constitutional guarantees. Moreover, the State or a municipality may itself enter into business in competition with private proprietors, and thus effectively although indirectly control the prices charged by them.

Again, the Court says:

The due-process clause makes no mention of sales or of prices any more than it speaks of business or contracts or buildings or other incidents of property. The thought seems nevertheless to have persisted that there is something peculiarly sacrosanct about the price one may charge for what he makes or sells, and that, however able to regulate other elements of manufacture or trade, with incidental effect upon price, the State is incapable of directly controlling the price itself. This view was negated many years ago.

I quote further:

If the law-making body within its sphere of government concludes that the conditions or practices in an industry make unrestricted competition an inadequate safeguard of the consumer's interests, produce waste harmful to the public, threaten ultimately to cut off the supply of a commodity needed by the public, or portend the destruction of the industry itself, appropriate statutes passed in an honest effort to correct the threatened consequences may not be set aside because the regulation adopted fixes prices reasonably deemed by the legislature to be fair to those engaged in the industry and to the consuming public. And this is especially so where, as here, the economic maladjustment is one of price, which threatens harm to the producer at one end of the series and the consumer at the other. The Constitution does not secure to anyone liberty to conduct his business in such fashion as to inflict injury upon the public at large, or upon any substantial group of the people. Price control, like any other form of regulation, is unconstitutional only if arbitrary, discriminatory, or demonstrably irrelevant to the policy the legislature is free to adopt, and hence an unnecessary and unwarranted interference with individual liberty.

I have quoted rather liberally from this opinion, because I believe the principles announced in the decision are controlling.

The decision of the Court sustains the price fixing on the part of the State of New York on the subject of milk. In the case of *Baldwin v. Seelig* (55 Sup. Ct. Rep. 497) the Supreme Court held that the State of New York could not constitutionally prohibit the sale within its borders of milk produced outside of the State and purchased from producers at less than the minimum prices fixed under the statute for the purchase of milk in New York. The Supreme Court held that this attempt by the State of New York to fix minimum producer prices for milk moving in interstate commerce was unconstitutional because it constituted an attempted regulation of interstate commerce.

In the case of *Lemke v. Farmers Grain Co.* (258 U. S. 50) it was held that a North Dakota statute which fixed the price to be paid for grain purchased from growers in that State was unconstitutional because the fixing of such producer prices was a regulation of interstate commerce and hence was subject to regulation only by Congress and not by the States.

The case of *Hammer v. Dagenhart* (247 U. S. 251)—the Child Labor case—for example, is not an authority against the constitutionality of the fixing of minimum producer prices for milk going into interstate commerce. In that case the Supreme Court held that the real purpose and effect of the child-labor law was to regulate the hours of labor of children in factories within States—a matter which has no relation whatever to interstate commerce.

The cases above discussed demonstrate that the purchase and sale of milk for shipment in interstate commerce is itself a part of interstate commerce. Congress is regulating a transaction which is a part of interstate commerce, not one unrelated to interstate commerce, as was the employment of child labor involved in the *Dagenhart* case. The only transaction regulated is the purchase of such milk by the distributor from the producer, and that purchase initiates the movement of milk in interstate commerce and is itself a part of interstate commerce.

In the proposed amendments we have painstakingly limited the application of orders that may be made by the Secretary to transactions in the current of interstate commerce which directly burden, obstruct, or affect interstate commerce. One phase of the definition used is approved by the Supreme Court in the case of the Chicago Board of Trade against Olson, and the other phase we believe to be authorized by the decision in the *Schechter* case.

Those are the principal things authorized by the proposed amendments, namely, allocation of the market and minimum price to the producer, and a fair division of that money to the producer without any discrimination as between different sections of the country.

Mr. ANDRESEN. Will the gentleman yield right there?

Mr. JONES. Yes; I yield.

Mr. ANDRESEN. Is there anything in the milk section of the bill which gives the Secretary authority to set up trade barriers and stop the free flow in commerce throughout the United States of dairy products?

Mr. JONES. No. There is nothing in the bill that would authorize that. The Secretary may require that in crossing from one region to another that they comply with the same conditions which the farmers and distributors comply with in that region.

Mr. ANDRESEN. That is, sanitary regulations?

Mr. JONES. Sanitary and other uniform regulations; but he cannot set up any trade barriers which would keep them out.

Mr. ANDRESEN. A great many Members have inquired about that feature, and I just wanted the gentleman to bring that out.

Mr. JONES. The amendments require a uniform price and uniform set of conditions and fair distribution. In the first place, I do not believe we could give authority to set up these barriers. In the second place, the bill does not do that. It simply enables them to have a program in one of these regions, and in developing these orders which the Secretary issues, he uses the word "region" wherever possible. Those on the outside must come into that.

Mr. CULKIN. Will the gentleman yield?

Mr. JONES. I yield briefly.

Mr. CULKIN. Under subdivision (b) on page 20, an exception is made of milk and its products. That is, the smallest regional production area shall be followed, except in the case of milk and its products.

Mr. JONES. But there is another place where it says that no order having a national application shall be issued where a regional order is practical. The reason we had to put this exception in this part as to milk was the fact that

in certain sections like the New York area there are two or three States that must be considered together in a regional application, and it may not be practicable to use the smallest region. It is subject to the requirement that if practical, the Secretary must use a regional rather than a national application.

I want to say that in reference to milk, we gave broad powers in handling the question of milk to the Secretary of Agriculture. The orders section takes the place of the old license provision, but with much more limited application.

I am very much interested to have something done for the milk producers of America. That is one of the most important groups engaged in the farming business. They have probably been about as helpless as any other group possibly could be, because they produce a perishable commodity. It is an essential food. They haul their milk to town and turn it over to somebody else, as a rule. I am going to show you some conditions that impelled the Committee on Agriculture to give full powers in the handling of milk and its products. If you will get the Federal Trade Commission's report which came out in the early part of April and see what an amazing combination has controlled the distribution of milk in the industrial centers of America, and how they have paid the farmer a mere pittance while sustaining their distribution price, you will realize that something must be done in regard to milk.

Mr. HAMLIN. Will the gentleman yield briefly?

Mr. JONES. I yield.

Mr. HAMLIN. I had before me in the office a week ago two men, both milk producers from Maine, one of them a big grange man, one of the leaders in Maine. He informed me that they were well suited with the way the milk business had been going in the State of Maine, and especially the way that it was pointing in the propositions which the Committee on Agriculture had before it. Was he justified in that?

Mr. JONES. I think we have gone as far as we can legally go in giving authority to handle this milk proposition.

Let me call attention to two things which were shown about these big milk companies. They averaged, during the depression years, 1929 to 1934, from 13- to 20-percent profit. One of the big companies, according to the report of the Federal Trade Commission, the National Dairy Products Corporation, received returns from two subsidiaries during the period 1929-34, which practically paid for the original purchase, when they were not paying the farmer enough to feed the old cow. I say that is not right. You cannot expect to have pure milk, you cannot expect to maintain sanitary conditions in the production areas if you allow those people, simply because they have the power, to charge the consumer prices that will bring about such profits as that, while they hold down what the producer is to receive.

The question of the powers conferred in connection with fruits and vegetables, and so forth, included in the terms of the proposed orders is not quite so clear. However, some of the elements involved in the milk decisions also apply to fruits and vegetables. The case is not as strong. The legality is not quite so certain. However, fruits and vegetables are of a perishable nature. The seasonal character of their production frequently causes gluts in the market which without some sort of orderly marketing arrangements produce chaos and tend to wreck the industry. There did not seem to be any other way of working out a practical program—at least no such program was presented. In order that an attempt might be made to work out a practical program for a vast and important industry, these items were included, with specific directions as to what the program might or might not include.

Mr. SAMUEL B. HILL. Will the gentleman yield?

Mr. JONES. I yield.

Mr. SAMUEL B. HILL. The committee's report, on page 1, in the second paragraph, reads:

The bill proposes to supplement the Agricultural Adjustment program by (1) providing for the so-called "ever normal granary plan"; (2) providing for payments in connection with the exportation of basic agricultural commodities and products and for

removal of quantities thereof from the normal channels of trade and providing for payments on that part of the production thereof which is for domestic consumption.

Will the gentleman briefly tell us what that provision is in the bill and how that is to be brought about?

Mr. JONES. If the gentleman will turn to the back of the report, to the page dealing with rental or benefit payments, he will find the particular section that is inserted and just how it will operate. I think he can go through that more quickly than I can explain it. That is among the enumerated purposes for which the proceeds of the processing fees may be used. The gentleman will find the new part set out in brackets, together with all of the old part of every section.

[Here the gavel fell.]

Mr. JONES. Mr. Chairman, I yield myself 10 additional minutes, and I ask not to be interrupted during this period because there are two or three things I want to cover.

I believe this measure was originally drafted so that these processing fees would be sustained, but out of an abundance of caution, or precaution, we have stipulated in the bill that the Congress enacts the processing fees as they existed on June 1. Then we provide that they may be varied, may be decreased even to zero under certain circumstances by the Secretary of Agriculture, with a further stipulation that if that second provision for variation is held unconstitutional, the other taxes immediately become and remain effective.

It is also provided in certain sections of the bill that if any of the processing fees are held unconstitutional, a recovery cannot be had by the person who paid the tax. The reason for this is that in practically no instance has the processor actually paid the tax. He physically pays the tax, to be sure, but it is passed back either to the farmer or on to the consumer; so he has sold his commodity on the basis of the processing fee and the money could not be returned to the people who would be entitled to it. That phase of the matter, therefore, is foreclosed.

A SPECIAL FUND

The bill contains another provision to the effect that 30 percent of the annual customs receipts, or rather, a sum equivalent to that, may be used in the promotion of foreign trade and for other purposes designated in the act. About 30 percent of the American people are engaged in farming. It is thought that in many instances this provision will be helpful in restoring world trade, in which we are all interested. These premiums may be paid on the products of the commodity as well as on the commodity itself; and in most instances they probably will be paid on the products of the commodity. This will help restore American trade, and in addition it may soften some of the burdens of the other parts of the processing-fee program. In other words, it may in some instances reduce some of the burdens that are occasioned by the application of the various processing-fee provisions.

Among other things, a portion of this fund may be used for the paying of the premium for exporting farm commodities or the products thereof, or for indemnifying against losses in such exportation. The use of these premiums can in some cases and under some circumstances be made to serve the double purpose of removing surpluses and of increasing the price of that portion of the production which flows into the domestic market.

As shown by the experience in other countries, the domestic price immediately rises practically the amount of the premium. For example, let us assume that the world price of cotton is 11 cents per pound. A premium of 2 cents per pound is placed upon the exportation of raw cotton. Immediately the local price becomes something near 13 cents. Otherwise it will all be purchased by exporters and sent into foreign lands. If the exporters refuse to bid up the price, the cooperatives could make a good deal of money in doing so.

In Germany, where they have for years had what is called the "Einfuhrscheine" system—an export-import certificate—the domestic price of the entire commodity was im-

mediately lifted practically the amount of the export certificate, according to Dr. Grunzell, the German writer. It has exactly the same effect that the paying of premiums on a domestic percentage through the processing fee has. In both cases the domestic spinner is protected by virtue of the fact that he gets his premium in the one case and his refund in the other when he exports the products of cotton. As a matter of fact, I would expect it to be largely used in exporting the products of the various commodities, but the exporting of the raw commodity, in my judgment, would not have anything like the effect indicated by some. At least it has not proven so in other countries.

The following countries have export premiums in varying forms: Australia, Argentina, Chile, Estonia, Finland, France, Greece, Hungary, Irish Free State, Italy, Latvia, Lithuania, Netherlands, Poland, Union of South Africa, Uruguay, and Yugoslavia. Belgium used it for many years, as did England. In practically all these countries the raw commodity as well as the finished product was included within the terms of the bounty.

I wish I might take the time to go through the various provisions of the bill, but I will not in view of the limitations we have. There is one other provision to which I wish to refer.

Mr. MOTT. Mr. Chairman, will the gentleman yield before he leaves this particular phase of the bill?

Mr. JONES. I yield for a question only.

Mr. MOTT. I was very much interested in the gentleman's discussion of the way in which the control of milk was brought within the constitutional limitations. I think his argument is very good. I was wondering, though, whether he thinks the same argument would apply to other commodities, for example, walnuts.

Mr. JONES. I think certain phases of it would apply. The gentleman understands they are not required to use all of the powers that may be conferred. I freely admit that it is less certain about walnuts and commodities of that kind, but they have a marketing agreement under which they seem to be operating with satisfaction in certain areas; and it is thought they might be able to continue at least certain of those powers. It will vary with the locality. The program will be dependent upon subsequent decisions by the Supreme Court. They could use the marketing provisions and also orders that may seem to apply to those commodities. If we did not permit many of the commodities to be included in that way, we would have to have a different set of forms for every specified commodity.

Mr. MOTT. If the gentleman has time to discuss the constitutional aspects of the law as applied to some of these other commodities, I think it would be very enlightening to the House. I want to take this occasion to compliment the gentleman on his argument.

Mr. JONES. I thank the gentleman. The gentleman will find a brief discussion in the report, and I expect to touch on those particular commodities later. I will state that some of the provisions probably cannot be applied as to certain of these commodities. The only reason we give the full powers to milk and its products is because the situation was so desperate; and the operations of some of these concerns amounted almost to the acts of highwaymen. They have been so outrageous that it seems to me we ought to try to see if we cannot bring them to account. I believe we have brought them literally within the terms of the Schechter case, followed by some of the implications in the Minnesota case, the Lemke grain case, and also the Baldwin case.

I shall not have time to go into a discussion of all the phases of the bill because of the limitation of time, but there is one other matter which I regard as important, and that is in regard to the measure of feeling with which certain gentlemen have complained of this bill. I believe if they fully understood the terms of this measure they would vote for it, even those who criticize it here today.

IMPORTS

We have included a provision covering imports to the effect that if the levy of a processing fee is causing an in-

crease in the importation of a competing commodity, that commodity may be quotaed so far as its importation is concerned, just as sugar has been quotaed. In other words, if some competing commodity is brought in in increasing quantities, authority is given to freeze the importation on the basis of previous importations and thus prevent a further destruction of the domestic market. This has proved successful in the handling of sugar. This is much more effective than the gentleman's tariff that he talks so much about because that may be nullified through a variation in the exchange value of money. I believe the situation can be controlled by a quota. If it is logical and natural to say to a farmer what he may sell, the foreign producer who exports to this country should also be put on a like quota.

Mr. SCHNEIDER. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Wisconsin.

Mr. SCHNEIDER. With reference to the proposed tariff on imports, there is a feature a good deal like that appearing in the National Industrial Recovery Act.

Mr. JONES. I am sorry. I do not have time to discuss that act. The provision is somewhat similar, though I think this one is infinitely better.

Mr. SCHNEIDER. It is very important to the consideration of this bill.

Mr. JONES. This is greatly improved over the National Recovery Act.

Mr. SCHNEIDER. Under the National Industrial Recovery Act, industry has not been—

Mr. JONES. I am sorry. I cannot yield to the gentleman further. I apologize to all the Members for not being able to yield further, because I have used 7 minutes more time than I had allowed myself.

This will give the authority to take certain action. It is mandatory only under certain circumstances. I am not going into a full discussion of the other matter, because there would be no end.

A SOUND PROGRAM

Mr. Chairman, I believe in the agricultural program. I believe in its purposes. I believe that it is in the interest of the future of America. I do not take any stock in what certain people say who are afraid our Government is going to fall or something is going wrong. I believe in the United States Government, her history, her institutions, and her purposes. Knowing the glory of her past, I believe in her future. There is too much stamina, too much character, too much industry in the background of the American people to have our country destroyed in a few years. The point is that we must keep our heads above water and keep right on working. It does not do any good to stand on the side lines and howl. We must get together, consult with one another, and work toward a program that will be fair to every citizen in this land.

Mr. Chairman, I believe the measure which we have presented here today in the form of amendments to the A. A. A. Act will go a long way toward perfecting a farm program. It will go a long way toward making it more workable and allowing for a generous supply of all commodities of the farm to be available at all times. It will contribute materially to the welfare of our country. [Applause.]

[Here the gavel fell.]

Mr. HOPE. Mr. Chairman, I yield the gentleman 1 additional minute to answer a question.

Mr. LORD. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from New York.

Mr. LORD. I should like to ask the gentleman how this bill will affect the milkshed of the city of New York. For instance, in New York there is what is called a "milkshed" set up by the board of health around New York. Beyond that territory they cannot ship into the city. What effect would this have upon that situation?

Mr. JONES. This will not have any effect on that matter, because we do not forbid the milk being shipped in. We cannot control intrastate operations. If it is wholly within the State we have nothing to do with it. The courts have held that a State cannot keep it from being shipped in from without the State. We undertake to control only the latter.

Local people will largely control the program. Within the State, of course, such laws may be enacted as the State deems proper. We do not undertake to keep them from shipping in, and we do not authorize them to ship in. We say when they ship from some other State they must ship in subject to the same regulatory measures that exist in the particular area. In many instances the States may wish to enact supplementary legislation, if they wish to make the program fully effective.

[Here the gavel fell.]

Mr. HOPE. Mr. Chairman, I yield such time as he may desire to the gentleman from Ohio [Mr. MARSHALL].

Mr. MARSHALL. Mr. Chairman, I wish there was time available to discuss the terms and conditions of this bill. As stated by the distinguished gentleman who just finished speaking, the Committee on Agriculture has spent several weeks in an earnest effort in regard to this measure. There has been much propaganda put out about this bill. I do not believe there has ever been a measure that has been less understood than has this bill; at least in its original form. There was propaganda put out that every merchant and storekeeper would be licensed under this act. Of course, there was some justification for that in its original form, but this bill has been rewritten time and time again in committee. There was propaganda, which was equally false, that the Agricultural Adjustment Act itself was under attack and that if these amendments were not passed it meant the downfall of the Agricultural Adjustment Act. Neither of those contentions was correct.

Mr. Chairman, I have stood in opposition in the past, and I still stand in opposition, to delegation of any further authority of a compulsory nature to the Secretary of Agriculture. That has been one of the things that I have been fighting against in the consideration of this bill in the Committee on Agriculture. May I say particularly to the Members on the minority side that the only particular in which I am able to determine that there is any additional authority conferred upon the Secretary is found on page 10. On that page there are named the commodities concerning which it may be truthfully said that some additional authority has been conferred.

Mr. CRAWFORD. Will the gentleman yield?

Mr. MARSHALL. I yield to the gentleman from Michigan.

Mr. CRAWFORD. Is not the Secretary's power to issue orders on those particular commodities limited to a marketing agreement first?

Mr. MARSHALL. Yes.

Mr. CRAWFORD. Which marketing agreement has to be approved by the producers of those commodities?

Mr. MARSHALL. Yes; by at least 50 percent of them. If 50 percent of the processors, regarding milk and tobacco, will not accept the marketing agreement as submitted to them, then an order may be issued by the Secretary if 75 percent of the producers ask for it. That is the extent of the additional authority that is conferred under this bill upon the Secretary of Agriculture.

When you take the bill as a whole I am willing to say there has been no further delegation of authority to the Secretary of Agriculture, because this bill sets out the terms and conditions of these marketing agreements, whereas the original act left that almost as a roving commission in the Secretary. He could put almost anything he pleased in these marketing agreements. These marketing agreements are now limited and the measure now under consideration specifies one or the other of two things that must go into these marketing agreements and none other.

So I have come to the conclusion that it cannot justly be said with respect to this measure that as a whole any further authority is conferred upon the Secretary of Agriculture.

There is also in this bill a provision that further curtails the authority of the Secretary, a provision in regard to the processing taxes. In the original act there was not much said about that, except it gave the Secretary authority to levy the processing tax; but in this measure there has been an attempt made in the rewriting of it, particularly since

the decision of the Supreme Court in the N. R. A. case, to restrict and define as nearly as possible in advance, what these processing taxes are to be. So, again, I say that in some particulars the powers conferred upon the Secretary have been restricted rather than enlarged.

In the brief time I have I want to call your attention to the part of this bill, beginning on page 49, which is about the last of the bill, section 22, dealing with imports. This is something, of course, that is not in the original A. A. A. act. There is given to the President of the United States authority to make an investigation and refer the matter to the Tariff Commission, and without reading the language of the bill I may say that it places in the President and the Secretary of Agriculture the power to stop the importation into this country of farm commodities.

Now, I hope that the President of the United States will use this part of the bill. To my mind it is the best part of the bill. The President has had authority to act along this line under existing law, but he has not yet done so; but the provisions of this bill, in my opinion, become almost mandatory upon the President of the United States when this investigation is made if he finds that the imports are doing harm to this country.

Mr. SCHNEIDER. Mr. Chairman, will the gentleman yield there?

Mr. MARSHALL. Just briefly.

Mr. SCHNEIDER. The provision in the National Industrial Recovery Act is a good deal the same as this provision and many of the industries affected, because of the increase in the cost of production, asked for the application of that tariff restriction and the imposition of a quota under that act and the request was not granted by the President. What reason has the gentleman to believe now that the President is going to accede to the request in this instance and apply the tariff to this proposition?

Mr. MARSHALL. I cannot speak for the President and I do not know whether he is going to do so or not, but I just got through expressing the hope he would use what I consider the best feature of the bill.

Mr. SCHNEIDER. I am wondering if anyone on the committee has any such assurance.

Mr. MARSHALL. Of course, the gentleman knows that I would not know about that.

Mr. SCHNEIDER. May I also call attention to the fact that the tariff on butter now is 14 cents—

Mr. MARSHALL. I only yielded for a question, and I hope the gentleman will ask his question.

Mr. SCHNEIDER. The parity price of butter now is 39 cents, and the world price, plus the processing tariff, is 28 cents, or a differential of 11 cents, and applications have been made to the President for an increase in this tariff to protect the dairy industry, and yet it has been impossible to get an increase in this tariff, and with this situation in mind, how can we expect the enforcement of this provision if the President is opposed to an increase in the tariff?

Mr. MARSHALL. I cannot give the gentleman any assurance. The gentleman knows I could not give him any assurance about what the President is going to do.

Mr. SCHNEIDER. I think the House ought to have that information if anybody here has it.

Mr. MARSHALL. The gentleman will have to ask somebody on the other side. The gentleman cannot burden me with a question of that kind. I wish I could assure the gentleman that he would use this provision of the bill.

Mr. MOTT. Mr. Chairman, will the gentleman yield for a question on that point?

Mr. MARSHALL. I would rather finish my statement first, but I yield to the gentleman from Oregon.

Mr. MOTT. Since the gentleman has expressed the hope that the President might put this provision into effect, and since we know from past experience that he will not do it, is not the gentleman of the opinion that an amendment ought to be offered making the imposition of a quota or an embargo mandatory, and write it into the bill itself?

Mr. MARSHALL. I am not going to advise the gentleman as to what kind of amendments he may offer. The gentle-

man has that privilege under the rule, and I personally would not object to it, I may assure him.

Mr. MOTT. I thank the gentleman.

Mr. MARSHALL. Now, in regard to these imports, I want to submit the following data showing the vast increase of farm-commodity imports.

CORN

In January and February of this year our corn imports were at the yearly rate of 22,000,000 bushels, as compared with 160,000 bushels in 1933.

CATTLE

In January and February of 1935 cattle imports into the United States amounted to 729,500, as compared with only 591,000 for all 12 months of the previous year. Cattle are coming into the United States at a time when up to April 18 we have spent \$111,000,000 at home to destroy cattle and to take care of the destruction of cattle. The imports were nearly 30 percent greater in 2 months than they were in all of last year.

CANNED MEATS

In January and February of this year we imported 8,390,000 pounds. If continued this would amount to 50,000,000 pounds a year of canned meats.

BUTTER

In January and February of this year we imported butter at the rate of \$4,000,000 a year, compared with \$160,000 in all of 1933 and \$183,000 in all of 1934.

OATS

We imported 3,762,000 bushels in 2 months as compared with 132,000 bushels in all of 1933.

BARLEY

We imported 1,500,000 bushels in 2 months, as compared with 24,000 bushels in all of 1933.

COTTONSEED-OIL CAKE

We imported in the first 2 months of this year at the rate of 312,000,000 pounds a year, compared with only 7,000,000 pounds in all of 1933.

It is contended that the volume of the imports that are coming in is so small when compared with the total production, that it does not mean anything, but I may say to you that the tendency is so strong and that the rate of increase of these imports is so great that you will be fooling yourselves if you do not wake up to the fact that the farmers of the United States realize the vast rapidity with which these imports are increasing into this country. I am not going to take the time to read the figures, because they have been given you.

I may say, further, in regard to the original Adjustment Act, that I think it is a little early for anyone to point to the success or failure of the act under which we have been living for a couple of years, and the reason I say this is because, as you all know, it is hard to legislate in regard to agriculture, because you have the element of nature with which to contend, and I do not believe there is anyone who can point out just how much of the increased price of farm commodities to the farmer is due to the curtailment program, under the A. A. A., and how much of it is due to the drought.

I am fearful that if we have good weather, favorable weather, for a couple of years we may again have a surplus which always breaks the price. I feel that we must look to the future, and in some way put ourselves in the position of taking care of the surplus in a manner that will not break the price, and we must curtail production to that end, until we do solve the surplus problem.

Here is another thing to which I want to call your attention. It looks to me that it would be an act of insanity to levy a process tax, which we will have to admit increases the cost of that article to the consumers of America, and at the same time permit the farmers of Europe to send their products into this country in competition with the products raised by our farmers. Under this bill the Secretary can use the fund derived from the processing tax to pay a benefit to the exporter in financing exports and 30 percent of the customs receipts can be used for that purpose also.

Mr. GILLETTE. Will the gentleman yield?

Mr. MARSHALL. I yield.

Mr. GILLETTE. Speaking of the increased power given the Secretary of Agriculture, does not the gentleman think that under the change to the word "adjustment" it is pos-

sible for the Secretary to pay for an increase in crops as well as reducing crops?

Mr. MARSHALL. Yes; he can.

Now, as to whether or not the Agricultural Adjustment Act and the levying of the processing tax is a sound proposition, I want to say that if it is not a sound proposition it will not continue to survive.

I have tried to justify the processing tax on the same line of reasoning that I always justified a protective tariff. I am one of those who used to believe and still believe in the good American principle of protection. I am trying to justify the processing tax along the same line. What is the parallel? When you levy a tariff you not only increase the price of that commodity but you increase wages for the benefit of the American workman, and he spends the money which is for the benefit of the country at large.

The processing tax is in the same situation. It increases the price to the consumer but it also increases the purchasing power of the farmer, and to that extent it is for the welfare and benefit of the country at large. I like to justify the processing tax on that theory. If you cannot do it on that I do not know on what theory it can be justified.

Mr. FULMER. Will the gentleman yield?

Mr. MARSHALL. I yield.

Mr. FULMER. In the line of what the gentleman has just said, I cannot see any difference between a processing tax and my paying 20 percent tariff tax on the shoes I have on my feet, which tax is to protect the shoe manufacturer of New England.

Mr. MARSHALL. I have said that I am trying to justify it in my mind on that same ground. So far as the constitutional question is concerned, I am not going to discuss, particularly because, after all, it will be the Supreme Court that will have to determine that question, but I do believe that the bill will come more nearly standing up under the scrutiny of the Supreme Court with the adoption of these amendments than it would have before they were adopted. I believe the bill has been rewritten in the committee with that in mind and without expressing my own opinion as to what I think the Supreme Court decision will be when the measure reaches the Supreme Court, I believe the bill's position has been strengthened along that line.

Mr. ENGEL. Mr. Chairman, will the gentleman yield?

Mr. MARSHALL. Yes.

Mr. ENGEL. One question in my mind, and perhaps in the mind of many, is this: If I understand this bill correctly, 75 percent of the farmers can ratify or sign the agreement, or two-thirds.

Mr. MARSHALL. Yes; I do not know just exactly to what part of the bill you refer. Of course, marketing agreements must be entered into purely as a voluntary proposition with 50 percent of the processors. That is the only kind of a marketing agreement possible under this law, except as to milk and its products, and tobacco. Turn to page 10; you will find the commodities to which applicable. In other words, the most controversial feature of the bill before it was rewritten was what was called the imposed license.

This bill has no imposed license feature, but it does grant authority for the Secretary to issue orders, and page 10 tells what commodities these orders apply to, except in the case of milk and its products, fruits, but not for canning, vegetables, but not for canning, and tobacco. Those are the only commodities in regard to which orders can be issued. As to other commodities, for instance, fruit except for canning, there can be marketing agreements entered into, but they must be purely voluntary. There is no provision for marketing agreements to be forced on people at all. In other words, the only place wherein this bill confers any additional authority on the Secretary is to issue orders in regard to milk and its products, and tobacco, and fruits and vegetables, except for canning. Outside of that there is no compulsion.

Mr. EKWALL. Mr. Chairman, will the gentleman yield?

Mr. MARSHALL. Yes.

Mr. EKWALL. I have had a lot of protests from my district over what the gentleman has mentioned in the old bill. What is the difference between the old bill and the new bill? How much more far-reaching was the old bill as to commodities and the number of commodities to be licensed?

Mr. MARSHALL. Until last week when the bill was rewritten there were several more commodities that came in under the compulsory license or what was then called an "imposed license." Several more articles came in, but it is limited to the things I mentioned—milk and its products, tobacco, and fruits and vegetables, except for canning.

Mr. DITTER. Mr. Chairman, will the gentleman yield?

Mr. MARSHALL. Yes.

Mr. DITTER. Page 25, section 8 (d), is an entirely new delegation of power to the Secretary, is it not?

Mr. MARSHALL. Yes.

Mr. DITTER. In other words, the Secretary is clothed under this section with very extensive powers to inquire into, determine, and procure records of not only producers themselves, that entered into the agreements, but even those that are subsidiaries or indirectly connected with it. Will the gentleman give us his opinion with respect to that delegation?

Mr. MARSHALL. That authority is much more limited than it was when the bill was first considered in our committee, because it is confined here, if the gentleman will notice, to the commodities concerning which orders have been issued, which is milk and its products, tobacco, fruits and vegetables except for canning, and also where there is a voluntary marketing agreement. In other words, if the processors of some commodity, over 50 percent of them, agreed on a voluntary marketing agreement and adopted it, then they come under this provision and their books would be subject to investigation.

Mr. DITTER. And anybody directly or indirectly identified with them.

Mr. MARSHALL. I question just how far that will be extended.

Mr. WOODRUFF. Mr. Chairman, reverting again to the marketing agreements, if this bill is enacted can the processors of basic commodities engage in marketing agreements provided 51 percent of those enter into it?

Mr. MARSHALL. The marketing agreements never applied to any commodity that had been made a basic commodity.

Mr. WOODRUFF. And cannot under this bill?

Mr. MARSHALL. No.

Mr. DONDERO. And what becomes of the other 49 percent? Suppose 51 percent agree to a marketing agreement voluntarily, what effect does that have on the other 49 percent?

Mr. MARSHALL. They must comply.

Mr. DONDERO. What will happen if they do not?

Mr. MARSHALL. I do not know.

Mr. CHURCH. Does the gentleman consider that feature constitutional in his own mind?

Mr. MARSHALL. I seriously questioned the constitutionality of the original A. A. A. Act. I think it has been safeguarded somewhat by these amendments. I believe it will more nearly comply with the Constitution.

Mr. CHURCH. Then I have to assume that from the gentleman's answer that it is unconstitutional in his opinion?

Mr. MARSHALL. I am not asking the gentleman to assume that.

Mr. CHURCH. The gentleman does not deny it.

Mr. MARSHALL. I am not denying it. Why should I when we have a Supreme Court?

Mr. DONDERO. The gentleman has made a fine statement on this bill. I want to know what the gentleman's personal opinion is as to whether or not the 49 percent would be bound by the provisions of this act if they did not sign the marketing agreement?

Mr. MARSHALL. The law says they are. Whether they will be or not, I am not going to attempt to answer. [Applause.]

Mr. Chairman, I yield back the balance of my time.

Mr. HOPE. Mr. Chairman, I yield 15 minutes to the gentleman from Wisconsin [Mr. BOILEAU].

Mr. BOILEAU. Mr. Chairman, I want to direct my remarks to the section of the bill that relates to imports. This section has been referred to by both the Chairman of the Committee on Agriculture and the gentleman from Ohio [Mr. MARSHALL], but this section is of such great importance that I want to consume most of my time in trying to explain, if I can, some of the important features of that provision of the bill.

Let me say at the outset that this provision was written into the bill at the suggestion of a committee of midwestern farmers known as the "Northwest Farmers' Union Legislative Committee", representing the States of Montana, North Dakota, Minnesota, and Wisconsin. The farmers' union organizations of those various States, during the past winter, supported this group of 10 farm leaders of those States who were in the city of Washington in the interest of the farmers of the Nation. They spent a great deal of the winter here, and this provision relating to imports is, in their mind, of extreme importance and represents their principal recommendation to the committee. I had the honor of having been asked by that committee to submit the amendment to your Committee on Agriculture. I wish to say that the distinguished Chairman of our Committee on Agriculture and the distinguished ranking minority member of that committee and other members of the committee cooperated in every respect to write this provision so that it now has teeth and will be of immeasurable benefit to those States that produce agricultural commodities that have, during the past few years, been suffering as the result of increased importations of those commodities from foreign lands.

The bill provides that whenever the President has reason to believe that any one or more articles are being imported, or are likely to be imported, into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken under this title, he, the President, shall cause an immediate investigation to be made by the Tariff Commission; and then it sets up certain regulations to be followed which will result in the fixing of a quota or the imposition of a tax upon the imports of those commodities, if the Tariff Commission finds that those imports or threatened imports actually are depressing the price of our domestically produced commodities.

Now, this is not anything new in the form of legislation, but it is new so far as the Agricultural Adjustment Act is concerned. In the National Industrial Recovery Act there is a provision similar to the provision that has been written into this bill. I refer to subsection (e) of section 3 of the National Industrial Recovery Act. It has been said by some that that provision has not been of real benefit in the protection of industries from foreign importations. I agree that it has not been; but the reason it has not been is because of the fact that the direction was not specific enough to the Administrator to put this provision of the law into effect. In that similar provision in the National Industrial Recovery Act it states that the President may cause an investigation to be made under certain circumstances. So far the President has not seen fit—at least I assume he has not seen fit—to use this power very generally, and for that reason very few of these investigations have been initiated; but in this bill the word "may" is not there, but the word "shall" is written into the bill; and whenever the President has reason to believe that the importation or threatened importation of agricultural commodities has caused the depression of prices for domestically produced farm commodities, he shall cause an investigation to be made and he shall cause this machinery to be set into operation.

I am satisfied that this provision of the bill will be of immeasurable benefit to many of the farmers in this coun-

try, particularly the dairy farmers, who have, during the past few months, suffered as a result of the importation of butter, which has depressed our price level and kept it below a fair exchange value. I maintain that that change in the language from "may" to "shall" will insure the effective operation of this provision of the bill.

Mr. FERGUSON. Will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. FERGUSON. In the gentleman's opinion, does this affect all farm products, or only those on which a processing tax is levied?

Mr. BOILEAU. It provides for all commodities upon which there is a program in operation. It does not necessarily mean a processing-tax program. Any kind of a program carried out under the A. A. A. would be sufficient. For instance, in the case of butter, which is a basic commodity, there is no processing tax, but if the Agricultural Department should enter into a program of buying butter for the purpose of relieving bad conditions in the market, that would be a program put into effect under the provisions of this title, and in that case the President would be compelled, if he found that the importations of butter were affecting the price, to either put on a tax or impose a quota, or in some other way restrict the importation of that commodity. What I said refers to butter. That is a basic commodity. I want to answer the gentleman's question more completely. It applies to any commodity for which there is a program, whether it be a processing-tax program or a marketing agreement or any other type of program, and is not confined to basic commodities.

Mr. FERGUSON. I had in mind broomcorn, which is suffering now on account of importations.

Mr. BOILEAU. It would not help broomcorn unless there was some kind of a program in effect relating to that particular commodity.

Mr. CHRISTIANSON. Will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. CHRISTIANSON. I wonder if the gentleman is not attaching too much importance to the substitution of the word "shall" for the word "may"?

Mr. BOILEAU. I do not believe so.

Mr. CHRISTIANSON. The gentleman realizes, does he not, that there is no way in which the President of the United States can be required to do it unless he wants to, because if he showed an indisposition to make an investigation of the effect of low tariff upon importation of agricultural commodities he could not be compelled to make it.

Mr. BOILEAU. Answering the gentleman from Minnesota, I should like to say that this bill provides that whenever the President of the United States has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially ineffective a given program or operation undertaken under this title, he shall cause an investigation to be made. I maintain that if butter, for instance, is selling at 10 cents below parity, and we can prove that there have been millions of pounds of butter imported into this country since the first of the year, and if we can show that this importation of butter has caused the price of butter to be below parity, as I believe we can, then there is no discretion left in the President, because under those circumstances he shall cause this investigation to be made.

I grant you that if we were to assume that there is to be bad faith on the part of the President, if we were to assume that his advisers were going to urge him to betray the farmers, if we were to assume that the President would close his eyes to the mandate of Congress outlined in a bill signed by him, then, I say, there would be danger. I have no fear, however, because we say to him that he shall cause the investigation to be made. In the other act to which I referred, the N. I. R. A., the language used was "may" and there was no compulsion upon him whatsoever to put the machinery of the act into operation.

Mr. CHRISTIANSON. I sympathize very much with the gentleman's proposition, but I do not share his optimism

because I called to the President's attention several times the importation of rye into the United States from Poland. The President has the power to help us out but he has neglected, failed, and refused to do so.

Mr. BOILEAU. That is because under the provisions of the present law he has the right to use the flexible tariff, but there is no definite formula fixed for him, there is no compulsion on him to put that machinery into motion. Here we use the strongest language possible to devise for the purpose of compelling the President to put the machinery into motion; and I, for one, cannot believe that the President will disregard the clear mandate of the law.

Mr. CHRISTIANSON. There is no language this Congress can use to compel the President of the United States to do anything he does not want to do.

Mr. BOILEAU. I do not believe that. I believe there are many things that Congress could compel him to do. I do not believe we could go into court and sue the President to make him do certain things; but I do not believe that President Roosevelt or any man who assumes the office of President of the United States will disregard his duty. This provision, in my mind, would make it so clear that no person need fear that the President will ignore it.

Mr. CHRISTIANSON. I had that experience in the case of rye, he neglected it.

Mr. BOILEAU. I am not familiar with the case to which the gentleman refers, but I do not think there is any compulsion in the flexible tariff law at the present time. But if we incorporate this provision in the pending bill there will be a clear mandate to the President and he will protect the farmers against commodities imported from foreign countries.

Mr. STEFAN. Mr. Chairman, will the gentleman yield for a question?

Mr. BOILEAU. I yield.

Mr. STEFAN. Would this provision protect the producers of pork, beef, and corn against importations?

Mr. BOILEAU. It absolutely will; it protects all of our farm commodities provided there are imports and provided the President has the right to believe that the importation of these commodities does depress our domestic price, in which case he puts this machinery into operation; and once he puts this machinery into operation then it is compulsory to levy this tax or to put into operation these various quotas to protect American farmers.

Mr. FERGUSON. Mr. Chairman, if the gentleman will permit, the gentleman from Nebraska said beef. Beef has no program at the present time. It would not be protected by this provision, I take it.

Mr. BOILEAU. Not unless there is a program for beef. I did not understand the gentleman to say beef.

Mr. STEFAN. I asked about beef.

Mr. BOILEAU. I will say that if in future there is a program for beef, then this provision will be applicable. It does not mean there must be a processing tax, but a marketing agreement would be such a program as to make this provision operative. If there is no program, of course, this provision would not be applicable to beef.

Mr. CRAWFORD. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. CRAWFORD. With reference to the Jones-McNary Act, which was an amendment to the A. A. A., would that in any way bring beef within the scope of this provision against importations?

Mr. BOILEAU. No; because there is no program for beef. Beef is a basic agricultural commodity, and cattle raisers could easily have a program if they wanted it. If the farmers are sufficiently interested to have a program on beef, they can have it; if they do not want it, they do not have to have it; but at the present time there is no program on beef, and this provision would not be applicable.

Mr. COFFEE. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. COFFEE. I am very much interested in this import section. The provision states that whenever it interferes

with any program. In case beef importation should interfere with the program of pork, could not the provisions of this section be invoked to restrict importations of beef, so as not to interfere with the pork program?

Mr. BOILEAU. If it could be proved that the importation of beef interfered with the pork program, then they could put this provision of the act into operation as regards beef.

Mr. ANDRESEN. Will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from Minnesota.

Mr. ANDRESEN. The gentleman comes from a great dairy State. What is the gentleman's understanding as to the dairy provisions of this bill?

Mr. BOILEAU. I want to conclude speaking on other provisions of this same subject matter which I am now discussing; then I shall use a few minutes to discuss that matter.

Mr. RYAN. Will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from Minnesota.

Mr. RYAN. In connection with this import question, does the gentleman believe that so long as our domestic prices continue to rise, as they have during the past 2 years, we need be concerned about imports of agricultural products?

Mr. BOILEAU. Yes. During the past winter, just as soon as butter got near the parity price, they started shipping in boatloads of butter from foreign countries, which depreciated the price of our butter. It is impossible under the present circumstances to get prices above the world level and our 14-cent tariff. Just as soon as it gets above that price they start importing butter from foreign countries and it puts the price of our butter down. A small amount of butter coming in from New Zealand, Australia, and other countries will absolutely depress our price to ruinous levels.

[Here the gavel fell.]

Mr. HOPE. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. WITHROW. Will the gentleman yield?

Mr. BOILEAU. I yield to my friend and colleague.

Mr. WITHROW. During the past few years how many times have the farmers received the parity price for butter fat?

Mr. BOILEAU. Back in March it came up close to parity, but never right up to parity. Just as soon as the price got up that high, in came importations of butter from foreign countries and ruined our price.

Mr. Chairman, I want to refer now to the reciprocal-tariff provisions, and I think this may be of some interest to our Republican colleagues who are taking a very decided position against reciprocal-tariff agreements. In the event that we should enter into a reciprocal-tariff agreement with any foreign country which permitted them to send into this country certain agricultural commodities and as a result of those importations the price of our domestic commodity goes below the fair exchange value, then under the provisions of this bill the President of the United States could restrict the importation of those commodities, even in the face of a reciprocal-trade agreement. I think that is of vital importance.

Mr. DITTER. Will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from Pennsylvania.

Mr. DITTER. Do I understand the gentleman to feel that this particular provision of the act would enable the President to supersede any agreement entered into by the Secretary of State with a foreign country?

Mr. BOILEAU. Yes; the gentleman states my position perfectly, and, if he will permit, I will try to explain.

Mr. Chairman, I am advised that each and every one of the treaties that have thus far been negotiated contains a provision to the effect that the quotas may be changed if such change is made to effectuate any adjustment program. I call the gentleman's attention to the treaty with Sweden, one of the recent treaties entered into, and refer particularly to article VII. That article starts out with this language:

No prohibitions, import quotas, imports licenses, or any other form of quantitative regulation, whether or not operated in connection with any agency of centralized control, shall be imposed by Sweden or by the United States.

In other words, it starts out by saying that these quotas cannot be changed; then it goes on to say:

The foregoing provision shall not apply to quantitative restrictions in whatever form imposed by either country on the importation or sale of any article the growth, produce, or manufacture of the other country in conjunction with governmental measures operating to regulate or control the production, market, supply, or prices of like domestic articles.

In the press release of May 25 there is a more thorough explanation, and I commend that to the gentleman's consideration. I am informed by a representative of the State Department that each and every one of these treaties has carried such a provision.

Of course, it would require delay; it would require notice to be given to the other country and opportunity for hearing within 30 days. The other country, then, would have the right to disregard the treaty, or our country would have the right to provide quotas on the importation of these commodities. I believe that the provision in and of itself is of vital importance, and it should be of vital importance to the textile interests of this country. It should be of vital importance to all the producers of agricultural commodities, and the processors of agricultural commodities in this country. I believe this section is deserving of the support of all of the Membership of the House. I believe the provision will be of material help.

Mr. Chairman, in the 1 or 2 minutes I have remaining I want to refer briefly to the milk provisions. They have been discussed at some length by the chairman of the committee. I regret I have not more time, because I would like to discuss them in greater detail. I confess to the Membership of the House that this milk program is not all I should like it to be. However, I do not believe there is one thing in this bill, and I say "this bill" advisedly, that the dairy sections of the country should be the least bit worried about. My State is a large dairy State that is primarily interested in the production of cheese, and it also produces a good deal of butter and other milk products. I do not believe there is anything in this bill that is inimical to their best interests, but I believe the bill will materially assist them.

[Here the gavel fell.]

Mr. FULMER. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi [Mr. DOXEY].

Mr. DOXEY. Mr. Chairman, I want to say at the outset that I do not think there ever was a committee chairman who worked harder or more earnestly than the Chairman of our Agriculture Committee, MARVIN JONES, of Texas, with reference to this particular legislation. I am not ordinarily given to flattery, but I want to say for the entire membership of the Committee on Agriculture, both the majority and the minority, that our distinguished chairman had cooperation and that we have all endeavored to uphold his hands and work together.

The authorities of the Department of Agriculture charged with the administration of this act, have in every way cooperated and rendered most valuable assistance to our committee in shaping this particular legislation.

I think the results speak for themselves.

I also want to say that the ranking minority member of our committee, the gentleman from Kansas, my good friend CLIFFORD HOPE—and I do not mean to pick him out any more than anyone else—has at all times shown a wonderful spirit of cooperation with regard to the fundamentals of this bill. As members of the committee, we had different views about a question as broad as this, but we were willing to surrender here, accept over there, and by means of compromise this committee has brought to you this legislation, which, we feel, is the best piece of legislation that we could bring under the circumstances.

The Committee on Agriculture had done a great deal of work in fashioning, shaping, and reporting to the House the Agricultural Adjustment Act amendments known as "H. R. 8052." The program of the House was to consider this bill some time ago. However, in the meantime the Supreme Court of the United States handed down its famous decision in the Schechter case, declaring the present

N. R. A. unconstitutional, which necessarily changed the legislative program of the House of Representatives.

Thereupon agricultural leaders of both the Senate and the House conferred as to what would be the future program regarding this A. A. A. legislation. The entire agricultural program was generally discussed with the President, and immediately a select group of the House Committee on Agriculture, together with authorities of the Agriculture Department, having charge of the administration of the present agricultural program, began work on fashioning legislation to strengthen the present Agricultural Adjustment Act and to revamp the provisions of H. R. 8052 and the original act which might be affected by an adverse decision of the Supreme Court as was the N. R. A.

I attended those conferences and was one among those who helped draft the amendments that were later submitted to the entire membership of the Committee on Agriculture. The full committee, then in executive session, considered them in detail and spent much time and effort in bringing to the full Membership of this House this legislation that we are considering here today—H. R. 8492.

Time will not permit me to tell you the purposes of the legislation, and this is not necessary, but I do want to give you a brief outline and try to explain, if I can, just what this bill contains and also mention its salient points.

Of course, the first part of it deals with the declared policy. The second part defines and specifically sets out the powers of the Secretary of Agriculture. The third subdivision is the order feature where he exercises his powers over what? Over not the basic agricultural crops but the specialty crops therein named which are milk and its products, fruits including walnuts and pecans, vegetables including soybeans, but not vegetables or fruits for canning purposes; tobacco, and naval stores, but not the products of naval stores, as defined by the Naval Stores Act.

Then there is the levying of the processing tax. The bill strengthens that feature of the present Agricultural Adjustment Act and provides that none of the processing taxes that have been paid, which up to now amount to something over \$800,000,000, that has gone into direct benefits paid to the farmer, can be recovered in a court of law by suits should this bill be declared unconstitutional. It freezes the processing taxes that we are now levying and it provides for the use of the processing taxes continuously for the payment of the benefits directly to the producer, and also not only sets up a program of domestic market expansion but provides for foreign-market expansion and it provides for better cooperation and for a more uniform and unified cooperation between the State and Federal authorities.

Now, in regard to the declared policy, this only means, briefly, that the purpose of this bill is to get for the producer the price that we call the parity price which means this: You have a current average farm price, and if the basis is from August 1909 to July 1914, with some exceptions, the purpose is to increase that price up to what is called the "fair-exchange value."

Now, the Secretary of Agriculture in using this yardstick, as is set out in the declared policy, in dealing with the basic agricultural commodities, which are wheat, cotton, tobacco, milk and its products, rice, corn, and hogs—and corn and hogs are considered as one product—deals with the producer. He uses for the benefit of the producers the reduction plan which in this legislation is called the "adjustment plan" and the benefits are paid as rental benefits and others, and in addition to this program there is what we have seen and heard a lot about, the "ever-normal granary plan", which is simply giving the Secretary of Agriculture the authority and the power in the fat years to store up something for the lean years.

This is the broad machinery with reference to the basic agricultural commodities, but when we come to deal with the specialty crops, in regard to which there are no licenses, because they have been abolished—the present Agricultural Adjustment Act provides for a license fee and license system but for many reasons, with which we are somewhat familiar in view of the recent decision of the Supreme Court, we

have, you may say, done away with the licensing features and you might say the powers of the Secretary of Agriculture are spelled out, and these orders are not issued on these specialty crops unless 50 percent of the handlers by volume enters into a market agreement, and if this 50 percent enters into such a market agreement, of course, the Secretary of Agriculture, to determine whether or not your current average farm price meets the fair exchange value, investigates by giving everybody an opportunity to be present at a hearing; and if these handlers agree, under the marketing agreement, the orders and the provisions and stipulations are set out by the Secretary of Agriculture as to how the trade will be handled, with reference to the commodity affected by the marketing agreements.

I forgot to mention that apples are excepted, I may say to my friend from Virginia who has arisen.

Mr. ROBERTSON. I simply want the splendid remarks of the gentleman from Mississippi to show in the RECORD what I understand subsection (a), on page 14, means. This provision would seem to give the Government control over purely State transactions by using the words "which may be marketed in or transported to any or all markets during any specified period or periods by all handlers thereof", but this is simply permissive in these voluntary agreements, with no intention to use compulsion upon anyone.

Mr. DOXEY. And there is no intention to restrict this to anything except interstate commerce, and it is not intended to apply it to intrastate commerce, because that is one of the provisions we have adopted in order to provide for cooperation and to let the States set up their programs, but we all know that in the practical administration of the act the State program will be somewhat similar to the Government program.

Now, you may have a situation where the handlers would not want to make a marketing agreement and you would see unfair practices in the trade detrimental to the producer, and I am trying to show you the practical machinery we have provided and the judgment and the consideration we have given this bill in order to make it a farmers' bill.

Then we say if you, Mr. Handler or Processor, do not want to enter into a marketing agreement with reference to perishable crops—if two-thirds of the producers in a given area enter into a marketing agreement, they can protect the producer of a commodity against any unfair practice and secure for the producer a better price for his commodity.

There is a price-fixing feature of the bill, because we provide for a minimum price for the producer.

My friends, you cannot have a workable situation without that feature, regardless of what the opposition might be or the constitutional question involved. You cannot have effective administration without that, and also a provision for violation.

Now we come to that which has been discussed in your hearing by a number of distinguished speakers who have preceded me, and that is with reference to the foreign market.

Mr. ZIONCHECK. Before the gentleman comes to that, will he yield?

Mr. DOXEY. I yield gladly to the gentleman from Washington.

Mr. ZIONCHECK. The gentleman has mentioned the minimum cost to the producer. Is there any provision in the bill for a maximum cost to the consumer?

Mr. DOXEY. If the gentleman can show us how we can fix a maximum cost to the consumer, after the many people through whose hands the commodity passes, I am sure as one Member I would be grateful for his contribution. No; there is nothing in the bill which fixes a maximum cost to the consumer. That is to be left to competition and the law of supply and demand.

Mr. O'MALLEY. Will the gentleman yield?

Mr. DOXEY. I yield.

Mr. O'MALLEY. The cost to the consumer is regulated by the law of supply and demand. Why should not that apply to the producer?

Mr. DOXEY. The gentleman from Wisconsin does not have the same philosophy in relation to the bill that we have.

How could you in one piece of legislation do that where the interests are opposed and take care of both of them?

Mr. O'MALLEY. Will the gentleman accept an amendment fixing a maximum cost to the consumer?

Mr. DOXEY. Let the gentleman offer it and see.

Now, gentlemen, I say that the import feature in this bill is a new feature, for the reason that it gives the President the power, after proper investigation by the Tariff Commission, which finds that imports are coming into this country and destroying the home program of any commodity, to limit the quantity of importation. The power is there if the facts found by the Tariff Commission warrant such action, and also 30 percent of the gross customs receipts are appropriated for the purpose of extending our foreign trade in the commodities that are considered major.

There are several new and outstanding features in this bill beneficial to agriculture. None of us know how they will work, and nobody can tell how these laws will be administered until they are administered; and I say to you that we have had a sympathetic administration of the present laws relating to our agricultural program, and an efficient and faithful one, considering the many complex problems with which the administration has been faced, and when you try to increase your foreign markets with reference to wheat or cotton, if you have a world price below the domestic price it will encourage our people to find a world market and to sell it on the world market, and there will be a subsidy to pay and make the seller whole, you might say, for the difference between the domestic price and what you sell it for in the world market, just as the farmer is paid the benefit for reducing his production by limiting his acreage.

The general outline that I have briefly given here sets forth the high points of this bill.

Mr. Chairman, full well do I realize that especially since the decision of our United States Supreme Court in regard to the constitutionality of the N. R. A. many of you desire to speak on this measure. I shall not consume too much of your time, nor shall I attempt to comment at length upon that decision nor prophesy to what extent, in my judgment, it will affect the present A. A. or these proposed amendments to it. This will be given considerable attention when we begin to read the bill and offer amendments under the rule. However, I earnestly urge the friends of this measure not to be stampeded by the opposition to it and not to vote for amendments to this committee bill that will wreck it or impede our farm program. Let us keep it intact and pass it as nearly as possible just as it was written and reported by our committee to this House.

Regardless of the constitutional questions involved, we are faced with facts that cannot be controverted with reference to the efforts of this administration in behalf of agriculture. The benefits accruing to the farmer during the past 2 years as the result of the laws we have passed here are self-evident.

We know that in the winter of 1932 and in the spring of 1933 the farmer was receiving for his cotton 5 cents per pound; today he is receiving, and has received for this 1934 crop, at least 12 cents per pound. Under our program he will get at least that much for his 1935 crop.

The farm price then for wheat was 32 cents per bushel. Today it is 85 cents per bushel. Then corn was 19 cents per bushel. Today it is 85 cents. Hogs were then selling for about \$2.75 per hundred. Today they are selling for around \$9 per 100 pounds.

You can go down the list and call the roll and you will find in every instance that prices paid the producer for the crops he raises have increased in somewhat similar proportions as a result of the enactment of the original Agricultural Adjustment Act by Congress in 1933.

Who can conscientiously oppose, on grounds real or imaginary, legislation that really benefits the farmer?

Who begrudges the farmer the cash benefit checks that he has been receiving from his Government as a result of this legislation?

The increased purchasing power of the farmer during the last few years has benefited all. The farmer is just now getting on his feet, so to speak. He will now buy your manufactured goods and is buying them because he has a little money now to spend. The farmer will stimulate your business, if you do not grind him down by starvation prices for the things he has to sell. Give him a chance and he is your best customer. "Live and let live" is the purpose of this legislation.

You men who represent industry, banking, business, capital, and the manufacturing interests know this is true.

Those of you who have so vigorously opposed the processing tax and the benefits that are being paid out of this fund to the farmer also know this is the first piece of legislation ever enacted by any Congress that passed the benefits directly into the hands of the farmer.

Give forgotten agriculture a square deal. The tariff policies of this country have bled agriculture white. By this legislation we are just providing a bounty for agriculture that will to some degree offset the Republican tariff policies that for the last 100 years have protected you and your interests and almost destroyed us and our interests.

We have suffered long and patiently, but I firmly believe the farming interests of this country will come into their own under this Democratic administration if we will just stick together and work for what we know to be right, just, and proper—a well planned, organized, and balanced agricultural program. Cooperation has brought results.

Thus far under the courageous and sympathetic leadership of our great President we have passed more constructive legislation for the relief of agriculture in the last 2 years than was enacted by Congress during the preceding 50 years.

The Agricultural Adjustment Act was one of the first major pieces of legislation considered by the House Committee on Agriculture under the Roosevelt administration.

Time will not permit me to give you a graphic picture of conditions as they then existed in this country. Suffice it to say agriculture was prostrated, industry was paralyzed, business was stagnant, and the whole country was in the throes of one of the worst depressions this Nation has ever experienced.

Quick action was imperative. Results were necessary in order to avert an utter collapse.

Our committee had jurisdiction of the agricultural program and we immediately began to function and to map out the plans and program and devise the ways and means of helping distressed agriculture. We worked at this job night and day.

In March 1933 we reported and brought to the floor of this House for the consideration and vote of this Membership a bill known as the "Agricultural Adjustment Act." It was debated here, and on March 21, 1933, I made a speech on the floor of this House favoring its passage, and endeavored to explain its provisions. It passed this House on March 22, 1933. It passed the Senate on April 28, 1933. Conferees were appointed to adjust the differences between the Senate and the House. I was selected as one of the House conferees. After several days of hard work, the Senate and House conferees agreed on the provisions of the bill. The conference report was accepted by both the House and the Senate, and the bill was then signed by the President of the Senate and the Speaker of the House. Then it went to President Roosevelt for his signature. The day he decided to sign it—May 12, 1933—I was among those invited to the White House to be present when he signed it. I was there, and never shall I forget that eventful day and what President Roosevelt said when he signed it. Among other things he said, "Wall, if it works at all it surely will work for the benefit of cotton." Our great President spoke at that time even more wisely than he knew, for the Agricultural Adjustment Act has been the salvation of the cotton South and the cotton farmer as well as agriculture in general.

It has worked and has worked wonders.

No right-thinking person can deny the benefits that the Agricultural Adjustment Act has brought to the farmers in

general. Without this or some similar legislation, agriculture could not have survived. However, time and experience have proven that some amendments are necessary in order to make the agricultural-adjustment program more effective.

Our Committee on Agriculture has given this a great deal of thought and study and we have fashioned and submitted to you H. R. 8492, proposing certain amendments to the existing law that will permit a more flexible program by providing the use of different plans to be fitted to the particular commodity.

It can be readily seen that there is a vast difference between this proposed bill, H. R. 8492, and the original bill, H. R. 5585. The House Committee on Agriculture has rewritten this bill. We had long and extensive hearings and executive meetings and finally worked out what we believe to be the best bill possible under existing circumstances, H. R. 8492.

This bill is complicated, technical, and far-reaching. It contains 53 pages and 33 sections. Time will not permit an explanation of this bill section by section. Even a general analysis of this bill would require more time than any one Member has at his disposal during this debate.

I shall endeavor within the time allotted to me, not to discuss at any length the amendments to the various sections of the original Agricultural Adjustment Act, but to explain and discuss generally new and additional features and sections contained in this bill that are not a part of the original Agricultural Adjustment Act.

I am one of those of the Agriculture Committee who were determined, if possible, to bring before this House at this session of Congress legislation that would not only continue the processing tax and continue to pay the farmer—the producer—rental and other cash benefits but also some legislation that would give us a better world market for our exportable surplus of such commodities as cotton.

A portion of this bill is designed to create markets in foreign countries and not only to encourage and help our domestic markets but also to provide for an expansion of our foreign markets and payments of benefits toward this end.

We are well aware of the opposition to this bill. All kinds of propaganda have been circulated against it. Those of us who are friends of agriculture know that no benefits at all will be paid the farmer if the processing tax is done away with. That is collected from the processor of the raw material and paid to the producer of the commodity. This bill strengthens that feature of the original act.

In some instances in the administration of the act, it broadens the powers of the Secretary of Agriculture, and in other instances it limits and curtails the powers of the Secretary of Agriculture. It endeavors to make his powers more definite and specific.

This bill is designed to help the producer. It is a farmer's bill. Its purpose is to help obtain a better price to the producer for the agricultural commodities he raises. Also to establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, which is the pre-war period from August 1909 to July 1914.

The contract and sign-up policy between the Government and the farmer is entirely optional with the farmer. There is nothing compulsory in it regarding the producer. If the farmer desires to cooperate, all well and good. If he does not want to, he does not have to. It is entirely up to him.

In my humble judgment, the success of the present agricultural program is self-evident, especially with reference to our domestic situation. If we can keep what we have and continue our present program in regard to domestic markets and domestic policies, we will be doing mighty well. My great concern now is our foreign markets and foreign policies.

With that in view, those of us on the Agriculture Committee who represent districts and States that produce cot-

ton and those commodities which necessarily must be sold to foreign countries, have incorporated in this bill certain provisions and sections that we believe if enacted into law will open up to the producers of exportable surplus commodities the markets of the world. At any rate it is a step in the right direction and sets up governmental machinery for that purpose.

Our Committee on Agriculture, of course, has no jurisdiction in regard to tariff. That is, within the exclusive jurisdiction of the House Committee on Ways and Means. However, the Agriculture Committee has worked out and fashioned legislation that, by indirect methods—employing the processing tax to be used as benefit payments to the producer—benefits the farmer just as in the past the levying of direct tariffs has been in the interest of the manufacturer.

Using all the powers that we are invested with as a committee in Congress, we have shaped our legislation in the interest of the farmer. We have met and are still meeting with all kinds of opposition from organized and protected interests, but I feel sure that the majority of the Membership of this House are willing to help us secure for the farmer as nearly as possible a fair share of the Nation's income and thereby restore economic recovery to all our people and all classes of industry.

The success of our present farm program, and the effective and sympathetic manner in which it has been administered, has thus far contributed greatly toward our onward march to the general economic recovery of this Nation.

My colleagues, the continuation, furtherance, expansion, and more effective administration of this farm program on behalf of the producer, relating to the production, handling, and marketing of agricultural commodities, is the purpose of of this proposed legislation.

The original Agricultural Adjustment Act provides for a "reduction" in the acreage or production of the commodity. This proposal provides for an "adjustment" of acreage and production.

Thus, under the provisions of the bill we are now considering, it is possible for the farmer to be paid benefits not only for reducing his acreage and cutting his production, but, if found necessary, from the proceeds of the processing tax, the farmer is also to be paid benefits, even though he increases his acreage and production, if we can more nearly balance our law of supply and demand by not only expanding our domestic markets but also our foreign markets.

In this bill we provide ways and means to increase our agricultural exports. It lends substantial encouragement and pays benefits for the removal of our agricultural surpluses of basic commodities by finding a market for them in foreign countries. The original Senate bill did not contain this feature with reference to helping our farmers by expanding our foreign trade.

I am aware of the opposition to this new feature of the bill, but I here and now say to you, my colleagues, if we pass this bill here in the House with this provision in it, I more than likely will be selected as one of the House conferees when it comes to ironing out these differences with the Senate conferees on this bill. In that event you may count on me to do all in my power as one House conferee to keep this expansion of our foreign market provision in the conference report and do all I can to have it enacted into the law.

Necessarily, my friends, I have talked to you in rather a general manner concerning the many provisions and broad purposes of this bill; but before I conclude permit me to specifically direct your attention to the provisions of a few new and specific sections of this bill in connection with the outline I have given you in this discussion.

On page 5, line 4, subsection (b) of the bill, and the language following is one of the new provisions of this bill that is not included in the original Agricultural Adjustment Act. This new paragraph specifically gives the Secretary of Agriculture the power to make payments for the expansion of domestic or foreign markets of a basic agricultural commodity, payments for the removal of surpluses of or surplus products of a basic agricultural commodity, or payments in connection with the production of that part of a basic agri-

cultural commodity required for domestic consumption. Such payments may be made with respect to a commodity whether or not an adjustment program is in effect on that commodity, but the payments may be made in combination with rental or benefit payments. Any one or more of such payments may be made and the payments may be made in kind. This new paragraph also contains a provision which applies generally throughout the Agricultural Adjustment Act to payments in kind, the effect of which is to prohibit the payment for the program on one commodity from being made in another commodity. For instance, cotton may not be used to make rental or benefit payments or payments for expansion of markets, removal of surpluses, or domestic production payments in carrying out the wheat or tobacco program, but may be used in connection with the cotton program.

Page 51 of the bill, line 5, section 31, adds a new section to the Agricultural Adjustment Act. This portion of the new section authorizes an additional appropriation for each fiscal year of an amount equal to 30 percent of the gross customs receipts during the preceding year ending December 31.

Amounts which may be appropriated under this subsection are to be maintained in a separate fund. The fund may be used for three major purposes. The first is the encouragement of exportation of agricultural commodities and products thereof by the payment of benefits in connection with their exportation or indemnifying for losses incurred in connection with exportation and by payments to producers in connection with the production of that part of the production of any agricultural commodity required for domestic consumption. The second use is the purchase or lease, on behalf of the United States, of submarginal agricultural and grazing lands. The third use to which sums may be put is the making of payments (which for the purposes of the act are not considered rental or benefit payments and hence do not require the levy of a processing tax as a condition of their payment) in connection with acreage or production adjustment of basic agricultural commodities. The Secretary is to expend the amounts as he deems will best effectuate the policy of restoring agricultural purchasing power as contemplated by the Agricultural Adjustment Act consistently with the fullest utilization of the productive capacity of land which can be profitably cultivated and with the most rapid expansion of agricultural exports.

Page 40, line 4, section 19 of the bill adds a new subsection to the original Agricultural Adjustment Act and in substance provides that all taxes and incomes derived from a certain commodity, such as the processing tax on cotton that is to be paid by the processor who turns the raw material into the finished product, must be expended in carrying out the cotton program. In other words, every tub stands on its own bottom. You cannot take the proceeds of the cotton program and use it for the benefit of the wheat program and vice versa. Hogs and corn however are considered as a single commodity.

Section 30 of the proposed bill, including all the language on pages 50 and 51 down to section 31, adds a new section to the Agricultural Adjustment Act to be known as "section 22" which provides another entirely new feature to the existing law.

It authorizes certain limitations on imports in connection with the agricultural-adjustment program. Whenever the current average farm price of an agricultural commodity is less than parity, if the President has reason to believe that any article or articles are being imported or are likely to be imported under such conditions and in sufficient quantities to prevent the price from reaching parity and to render ineffective any operation or program under the act, he is to order an investigation to determine these facts. The Secretary of Agriculture, or the United States Tariff Commission, whichever the President designates, is to conduct the investigation. The investigation is to be made after such notice and hearing and subject to such regulations as the President specifies.

If the President finds the existence of the facts required, after the investigation and report to him, he is to direct that

the article or articles causing such situation shall be imported subject to such terms and conditions, such limitations on quantity, or the payment of such compensating taxes as he finds necessary to prescribe so that the entry of the things specified will not prevent attainment of parity and will not render or tend to render ineffective the operation or program. If compensating taxes are levied, they are to become available for expenditure under the act, and they are not to be in substitution for the processing tax on imported articles imposed under the present law. The President's decision on facts is final, the Secretary of the Treasury is required to carry out the order of the President, and the President, after investigation and finding, may suspend, revoke, or modify an order issued under the section.

If this bill becomes a law, the importation into this country of foreign-grown cattle that is so vitally affecting the present price of our domestic cattle can, to some extent, be regulated. Also such commodities as foreign oils and fats that are coming into this country at an alarming rate and which are competing with our cottonseed oils, beef fats, and so forth, and necessarily affect the price of cottonseed, beef cattle, and so forth, can be adjusted by a Presidential order, after each case is thoroughly investigated and all the facts ascertained.

In my judgment, there is no chance for us at this session of Congress to pass any tariff laws. During the early part of this session I introduced a bill in regard to lowering and adjusting our present tariff, but no action has been taken by the Ways and Means Committee on my bill or on any other tariff bill at this session. My committee has no right to frame or deal with the tariff laws, but we have brought to you the nearest approach to it that we are permitted to within the limited jurisdiction that prevails under the rules of the House.

We think the provisions of this bill in that regard are sound and will prove of great benefit to the farmer if we can succeed in enacting them into law.

We earnestly ask your help with these added features to the Agricultural Adjustment Act that I have discussed, together with the amendments strengthening the present law.

I am convinced that no single piece of legislation enacted by any Congress will be of greater benefit to the American people than the Agricultural Adjustment Act and these amendments thereto.

On account of the wonderful and whole-hearted cooperation given this program by the farmers themselves, the able, efficient, and effective administration of this law in the past by those in authority, we have every reason to believe that in this complex and broad program, even greater benefits are in store for the farmer in the future. The weak places in the existing law will be strengthened and many of the rough places made smooth.

We all know when you help agriculture you help everybody. We can, and I feel sure you will, help by voting for this legislation.

The CHAIRMAN. The time of the gentleman from Mississippi has expired. [Applause.]

Mr. BEAM. Mr. Chairman, I yield myself 15 minutes. Mr. Chairman and members of the Committee, the subject of farm legislation and the best methods to improve agriculture generally has been one of the most perplexing questions which has confronted the Congress of the United States. We are all happy to observe the fact that the hysteria and fear which paralyzed our entire agricultural industry from 1930 to 1933 has now abated and subsided. The farmers of America have had a new deal under our democratic form of government and a sympathetic and understanding Congress has passed legislation in their behalf, which has accomplished the desired results.

A great deal of this credit is due to the congenial and fair-minded chairman and the entire membership of the great Agriculture Committee of the House for their wisdom, foresight, and judgment, which they have contributed both in executive sessions of the committee and upon the floor of the House in the advancement of legislation in behalf of agriculture.

There is not a Member in the House who does not realize and believe that if the agricultural interests of our country are in a state of prosperity, that condition is reflected to a large extent throughout the entire Nation; and by the same token it can also logically be inferred that if agriculture is not successful, the disastrous and far-reaching ill effects of such a condition take heavy tolls upon the success and prosperity of the great masses of our people.

But the question which must necessarily be the concern of every Member of this body at the present time is, "Are we going too far?" "Are we proceeding with the wisdom and the foresight justifying the tremendous expenditures of huge sums of money which we have appropriated and are advancing and the regulatory measures we have imposed, and are endeavoring to make more stringent, upon the industrial and consuming public for the benefit and interest of agriculture?"

Notwithstanding the legislative program we have enacted, we are confronted today with the unfortunate situation of vast numbers of our people on the relief rolls of the Federal Government and upward of 11,000,000 of our able-bodied citizens unemployed and without lucrative occupation in this great land of opportunity.

I sometimes wonder: Are we saddling upon the business of the Nation too great a load and too heavy an obligation?

Are we neglecting a program for the revival and rehabilitation of industry, or are we making it too involved, too interwoven with governmental regulatory measures, for the successful operation of business, whether it be great or small?

Can we legislate in behalf of one industry without analyzing and understanding the ultimate effects upon kindred industries and upon the Nation as a whole?

Agriculture has been the recipient of much legislation in an earnest attempt and desire to revive its stability, and I speak advisedly, for as a member of the House Agriculture Committee I supported all measures pertaining to the benefit of this all-important industry.

I respectfully desire to call to the attention of the House some of the bills we have passed since 1933, in furtherance of the agricultural program, together with the amounts authorized therein.

Seventy-third Congress appropriations for agriculture

H. R. 3835: Agricultural Adjustment Act.....	\$2,505,000,000
H. R. 5790: Farm Credit Act of 1933.....	120,000,000
H. R. 5755: National Industrial Recovery Act, for A. A. A.....	100,000,000
H. R. 6670: Federal Farm Mortgage Corporation Act.....	2,000,000,000
S. 1975: Crop production and harvesting loans.....	40,000,000
H. R. 7478: To include cattle as basic agricultural commodity.....	250,000,000
H. R. 8402: To place the cotton industry on a sound commercial basis, etc.....	150,000,000
Total.....	5,265,000,000

The following is a list of bills introduced and favorably reported from the House Committee on Agriculture during the Seventy-fourth Congress, together with the amounts authorized to be expended.

Seventy-fourth Congress

S. 1384: To amend Emergency Farm Act of 1933; Federal Farm Loan Act; Agriculture Marketing Act, and Farm Credit Act of 1933.....	\$2,500,000,000
H. R. 3247: Crop production and harvesting loans.....	60,000,000
H. R. 2066: Lemke farmers' farm relief bill.....	3,000,000,000
H. R. 6914: Fulmer forest land management bill.....	20,000,000
H. R. 7593: Jones agricultural bank note bill.....	800,000,000
Total.....	6,380,000,000

Now let us compare one industry which forms the source of half the Nation's wealth, and by a comparison, see if we have not been just a little oversolicitous in furthering the agricultural industry of the Nation, and have not directed enough of our attention to the revival of business and to the welfare of the industrial population of the United States.

I have here a letter which was mailed to me by Congressman JOE L. SMITH, Chairman of the Committee on Mines and Mining, and in that connection he says:

The mineral industry forms the source of half the Nation's wealth, and has an invested capital of approximately \$15,000,000,000, directly and indirectly furnishes the livelihood of some 25,000,000 people, employing in production and processing about

1,700,000 people, pays an annual wage of \$2,000,000,000, pays approximately \$200,000,000 annually in Federal taxes, and furnishes 55 percent of the total freight revenue on the railroads.

Now let us see what agriculture has paid in taxes. For the years 1924 to 1928 mineral producers paid almost six times as much as farmers in Federal taxes, totaling \$800,064,024, compared to the agricultural tax of \$151,251,405.

From the above it is perfectly obvious that the friends of agriculture have been most active and industrious and have accomplished great results for the agricultural interests of the country.

The hearings before the Agricultural Committee disclose the fact that the farm population of the United States is approximately thirty millions of people, or about 25 percent of the total population of the country. The testimony also shows, however, that the purchasing power of the entire farm population constitutes only 15 percent of the total. Seventy-five percent of the people gainfully employed are engaged in industry, trade, and transportation. The 11,000,000 people who are out of employment today represent twice as many as those profitably employed in agriculture, and it is my contention and my strong belief that the greatest relief that can come to the agricultural population of the United States is represented by recovery of industrial wages and earnings and the extensive and improved markets for agricultural products which would naturally follow as a result of business and industrial recovery.

We must not forget the fact that we look to business and industry to restore private employment and reduce and eliminate the necessity for public-relief and public-emergency work programs, and it is incumbent upon us to do what can be done to aid business and industry to accomplish the desired results. We should remove or alleviate burdens which have been unnecessarily imposed and which have hindered and delayed industrial recovery.

It therefore is self-evident, Members of the House, that agriculture has received most sympathetic and considerate treatment from a Democratic Congress, and I sincerely feel that before we pass the so-called "triple A amendments bill" we might with good grace pause and hesitate and give some consideration and some reflection on the effect of its passage upon the entire country.

If the passage of these amendments under consideration are for the best interests and welfare of the Nation as a whole, they should be adopted by this Congress. On the other hand, if it is the philosophy of this proposed legislation to restrain, handicap, regulate, and control the various industries affected thereby, and consequently further delay and retard the successful operation of business, they should be overwhelmingly rejected.

Mr. Chairman, many changes have taken place in the bill as now presented for our consideration from the one originally introduced. These changes, however, have occurred in the unimportant details of the proposed act, so it is doubtful to my mind whether we fully understand just what now is contained in this new bill—what powers would be conferred upon the Secretary of Agriculture and what are the implications of the legislation involved.

During the hearings before the Committee on Agriculture many of the grants of dictatorial and drastic power in the original proposal have been modified and temporized to some extent. However, the broad licensing power conferred upon the Secretary of Agriculture is still contained in the draft as presented with the exception that they have substituted the word "order" for "license", but the force and effect and the purpose sought to be accomplished are identically the same.

If this bill is adopted, it would enable some governmental clerk to formulate rules and regulations affecting cooperative creameries, fruit and vegetable associations, cheese factories, and other cooperatives, individuals, and concerns dealing in farm commodities, as enumerated in section 5 of the proposed bill, processed or otherwise.

In other words, we are going to permit some Government employee, no doubt unenlightened and unaware of the ramifications involved in the business management of great industries, to issue orders and decrees, regulating the con-

trol and operations of these business concerns, representing investments of hundreds of millions of dollars; affecting perhaps the employment of many thousands of our citizens engaged in industry; hamstringing and impeding the successful conduct of business by imposing regulations and measures unworkable in theory, impractical in operation, and keeping alive that uncertainty and fear which has stifled business and prevented the industrial workers from assuming their place in the commercial life of the Nation.

Now, Mr. Chairman and members of the Committee, in order to picture to you how far-reaching the effect of these amendments will be, if adopted, and the drastic and dictatorial provisions therein contained, I respectfully refer to the testimony of Mr. Chester Davis, Administrator of the Agricultural Adjustment Act, before the House Agricultural Committee.

Mr. BEAM. Mr. Davis, I want to ask you just one or two questions: Have you given thought or consideration to the number of processors that would come under the licensing features?

Mr. DAVIS. I have seen some statement that this would bring a million firms under that feature, but, Mr. BEAM, I want to point out that the same firms are subject to the licensing power under the existing act.

Mr. BEAM. I understand. But here is what I am trying to get at: I am talking about the wholesale processor, and I think conservatively there are 100,000.

Mr. DAVIS. Yes.

Mr. BEAM. And in addition to the wholesale-distributor another sixty or sixty-five thousand would be a conservative estimate?

Mr. DAVIS. I am sure that I would not say. I would say that the license feature would only be applied to a limited number of handlers, in a few commodities, where marketing or licensing plans are developed.

Mr. BEAM. I see.

Mr. DAVIS. I imagine that there would be comparatively a few thousand who would be actually brought under the licensing plan.

Mr. BEAM. But it is within the power of the Secretary to impose that on the retailer, is it not?

Mr. DAVIS. Yes; he could do that.

Mr. BEAM. Yes. So that in the aggregate a million licenses would be subject to the provisions of this act?

Mr. DAVIS. I would say that he could do that under the present act.

That is what I want to impress upon you Members of the House this afternoon. If he has that power in the present act, then why hamstringing business and put upon the consuming public of America all this additional burden and expense to do something which the testimony discloses, without contradiction, he already has the authority to do under the present law?

Mr. HOPE. Will the gentleman yield?

Mr. BEAM. Will the gentleman wait until I finish, please.

Mr. KLEBERG. Will the gentleman yield?

Mr. BEAM. Not at this time. I decline to yield further, Mr. Chairman.

Mr. BEAM. Mr. Davis, is it not true also that under the power delegated to the Secretary of Agriculture that he can fix the amount, quantity, a processor may sell?

Mr. DAVIS. If that were one of the conditions set forth in the marketing agreement and the marketing agreement had passed through the steps indicated in the proposed amendment and was finally approved by the President that might become one of the terms of the agreement.

Mr. BEAM. Is it not also true that he may prescribe the manner in which the processor enters into agreements with producers?

Mr. DAVIS. No; I would not say that would be correct; that would be carrying it a great deal beyond anything that is in the marketing plan, and all of this is tied up to make the marketing plan effective.

Mr. BEAM. But nevertheless he still has that power, does he not, under this amendment? The power is given to the Secretary, and he could exercise that prerogative of control?

Mr. DAVIS. I will say, Mr. BEAM, you might say that under the existing act and our interpretation, the Secretary of Agriculture could, with reference to marketing agreements—at least impose conditions in a license which would affect a man's business in the way you indicate; that is, under the existing law.

I want to say to you, here is the testimony of the Administrator of the Agricultural Adjustment Act.

If the conditions disclosed and described by him are under the law as it now exists, why insist on these amendments which it has taken the Committee on Agriculture since last February to bring forth on this floor for discussion here today?

Mr. ANDRESEN. Will the gentleman yield?

Mr. BEAM. Yes; I yield.

Mr. ANDRESEN. Does the gentleman think that the bill before us limits the authority of the Secretary with reference to the present act?

Mr. BEAM. It does in some respects, which I will point out as I proceed.

Mr. KLEBERG. Will the gentleman tell us whether the hearings from which the gentleman read were on consideration of the bill which the House now has before it, or were the hearings on the bill H. R. 5585, which were the original disputed set of amendments which gave all this unconstitutional power, which the gentleman knows the committee has corrected in the bill which the House is now considering?

Mr. BEAM. This bill has been amended so many times, as the gentleman from Mississippi [Mr. DOXEY] stated, in an attempt to meet the decision of the United States Supreme Court in the Schechter case, recently decided.

Mr. KLEBERG. Will the gentleman admit this is the hearing on the bill H. R. 5585?

Mr. BEAM. I will admit that is on the same bill. The provisions are identical in terms except the phraseology has somewhat been changed and additional provisions provided.

No person can listen to that testimony and not view with alarm the granting of such tremendous power, of regulation and control over the important industries of the Nation, as the facts therein disclose.

If, according to the testimony of the Administrator, the power to license and regulate is already implicit in the original act, why the necessity for the passage of the present bill? Why not continue as we are under the original Agricultural Adjustment Act and give business and industry an opportunity to proceed without the phantom of governmental bureaucratic regulation and control constantly arising and creating hesitation, doubt, and uncertainty in the path of normal recovery and progress?

But no, they desire more power and more control and more regulation of industry, which is the primary and fundamental purpose of H. R. 8492.

For example, under section 8 (c) the Secretary of Agriculture, after notice and a hearing, would have the right to impose license orders, rules, and regulations on processors, distributors, and wholesale handlers of such important agricultural commodities and products thereof as milk, fresh fruits, fresh vegetables, tobacco, and naval stores as defined in the Naval Stores Act, whenever in his judgment the issuance of such decree will tend to effectuate the policy of the act with respect to any commodity or product thereof, just above mentioned.

Processors and handlers of such commodities, including farmers, who also are handlers, could be compelled, if the Secretary of Agriculture so decreed, to conduct their business under a license "order" issued by him and according to rules and regulations promulgated by his Department.

The bill also contains a provision that no license "order" shall be applied to producers or retailers in their capacity as such, yet the minute the producer attempts to sell commercially his farm products, he immediately becomes subject to the regulations imposed by the Secretary.

Every retailer of milk and its products, throughout the country, will be compelled, under the bill as presented, to sell his commodities under rules and regulations issued and imposed by the Department of Agriculture.

Although the Secretary has been stripped of some of his potential powers sought by the bill as originally introduced, due to changes which have been made by our committee, nevertheless, it is an uncontroverted fact that the powers which would be conferred on him by the passage of H. R. 8492 are still such that we would have a substantial step in the direction of a controlled agriculture, a situation which is fundamentally unsound and contrary to our American form of government.

Why does the Agricultural Adjustment Administration want the tremendous powers that H. R. 8492 would give?

Why was its request for powers so general that if the bill had gone through as it was originally conceived the breadth of the Secretary's power would have been almost unlimited?

The Agricultural Adjustment Administration says it needs the amendments "to clarify" the act, to give the benefits of the adjustment program to a certain small group of agricultural products. If this is true, why does the Agricultural Adjustment Administration ask for blanket powers which would enable them to practically control American agriculture in its entirety, make the producers, the processors, the distributors, and consumers subservient and dependent upon regulations and decrees issued by the Department of Agriculture?

We have had 2 years of governmental control over agriculture. To a large extent the cooperation given by the farmers of this country to the program has been voluntary; but if this bill which we are now considering should become law, the power would be placed in the hands of a Secretary of Agriculture to compel and force a minority of producers or processors to comply with the Government's plan.

It cannot be denied but that considerable pressure has been brought to bear on some farmers of the country to insure their cooperation in the Government's plan.

The immense extent of the propaganda activities of the twin publicity bureaus of the Agricultural Adjustment Administration and the United States Department of Agriculture has had a deciding influence on a great many of the farmers of the United States.

It may be true that representatives of the Government have told farmers that if this measure does not pass the farmer's corn-hog checks, his cotton checks, and his wheat checks may stop. They say, in other words, that the existence of the Agricultural Adjustment Act is threatened unless the amendments are adopted.

Mr. HOPE. Will the gentleman yield?

Mr. BEAM. I yield.

Mr. HOPE. The gentleman is making an excellent speech against the original bill, H. R. 5535. I was wondering whether the gentleman was under the impression that that is the bill which the House is now considering?

Mr. BEAM. I have the bill in mind. I am glad to receive the gentleman's suggestion and his enlightening information, which I appreciate.

Surely we all know that this is not the fact and the defeat of this proposed legislation will in no way threaten the adjustment checks farmers have been receiving, or the other phases of the Government's agricultural program, but is simply a snare and a delusion to bring additional pressure and strength to the support of the proposed legislation, and decree to an administrative officer power unheard of in the history of the Republic, the delegation of which is fundamentally wrong and contrary to the best interests of our Nation.

But let us look a little more closely into the opponents of this legislation. The Secretary of Agriculture in a radio address delivered a few weeks ago, pointed out to the farmers of this country that they should support this legislation. He said the middlemen were opposed to it.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. BEAM] has again expired.

Mr. BEAM. Mr. Chairman, I yield myself 10 additional minutes.

I should like to say a word or two about those "middlemen."

The products of a man's farm or ranch would be worth very little if there were not, as the Secretary says, an "army" of middlemen to bring these products to the consumers.

Under our present civilization, residents of the city of New York are not in a position to buy direct from the farmer in Iowa, or the fruit grower in Florida or California, but they demand that the products be delivered to them where they reside and where they are to be consumed. I fail to see that it is a reflection on the middleman or a reflection on the present system of economics that the processing and distribution of agricultural products is a major business in this country.

The fact that in some instances the cost of distribution is a major element in determining the value of the raw material to the farmer, is not in any sense a condemnation of the system of today. Any farmer who desires to sell his product direct to the consumer and receive 100 percent of the consumers' dollar, has still that prerogative and that right; but in most instances it is more desirable and more economical for him to let the industries that are equipped to perform that job, take his products from his farm, convert them into products as desired, and transport these commodities to the places where they will sell and thereby dispose of them.

We could not do without the processors and distributors and they perform an efficient, economical function for the most part, in the industrial life of our Nation.

It is true that the processors and distributors have been almost unanimous in their opposition to these amendments, because with the powers conferred on the Secretary of Agriculture by this proposed bill, the Secretary would have almost iron-clad dictatorial control over their business and all would be practically dependent upon orders and regulations emanating from the Department of Agriculture, as to the operation of their respective industries.

The Secretary has given no evidence that his proposed amendments will do anything to help the handlers of agricultural products, nor has he given any concrete evidence that this measure will give any specific permanent benefit to the farmers of the Nation.

I ask you, Mr. Chairman and Members of the Committee, why the handlers and distributors of agricultural products should not oppose this type of legislation?

They oppose it for the same reason that I appear in opposition to it—for the same reason that many other gentlemen in this Chamber oppose it—because it threatens the existence of independent business; it is class legislation for a particular group of our citizens, and is not in the interest of the great masses of our consuming public.

It simply further retards industrial recovery and puts a highly important branch of American commerce under a system of political control, which would be contrary to our American principles and American ideals.

Mr. RYAN. Will the gentleman yield?

Mr. BEAM. I yield.

Mr. RYAN. The gentleman realizes that farm prices have not yet reached parity, as defined under the act, does he not?

Mr. BEAM. That is the situation which they are trying to put up here, but I am trying to show that when they are attempting to place unnecessary burdens on the consuming public, it cannot be done. It cannot work out, in justice.

Much has been said by the proponents of this legislation to the effect that the amendments are needed to help accomplish the purposes of the Agricultural Adjustment Act. It seems to me, and I say this with all respect to those who hold an opposite viewpoint, that the purposes of the act have been pretty well achieved and that the granting of additional powers to the Secretary of Agriculture, especially when they are so broad in scope, is no longer necessary.

I respectfully call the attention of the House to the booklet issued monthly by the Department of Agriculture entitled "The Agricultural Situation", and refer to page 21 of the May issue, which I feel sets forth in no unmistakable terms the fact that agriculture today is in a fairly healthy state.

These figures show that in March of 1933 the index number of farm prices was 55. The index numbers are based on the average from August 1909 to July 1914. It is commonly believed that during such period prices of the commodities the farmers sold were in a very favorable position, as compared with the prices of the commodities which the farmers had to buy.

As I have stated, in March 1933 the index number of farm prices stood at 55. By May 1935 farm prices had doubled and the index stood at 111.

The prices paid by the farmers for the commodities bought also stood at a relatively low point in March 1933. The index,

which is based on the years 1910-14 as equaling 100, then stood at that same figure. In March 1935 the index was only 128. In other words, while farm prices had doubled, the prices paid by the farmers for the commodities bought had gone up only about 28 percent.

In March 1933 the index of employment stood at 58.8. In March 1935 it was 82.4, a gain of approximately 40 percent. During the same period the index number of pay rolls in manufacturing industries gained approximately 90 percent, which was less than the gain in farm prices. (Figures from Bureau of Labor Statistics, U. S. Department of Labor.)

It seems to me, therefore, Members of the House, that the advance which has occurred in farm prices since the passage of the Agricultural Adjustment Act indicates clearly that no strengthening of the act is needed.

While the act cannot be credited entirely as the cause of higher farm prices, the comparison of the increase in farm prices with the increase in employment and pay rolls leads one to the obvious conclusion that a further increase in returns to agriculture, without a corresponding increase in returns to industry, will work a real hardship on the vast majority of our people. Certainly I believe that the laments of so many people of their inability to buy food at present prices indicates that no strengthening of the Agricultural Adjustment Act is vitally needed at the present time.

Mr. Chairman and Members of the Committee, I respectfully submit that it should not be the purpose of Congress to adopt legislation which clearly contravenes the principles stated in the decision of the United States Supreme Court in the Schechter poultry case, rendered on May 27, 1935. I earnestly submit that the provisions of this bill, which are similar to those in the National Industrial Recovery Act condemned in the Schechter case, should be given careful consideration by this body before they are adopted into law.

One of the principal grounds upon which the codes in the Schechter case were found unconstitutional was that the National Industrial Recovery Act before the Court in that case involved an attempt by the Federal Government to exercise a control over intrastate commerce.

The policy of the Agricultural Adjustment Act, as declared in section 2 thereof, is "to reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities in the base period." Briefly the purpose of the act is to adjust farm prices.

The whole tenor of H. R. 8492 is to carry out this policy of adjusting farm prices. Under section 2, page 2, of H. R. 8492, based upon his judgment relating to farm prices and to production, marketing, and consumption of such commodities, the Secretary of Agriculture is authorized to enter into voluntary agreements with producers for adjustment of acreage or of production for market and for rental or benefit payments to producers in connection with such agreements.

While under subsection 13 (b) of section 5, page 21, line 20, "orders" provided for in section 5 are not applicable to any producer in his capacity as a producer, and, therefore, it would seem that producers are not subject to the regulation and control which is authorized under this section. Nevertheless, under this same section, page 9, line 16, and so forth, processors, associations of producers, and others engaged in the handling of agricultural commodities specified in subsection 2 of section 5 are subject to "orders", and those regulations may contain provisions for classification, grading, size, or quality of the commodity.

They may fix minimum prices which the producer shall pay and they may contain other provisions which may be incidental to effectuate the other provisions of the decree. The Department rules may also limit the total quantity of commodities or products specified in subsection 2 of section 5 produced during any specified period which may be marketed, and the orders issued may allot amounts of such commodities or products which any handler may purchase of producer during a specified period. Thus, production, al-

though not directly regulated and controlled, is more effectively, more conveniently, and more practically regulated and controlled through the purchasers of the producers' commodities than if production had been directly regulated.

Production is not commerce and does not fall within the power delegated to Congress to regulate interstate and foreign commerce. Congress has no power to control or regulate production.

The orders likewise apply to processors, associations of producers, and others engaged in the handling of any agricultural commodities or products thereof specified in subsection 2 of section 5. Processing is the same as manufacturing and, like production, is not commerce. It precedes commerce as production precedes manufacturing and, like production, control or regulation of processing or manufacturing is not delegated to Congress under the power to regulate interstate and foreign commerce.

The United States Supreme Court, in *Kidd v. Pearson* (128 U. S. 1, 20), stated this principle as applying to manufacturing in very clear and emphatic terms:

No distinction is more popular to the common mind, or more clearly expressed in economic and political literature, than that between manufactures and commerce. Manufacture is transformation—the fashioning of raw materials into a change of form for use. The functions of commerce are different. The buying and selling and the transportation incidental thereto constitute commerce; and the regulation of commerce in the constitutional sense embraces the regulation at least of such transportation. The legal definition of the term as given by this Court in *County of Mobile v. Kimball* (102 U. S. 619, 702; 26, 238, 241) is as follows: "Commerce with foreign nations and among the States, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property, as well as the purchase, sale, and exchange of commodities." If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be vested, to the exclusion of the States, with the power to regulate not only manufacture, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate more or less clearly an interstate or foreign market? Does not the wheat grower of the Northwest and the cotton planter of the South plant, cultivate, and harvest his crop with an eye on the prices at Liverpool, New York, and Chicago? The power being vested in Congress and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multifarious, and vital interests—interests which in their nature are and must be local in all the details of their successful management.

This case was cited with approval by the Supreme Court in the Schechter case.

The policy of the act and the policy of the amendments are to control and regulate production and processing, and the provisions of the bill, as I have pointed out, clearly aim to accomplish that purpose, and so far as the amendments attempt to control and regulate production and processing, they are unconstitutional.

The price-fixing provisions of section 5 of H. R. 8492, to which I have referred, and the provisions also of section 5 imposing agreements upon minorities—subsection 8 of section 5—and imposing agreements upon majorities under subsection 9 of section 5 are likewise unconstitutional in that they are a deprivation of property of private citizens without their consent and without compensation.

We are just now emerging from a period of enforced governmental regulation and control as evidenced by the prohibition experiment, and we are all familiar with the lamentable and disastrous effects therein contained. Let us profit by our experience from that embarkation of enforced governmental regulation.

The people of the United States will voluntarily cooperate in any enterprise for the welfare of their country, but any attempt on behalf of a governmental bureau to enforce and compel that which they cannot voluntarily obtain surely is repugnant and contrary to all the traditions upon which our country was founded and upon which it has grown great and prosperous.

For one, will not vote to sacrifice and destroy on the altar of temporary expediency the initiative, the courage,

and the individualism of our people, which has been their proud boast and acclaim and their noblest heritage since the foundation of the Union. [Applause.]

Mr. LUCAS. Mr. Chairman, will the gentleman yield?

Mr. BEAM. I yield.

Mr. LUCAS. The gentleman from Illinois is a very distinguished and successful lawyer of the city of Chicago, and, from the dissertation he has just delivered to the House, I take it the gentleman has made a very careful study of the constitutionality of the bill now before us. May I ask the gentleman whether any other outstanding lawyers of the country corroborate the gentleman's view as to the constitutionality of the pending measure?

Mr. BEAM. I can submit to the gentleman in private many other opinions of outstanding and distinguished lawyers substantiating my position. One of the principal grounds in declaring the Schechter case unconstitutional was an attempt by the Federal authorities to exercise a control over intrastate commerce.

They are attempting in this proposed legislation by regulating production to do that which the Supreme Court says cannot be accomplished by direct legislation.

[Here the gavel fell.]

Mr. HOPE. Mr. Chairman, I yield 20 minutes to the gentleman from Minnesota [Mr. ANDRESEN].

Mr. ANDRESEN. Mr. Chairman, the triple A legislation has caused a good deal of controversy during the past 4 or 5 months, and considerable misinformation and misunderstanding has been had in regard to this legislation. From both sides a good deal of propaganda has been sent throughout the country, and I know that most of the Members have received letters and telegrams to support or oppose the triple A amendments, but the people sending the telegrams could not know what the amendments were about, as most of the Members did not know from day to day just what form the triple A amendments would take. In the first place the Secretary of Agriculture and the Administrator of the Agricultural Adjustment Act said that they already had sufficient authority in the law but thought it would be necessary to pass some additional legislation to clarify the present law. So a bill was introduced by the chairman of our committee which apparently represented the ideas of the Department of Agriculture, which bill was numbered H. R. 5585, and consisted of nine pages. Hearings were held on this bill. The bill, no doubt, clarified the present law, but it also gave the Secretary blanket authority to do almost anything he wanted to regiment agriculture and industry relating to agriculture. The committee did not consider that bill very long, but finally brought in another draft of triple A amendments, known as "H. R. 7088", on March 28 of this year. The bill H. R. 7088 contained 20 pages and attempted to circumscribe and limit the authority of the Secretary of Agriculture—and it did—but there was still considerable opposition in the committee to this bill. So, on April 24, H. R. 7713 was brought out from the committee, which made certain other changes in the triple A amendments. This bill materially changed the former bills and was considered by the committee. There was still objection to the triple A legislation, and on May 14 of this year H. R. 8052, consisting of 23 pages, further circumscribing and limiting the authority of the Secretary and modifying existing law, was presented to Congress with a report. Then the Supreme Court rendered the N. R. A. decision in the Schechter case, and all of the work done by the Committee on Agriculture went by the board. Without holding hearings, but having very deliberate executive sessions, the committee finally reported out the bill H. R. 8492, consisting of 53 pages, which is now before us, and which definitely limits and circumscribes the authority of the Secretary of Agriculture.

I opposed the other bills, not in full, but there were many instances where I felt that the authority sought to be conferred upon the Secretary went altogether too far.

I am supporting H. R. 8492 because most of the objections I had to the former legislation have been removed.

Mr. WOODRUFF. Mr. Chairman, will the gentleman yield?

Mr. ANDRESEN. I yield.

Mr. WOODRUFF. It is the gentleman's opinion, I gather, that the Agriculture Adjustment Act will, if this amendment is adopted, give to the Secretary of Agriculture less power than he now has.

Mr. ANDRESEN. Decidedly so. It limits the power that he can exercise not only under the amendments but also under existing law, because the existing law is here rewritten in a great many instances, limiting his power.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. ANDRESEN. I yield.

Mr. MOTT. In just what respect is the power of the Secretary limited with regard to the licensing features of the bill?

Mr. ANDRESEN. The licensing features, or the order features, are limited to certain definite commodities—milk and its products, tobacco, fruits and vegetables, turpentine, rosin, and soybeans. These are the commodities covered.

Mr. MOTT. I understand that; but as to the commodities included, how is the authority limited?

Mr. ANDRESEN. The bill prescribes just the extent of the authority; just how far the Secretary can go and what he may not do. He can go no further in issuing orders or licenses regulating the handlers of the agricultural commodities mentioned in the order section.

Mr. CHURCH. Mr. Chairman, will the gentleman yield?

Mr. ANDRESEN. I yield.

Mr. CHURCH. Does the gentleman think this bill constitutional when he considers the Supreme Court's decision in the Schechter case?

Mr. ANDRESEN. There is some doubt as to its constitutionality. We discussed the constitutional features in the committee, as well as some of the other features of the bill.

Mr. CHURCH. What does the gentleman think?

Mr. ANDRESEN. I am in doubt, to be honest about it; and while I might feel that certain provisions of the bill, such as power on the part of the Secretary to delegate his authority to agencies that he might set up, and the powers conferred on certain groups through referenda to say what another group must do, are unconstitutional, yet we have had no direct decision on these propositions and it seemed advisable to me and to a majority of the members of the committee that the question which is now in the courts could well go through so that we would have one determination with reference to that authority on the subject of agricultural legislation.

Mr. CHURCH. Does not the gentleman think we would do more good for agriculture if we enacted amendments that were definitely constitutional instead of questionably constitutional?

Mr. ANDRESEN. We had several constitutional lawyers sitting with us for 10 days in our committee meetings. These gentlemen were from the Department. They proceeded to reply to the inquiries of the various members of the committee on the question of the constitutionality.

Mr. DONDERO. Will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from Michigan.

Mr. DONDERO. When the gentleman from Ohio [Mr. MARSHALL] was speaking, I asked him if 51 percent of a group signed a processing agreement what becomes of the other 49 percent of the farmers who did not wish to sign that agreement.

Mr. ANDRESEN. There is no such provision in the bill, as a matter of fact. In the first place, orders may be issued by the Secretary if 50 percent of the processors or handlers of a given commodity agree to go into a marketing agreement. If they refuse to go into a voluntary marketing agreement, then the Secretary, with the approval of the President, and with the approval of two-thirds of the producers of that particular area and of that particular commodity, may go ahead and impose a license upon the handlers of

milk or its products, fresh fruits and vegetables, tobacco, soybeans, and naval stores.

Mr. DONDERO. The point I make is whether or not the minority in that kind of a case would have any voice of protest in order to get them from under the agreement in which they did not care to join.

Mr. ANDRESEN. Personally I think they would have the best kind of a day in court if they came before the court and presented their side of the question.

Mr. ARNOLD. Will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from Illinois.

Mr. ARNOLD. The word "license", I understand, has been eliminated, and the word "order" substituted in its place.

Mr. ANDRESEN. Yes.

Mr. ARNOLD. Can the gentleman tell us the legal difference between licenses and orders as used in the present law and in this bill?

Mr. ANDRESEN. The word "order", as I understand it, was used principally to comply with the definition of "orders" as used by the Interstate Commerce Commission, the Federal Trade Commission, and the Tariff Commission. They issue orders instead of licenses. Really there is no difference between the two.

Mr. ARNOLD. Does that affect the constitutionality of the bill?

Mr. ANDRESEN. No; except that a license is something that may be revoked. We had a license provision which was not revocable, and if a person violated the license he was subjected to a penalty of \$50 to \$500 for each offense. So there is no difference really between order and license.

Mr. BOILEAU. Will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. It is not a license under the present law, because a license necessarily is revocable. These orders appear to carry a penalty, so they are properly designated as "orders", whereas under the law that is in effect at the present time the proposed licenses are revocable. Under the amendments in the bill H. R. 8052, we still called them "licenses", whereas they should have been called "orders."

Mr. ANDRESEN. That is correct.

Mr. MICHENER. Is not an order revocable, too?

Mr. ANDRESEN. No. The order will be in the form of a general proclamation taking in an entire group. It is not revocable, but the man who violates it is subject to a penalty of from \$50 to \$500 for each offense.

Mr. FOCHT. Will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from Pennsylvania.

Mr. FOCHT. Was it not the purpose of the Supreme Court to eliminate all the compulsory features, and the way the matter now stands it is simply one of willingness to go ahead?

Mr. ANDRESEN. That is probably true in the Supreme Court decision on the N. R. A.

Mr. FOCHT. Is that not a fair understanding of the whole situation and this whole thing is meaningless if that is so?

Mr. ANDRESEN. No; because we have many good provisions in this bill outside of the order section, which all of the Members of the Committee are heartily in favor of.

Mr. FOCHT. That compulsory feature was very compulsory. That is removed from this bill?

Mr. ANDRESEN. Partly so; yes.

Mr. MILLARD. Will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from New York.

Mr. MILLARD. Did I understand the gentleman to say that he had an opinion from the Attorney General or from someone in the Attorney General's office that this bill is constitutional?

Mr. ANDRESEN. No; there is no question from the Attorney General.

Mr. MOTT. Will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from Oregon.

Mr. MOTT. Does the gentleman think that the license provisions of this bill are among the good provisions or among the more or less objectionable features?

Mr. ANDRESEN. The order provisions that I regard as good, if they are constitutional, are the provisions that give the farmers a fair minimum price for the products they produce and which come under the provisions of the orders. A good many farmers, as has been previously explained here, have been subjected to very severe competition and many unfair practices. If there is anything we can do to give a fair return to the farmers, I know the gentleman is for that, and I am for it on the same supposition.

Mr. MOTT. Yes; I am for that proposition. Does the gentleman believe this order provision or licensing provision will in fact do that?

Mr. ANDRESEN. If it is constitutional, it will.

Mr. HALLECK. Will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from Indiana.

Mr. HALLECK. Does the present Agricultural Adjustment Act provide for a license to be issued by the Secretary of Agriculture to certain persons as it is now constituted?

Mr. ANDRESEN. He has the general power now to impose a license under the act.

Mr. HALLECK. Do I understand that under the proposed amendment the issuance of orders will be limited solely to interstate commerce?

Mr. ANDRESEN. Absolutely. It does not affect intrastate commerce. If the gentleman is asked when he gets back home by his grocery merchant who sells milk, butter, and cheese, whether or not the merchant has to take out a license, he may tell him "no"; he does not have to take out a license and does not become subject to the Federal license issued by the Secretary of Agriculture. The same thing would apply to the small milk dealer or a farmer who has a small herd of cattle and sells the milk to the people in the cities and villages in the district. He will not be subject to a license, because the license provisions, or order provisions, deal only with commodities that move in interstate commerce.

Mr. HALLECK. May I ask the gentleman one further question? Take the case of a milk dealer in the city of Chicago who purchases milk from producers in the State of Illinois. Is it the sentiment of the committee that that man would be subject to the orders as provided for in these amendments?

Mr. ANDRESEN. If a marketing area were set up in Cook County or in Chicago, then the order provisions would affect all handlers within that marketing area. There, again, we come to the question of the constitutionality of this provision, or whether or not the milk that is sold by a farmer in Illinois to the handler within a marketing area in Chicago is in interstate commerce or not.

Mr. HALLECK. Was it not the sentiment of the committee that that would be a purely intrastate transaction in the light of the Schechter decision, which would take the transaction without the realm of Federal regulation?

Mr. ANDRESEN. If there were no marketing area set up, of course, it would be purely an intrastate transaction, but if the Federal Government goes in and sets up a marketing area and issues orders for the handlers in that area, of course, it would be a legal question as to whether or not the man who dealt in Illinois would come within the provision.

Mr. HALLECK. Assuming that the milk dealer in Chicago who bought his milk from producers in the State of Illinois would not be subject to the orders, on the theory that he was engaged in a transaction which was wholly intrastate, and then assume the case of another milk dealer in the city of Chicago who was buying his milk in my State of Indiana, he would, of course, be subject to these orders, and what would be the effect as between the two, if the dealer buying his milk from producers in Indiana had to pay a stipulated price, which was fixed in the order, while the other dealer buying his milk in the State of Illinois would buy it at a lesser price?

Mr. ANDRESEN. If there were no State law regulating the price of milk, similar to ones they have in the State of

New York and in some other States—I do not know whether there is one in Illinois or not—then, of course, it would become a constitutional or legal question to determine whether or not the dealer living in Chicago or in Illinois would have to pay the same price to his Illinois farmer as he did to the farmer living over in Indiana, and I think this is a question that will have to be determined by the court.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. ANDRESEN. I yield to the gentleman from Oregon.

Mr. MOTT. If, under this law, the Secretary of Agriculture should make an order declaring or establishing an area which was entirely within one State, it is not the purpose of this bill to bring that area within the provisions of this Federal law, if so, under what possible theory could this be done?

Mr. ANDRESEN. It all depends on the commodity that is dealt with.

Mr. MOTT. Any commodity, milk, for instance.

Mr. ANDRESEN. We will take, for instance, butter, and if they were to make a marketing area for butter within your State—

Mr. MOTT. Entirely within my State; yes.

Mr. ANDRESEN. There is one thing that concerned me—and I will be very frank about it, because I think we should have an understanding about this proposition—as to the power of the Secretary to set up production areas and marketing areas. This applied to the other bill and is one reason why I opposed the other bill. This bill as our chairman, the gentleman from Texas [Mr. JONES], has already stated, does not give the Secretary the power to set up any marketing areas or trade barriers to stop free flow in commerce of any commodity covered by the marketing agreement or order section. My fear was that dairy products produced in the Middle West would not be permitted to be sold in the large consuming areas of the East. This feature has been definitely eliminated from the bill so that in the consuming centers the handlers of milk, butter, and other commodities covered by the bill and living in those centers, will have to pay the same price to the farmers out in the Middle West for the same commodities, as they do the farmers in their own States, with the exception of the freight rate or the transportation differential. The farmers out in our section will have to meet the grade and the sanitary requirements of the State of New York or the other States, but there is nothing in the bill that stops free flow in commerce of any commodity within the United States. Does that answer the gentleman's question?

Mr. MOTT. No; it does not. My question is this. If I am a milk handler in Chicago and you produce your milk some place in the State of Illinois, as the situation has been stated here, and our transactions in milk as producer and dealer are entirely within the State of Illinois, do we come under the provisions of this bill?

Mr. ANDRESEN. If there is no marketing area or marketing territory set up, you do not. If there is and the law is constitutional, you do. Now, that is a question for the courts.

I want now to proceed with one or two other things in the bill before I conclude. There are some very good features in this bill which we are for, because they embody the principles of the old McNary-Haugen bill and the export debenture idea.

This country should get back to normal production and get back to a reestablishment of our foreign markets. We should try to maintain in this country our American markets for the producers of this country.

[Here the gavel fell.]

Mr. HOPE. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. ANDRESEN. We must try to preserve this market for the products of this country. This is one reason I am particularly interested in the section with regard to the power given the President to increase the duties upon all the commodities covered by this bill.

I have a table here made up from figures submitted by the Department of Commerce showing that the total value

of merchandise imported for consumption into this country during the past 10 months was \$1,467,000,000. This is the total value of merchandise imported for consumption. Of this amount \$990,000,000 represented agricultural commodities.

Mr. ARNOLD. Mr. Chairman, will the gentleman yield?

Mr. ANDRESEN. I yield.

Mr. ARNOLD. Would the gentleman show in his remarks what agricultural commodities are coming in to make up that vast amount?

Mr. ANDRESEN. I am going to put the table in the RECORD.

Mr. ARNOLD. I shall be very pleased to see it.

Mr. ANDRESEN. I am not going to put in the entire table, but I want to point out some of the commodities we are particularly interested in throughout the Middle West.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. ANDRESEN. I cannot yield until I have finished this statement.

During the last 6 months of 1934, 9,292 head of cattle came into this country, principally from Mexico and Canada. During the first 4 months of this year 144,919 came in.

Mr. CANNON of Missouri. Mr. Chairman, will the gentleman yield?

Mr. ANDRESEN. Yes.

Mr. CANNON of Missouri. Were they for breeding purposes or for consumption?

Mr. ANDRESEN. For consumption. I do not think that duty is paid on cattle coming in for breeding purposes. Meat products: 38,876,217 pounds of meat products came in during the last 6 months of 1934 and 38,040,917 pounds came in during the first 4 months of 1935, making a total of 76,917,134 pounds in 10 months. During the last 6 months of 1934, 822,000 pounds of butter came in, and during the first 4 months of 1935, 17,398,000 pounds came into the United States, principally from New Zealand, Argentina, and Australia.

In the last 10 months 11,269,000 bushels of corn came into the United States, 14,000,000 bushels of oats, 9,000,000 bushels of barley, 189,000,000 pounds of barley malt. Some of our good barley farmers in Minnesota are wondering why they get such low prices for their barley. That is the answer. They make the malt in Canada and ship it into this country in large amounts. Twenty-one million bushels of wheat came in in the last 10 months, and, 8,147,000 bushels of rye came into the United States. We want the President to go ahead and exercise the powers conferred in this bill, so that the American markets may be preserved not only for the cotton farmers and the textile business, but also for the other farmers in this country, who are entitled to this market, and who are unable to continue their business if they have to compete with cheaply produced agricultural products of other countries.

Mr. CANNON of Missouri. These importations you have listed constitute what percentage of the total amount of the respective commodities consumed in this country?

Mr. ANDRESEN. I am unable to get those figures right now?

Mr. CANNON of Missouri. Are not these importations an indication of prosperity on the American farm for the reason they indicate that for the first time in many years the domestic price is sufficiently high to warrant their bringing in these foreign products over our tariff wall? Up to this time the price has been so low it did not pay the foreign importers to bring commodities into the United States and pay the tariff, and the fact that they are now bringing them in would indicate a tremendous rise in the domestic price in the last year.

Mr. ANDRESEN. The first week in February butter reached a parity price of around 34 cents, which it held for a week. Imports of butter have come in so rapidly that the price has been depressed from 34 cents a pound the first week in February to 23 cents a pound today.

Mr. CANNON of Missouri. Was not that followed by a cessation of importations?

Mr. ANDRESEN. No. The biggest importation we had came in the month of April, when we had 7,500,000 pounds of butter—twice as much as we had in the 3 months before that. I cannot tell how to account for it. The imports are still coming in by leaps and bounds. I do not have the figures for the last month—they were not available.

Mr. CANNON of Missouri. What is the gentleman's remedy?

Mr. ANDRESEN. The remedy is to either raise the tariff or place an embargo on those commodities so that our farmers in this country may have the market for the products they produce here.

Mr. CANNON of Missouri. I fully agree with the gentleman. Curtail importations by tariffs or embargoes, and maintain domestic prices under the A. A. A.

Mr. MOTT. May I ask the gentleman, in view of the facts he has stated, why did not the committee provide for mandatory embargoes instead of leaving it to the discretionary authority of the President, which every one of us knows he will never exercise, because he has that authority now.

Mr. ANDRESEN. That is true; but it happens that the division on the committee is rather large, and while this committee never discusses politics because we are interested in the welfare of agriculture, we did discuss this very question, and some of them did not want to embarrass the men who might exercise this authority.

Mr. MOTT. Then they have done an entirely futile thing, if they give to the President discretionary authority when they know from experience during the last 2 years that the President never will exercise that authority.

Mr. ANDRESEN. We are in hopes that he will exercise that authority.

Mr. PIERCE. Mr. Chairman, I think it is distinctly unfair to say that he will not exercise the authority when the word is "shall" and not "may."

Mr. MILLARD. Does not the gentleman think it is unfortunate to have the words "when the President has reason to believe"? Cannot you make that any stronger?

Mr. ANDRESEN. We say in there that he shall do it.

Mr. MILLARD. But "when he has reason to believe."

Mr. ANDRESEN. We will have to leave it to his good judgment and we hope that he will exercise that authority.

Mr. CHRISTIANSON. Has the gentleman expressed any opinion as to the constitutionality of the so-called "marketing agreement order"?

Mr. ANDRESEN. I did express that there was some doubt on the part of the members of the committee, but we thought that question should be determined by the court.

Mr. MASSINGALE. Did the committee consider the fact that it had the right to enact, as a part of this law, an embargo against the importation of any farm products from abroad, to protect the American farmer?

Mr. ANDRESEN. I think the committee probably recognized that right, but sometimes committees do not function the way their good judgment dictates.

Mr. MASSINGALE. I will say there has been a great deal of criticism and suspicion expressed about what the President might or might not do. This Congress can place that embargo if they wish to do it.

Mr. ANDRESEN. The theory of some of the gentlemen in the present administration is that we are to negotiate reciprocal trade agreements and permit commodities to come into this country, of which we produce a sufficient quantity to take care of the domestic demands. I think that this administration should proceed to take care of the American producers, not only on the farms but also in industry, and protect them so that we can get back to a normal recovery in this country and again have prosperity.

Now, Mr. Chairman, I have tried to answer some of the questions that have been propounded. That is the only reason I took this time. So few of the Members of the House had an opportunity to study this 53-page document that is technical in character, and, therefore, I hope that my contribution has somewhat aided in clearing up or giving an explanation to the legislation. [Applause.]

Mr. MICHENER. Will the gentleman yield?

Mr. ANDRESEN. I yield.

Mr. MICHENER. Before the decision in the Schechter case the Farm Bureau and the Grange and the Milk Producers Association were down here en masse in favor of the proposed amendments. Can the gentleman advise the House as to the attitude of those farm organizations with regard to the bill which is now before the House?

Mr. ANDRESEN. We have not held any hearings on this bill, but I am satisfied that those organizations are still for the legislation. It is my hope that the enactment of this bill will materially aid agriculture throughout the United States so that our farmers may receive cost of production plus a fair profit for the products of the farm.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. ANDRESEN] has expired.

Mr. ANDRESEN. Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to include therein a table from the Department of Commerce.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The table referred to is as follows:

Agricultural imports for 10 months beginning July 1, 1934, and ending Apr. 30, 1935

[Department of Commerce figures]*

	6 months ending Dec. 31, 1934	4 months ending Apr. 30, 1935	Total 10 months
Total value of merchandise imported for consumption.....	\$804, 802, 254	\$662, 297, 761	\$1, 467, 100, 015
Of the above imports for consumption the following classifications represent agricultural products:			
Animals and animal products, edible.....	25, 333, 696	26, 514, 759	51, 848, 455
Animals and animal products, inedible.....	45, 150, 119	45, 182, 057	90, 332, 176
Vegetable food products and beverages.....	234, 442, 820	206, 323, 496	440, 791, 316
Vegetable products, inedible.....	109, 490, 793	95, 971, 433	205, 462, 226
Textile fibers and manufactures.....	111, 876, 989	90, 587, 065	202, 464, 054
Total for 10 months.....			990, 588, 227

List of a few important imported farm products during 10-month period

	6 months ending Dec. 31, 1934	4 months ending Apr. 30, 1935	Total 10 months
Cattle.....head.....	9, 292	144, 919	154, 211
Meat products, including fresh, prepared, and canned meat and pork.....pounds.....	38, 876, 217	38, 040, 917	76, 917, 134
Butter.....do.....	822, 105	17, 398, 167	18, 220, 273
Corn.....bushels.....	2, 806, 869	8, 462, 653	11, 269, 532
Oats.....do.....	5, 559, 314	8, 525, 101	14, 084, 415
Barley.....do.....	6, 566, 590	3, 050, 235	9, 616, 825
Barley malt.....pounds.....	98, 989, 337	90, 806, 382	189, 795, 719
Wheat.....bushels.....	12, 936, 872	8, 823, 494	21, 760, 366
Rye.....do.....	3, 678, 810	4, 468, 858	8, 147, 668

Mr. BEAM. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

Mr. HOPE. Mr. Chairman, I yield 15 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I am not a dirt farmer. I happen to belong to the local grange, the Pomona Grange, and the National Grange, and the Farm Bureau Federation, but I plead guilty to not being a dirt farmer like my eminent constituent in the White House. However, I feel very strongly that the time has come for the Republican Party to present a clear-cut and definite farm policy to try to do something to restore the vanishing world markets for our agricultural products.

Mr. RYAN. Will the gentleman yield?

Mr. FISH. I have not made my point yet.

The so-called "grass roots" convention that met a few days ago in Springfield, Ill., had this to say as to their agricultural program.

Mr. PARSONS. Will the gentleman yield?

Mr. FISH. I do not yield.

National recognition of the needs of agriculture.
We hold that no economic—

Mr. FULMER. Mr. Chairman, a point of order. The gentleman is not speaking on the bill.

The CHAIRMAN. The gentleman will confine his discussion to the bill.

Mr. FISH. Oh, certainly. I am talking about agriculture. I am reading the agricultural plank of the recent Republican Mid-West convention. There could be nothing more pertinent to the pending bill than that.

Mr. ZIONCHECK. We do not have "grass roots" in agriculture.

Mr. FISH. I am not yielding to anybody, Mr. Chairman.

Mr. MILLARD. Mr. Chairman, a point of order. The gentleman did not yield to anybody.

Mr. FISH (reading):

National recognition of the needs of agriculture.

We hold that no economic advantage of agriculture thus far attained shall be surrendered. The farmer of right is entitled to a fair proportionate part of the national income and to receive a parity price for the products of his farm in domestic markets.

I am sorry, as a Republican, that that convention did not go much further and offer a clear-cut and definite program. Agriculture is and will continue to be one of the greatest problems and issues before the country, not only when this bill is passed but for years to come. We must do something to restore the vanishing world markets for our farm surpluses. I deplore the fact that that issue has not been raised and that no concrete program has been offered since the McNary-Haugen bill to restore these vanishing markets.

Mr. PARSONS. Will the gentleman yield for a brief question?

Mr. FISH. Very well. I yield.

Mr. PARSONS. At the "grass roots" convention in Springfield the article which they adopted in their platform practically approved the entire program which the Democratic Party has adopted for agriculture.

Mr. FISH. I have just read it. I believe every thinking man is in favor of giving agriculture every opportunity to make a fair profit beyond the cost of production. I feel that that solution will be accepted by all the Members of this House, that the western farmers should have a parity, an equilibrium between the prices for our agricultural products and the prices for the products of the mines and the factories. But what of that? That does not do anything to restore world markets. We are importing 15,000,000 more bushels of wheat than we are exporting. The United States, the greatest wheat-producing nation in the world, is importing 15,000,000 bushels more than we are exporting. Is it not time we talked about world markets for our American wheat, cotton, corn, and other farm produce?

Mr. ARNOLD. Will the gentleman yield?

Mr. FISH. I yield.

Mr. ARNOLD. I understand the gentleman has introduced and has pending in the House a farm-relief bill along the lines of the old McNary-Haugen bill?

Mr. FISH. That is right.

Mr. ARNOLD. The bill we are now considering contains the provisions of the McNary-Haugen bill. The gentleman states that in addition to aiding agriculture we should do something to build up our foreign trade. What has the gentleman done in the way of introducing any bills in Congress that would restore the foreign trade he is now complaining has been lost?

Mr. FISH. I think the gentleman just said, did he not, that I had reintroduced the McNary-Haugen bill?

Mr. ARNOLD. But the provisions of that bill are contained in this bill.

Mr. FISH. Some of the principles are in it.

Mr. ARNOLD. No; the principles of the McNary-Haugen bill are here.

Mr. FISH. Have I told the gentleman I was opposed to this bill?

Mr. ARNOLD. I was trying to find out what the gentleman has done to restore the foreign markets.

Mr. FISH. I was going to say that the only thing that impels me to vote for this bill is the fact that it contains some of the principles, possibly some of the main principles, of the McNary-Haugen bill. I am opposed to the processing tax. If I had my way I would wipe out the entire A. A. A. and give the Secretary of Agriculture the right and the power to fix minimum prices for agriculture, to have two sets of prices, a domestic price fixed by the Secretary, and a world price to take care of our surplus of wheat, cotton, corn, or whatever commodity it may be, sell it in the world markets, and take whatever price it brings, and distribute the money to the farmers.

Mr. ARNOLD. Would the gentleman empower the Secretary of Agriculture to fix this upset price?

Mr. FISH. I certainly would.

Mr. PIERCE and Mr. JONES rose.

Mr. FISH. Mr. Chairman, I want to inform the House, so there will be no misunderstanding about it, that I am speaking over a national radio hook-up at 6:30 this evening on the subject of our vanishing markets, giving facts and figures, so fire your questions at me now. I yield first to the chairman of the committee.

Mr. JONES. I understood the gentleman to say that he had introduced a bill which was referred to the Committee on Agriculture.

Mr. FISH. Yes; similar to the last McNary-Haugen bill; that was, provided the A. A. A. had been wiped out. I am opposed to all the processing taxes. I realize they have increased the cost of agricultural products, but that farmers want to maintain those benefits. I realize they are really bonuses, and the farmers will vote overwhelmingly for them, but that is not the proper system. It is, however, the system in existence. I maintain that the Republican Party should work out a clear-cut program to restore the vanishing markets and substitute something in place of the processing taxes, but I am not able to go into that angle of it at the present time in a limited debate.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield.

Mr. MOTT. May I suggest to the gentleman from New York that a complete program such as he has suggested is already in Congress in the shape of bills? There are the Frazier-Lemke farm-mortgage refinancing bill, the old John Simpson cost-of-production bill, the McNary-Haugen bill, and the old debenture bill. They are all in Congress. The only reason they have not received the consideration of this body—successful consideration—is because the present administration happens to be opposed to them. These bills are in shape so that they could be passed at this session of Congress if we had sufficient support in this body to do it; and I may mention that in the case of at least one of these bills 36 State legislatures out of 48 in the United States have formally petitioned the Congress of the United States to enact it into law as a substitute for this measure.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield for a brief question.

Mr. McFARLANE. Will the gentleman kindly inform the House and the country, inasmuch as he is running for President, how he stands on these bills?

Mr. FISH. I propose to do my own talking to the country over the radio tonight.

Mr. McFARLANE. Tell the people how he stands on these bills.

Mr. FISH. Now, let me proceed on this subject. The raising of agricultural prices has been welcomed by all the farmers, at least. Someone has asked whether the Grange and the Farm Bureau Federation are for this bill. I think both are for it. I ask the chairman of the committee, the gentleman from Texas [Mr. JONES], if the farm organizations are not for this bill?

Mr. JONES. All of them which have made a declaration for or against it are for it. There are some State unions which have favored it, but I do not think the national unions

have stated their position on it; but practically all the farm organizations, some 15 or 20 of them, I think, have endorsed the measure.

Mr. FISH. My main purpose in taking the floor at this time was to point out the undeniable fact that in 2 years the A. A. A. program, in spite of all it has done toward raising the cost of farmers' products, has lost the world markets. Let us take cotton, for instance. We have lost over 50 percent of the world market in cotton. Cotton was our single greatest export crop.

More people in America were connected with the production of cotton than any one single commodity. I have seen it estimated as high as 10,000,000 people. We have lost half of the world markets and through the reduction of 25 percent of the cotton crop hundreds of thousands of people in the South have been placed on the relief rolls. While we have lost 3,000,000 bales, Brazil, Egypt, India, North Africa, China, and Soviet Russia have increased their production more than 3,000,000 bales. We have simply lost that wealth. The question now is, How are we going to get it back? The greatest wealth this country has ever produced has been in cotton. We are losing our market for it every day. Eventually we shall lose the other 3,000,000 or 4,000,000 bales of exportable cotton produced in the Southern States. If the South wants to commit economic suicide, of course, it is not our fault. We are not responsible for it. It is due to the A. A. A. program that we have lost the foreign markets. It is due to the A. A. A. program and the processing tax that the wheat producers have lost the wheat market in Europe.

Mr. ARNOLD. How has the A. A. A. lost the foreign market?

Mr. FISH. I will tell the gentleman.

Mr. PIERCE. It was gone before the A. A. A. Act was passed.

Mr. FISH. Oh, no. When you reduce production 25 percent and increase the cost in the United States so it gets away above the world market, naturally foreign nations are not going to buy so much. That is self-evident to anyone and is exactly what has happened to our cotton and wheat surpluses. Egypt, Brazil, and other countries have undersold us in cotton, and Argentina and Australia in wheat.

Mr. ARNOLD. Our farmers want these increased prices, and it is to their benefit. Now, would the gentleman take that away from them in order to get the world trade?

Mr. FISH. One minute the gentleman denies we have lost the world trade and in the next minute he wants the increased prices at home. I say, yes, have two prices, one for our domestic market and another price for the world markets. Instead of destroying our crops and plowing them under, raise all we can and sell the surplus at whatever price we can get. [Applause.] If we can get 50 cents in the world market for wheat let us sell it. Then bring the money back to this country and distribute it to the farmers. It is a clear-cut proposition and a plan that the Republicans ought to stand for solidly.

[Here the gavel fell.]

Mr. FULMER. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina [Mr. COOLEY].

Mr. COOLEY. Mr. Chairman, I am sure that I cannot adequately appraise the value of the services of the Chairman of your Agriculture Committee, the distinguished and splendid gentleman from Texas, Hon. MARVIN JONES. While I do not desire to unduly compliment him upon the discharge of his legislative duties, I would not be true to my inmost feelings, as one of the younger members of the committee, if I did not publicly state that he has, as chairman of the committee, demonstrated splendid leadership and great ability. With wisdom and becoming dignity he has presided over the deliberations of his committee with such fairness and with such impartiality that he has not only distinguished himself but he has endeared himself to every member of the committee and is entitled to the gratitude of this House and the country at large. Whatever may be the fate of this measure, that divine compensation of life, the luxury of enjoyment, which comes only from duty well and faithfully performed, will surely be his rightful portion.

Were I guided solely by my own inclinations, I would not permit myself to trespass upon the patience of this committee, but I am impelled by a sense of duty and perhaps motivated by an intemperate zeal, in asking your indulgence for a few brief observations upon this bill, which so vitally affects the welfare and the happiness of those whom I have the honor to represent.

With unaffected humility, I frankly confess that there are those present who more thoroughly understand this bill, and before the splendor of whose genius and ability I should bow with respectful deference. But even though I am still in my congressional swaddling clothes, I believe that I know at least a little something about the vicissitudes of the farmer and the necessity of strengthening the Agricultural Adjustment Act, to the end that it may more effectively accomplish its high service—the restoration of the farmers' purchasing power and the rehabilitation of agriculture.

I have no quarrel with those who may differ with me upon the wisdom or the efficacy of the Agricultural Adjustment Act. Neither shall I impugn the motive nor question the sincerity, nor doubt the patriotism of any man or woman who may oppose this legislation on the ground that it is a form of governmental regulation. I am glad that this is still a forum wherein men may differ and, while I am mindful of the fact that governmental regulation is repugnant, I am also conscious of the fact that poverty, desolation, and foreclosures are likewise quite repugnant. While I have sympathy with those who may differ, I have little patience with the critics of honest effort who have no better plan to offer.

I believe that the American farmer loves the fundamental philosophy of his Nation, and I believe that I know the American farmer well enough to know that he wants no legislation which does not find sanction within the framework of our Constitution. The American farmer loves this representative Government of ours—he does not want communism, fascism, or nazi-ism, or any other kind of "ism" except true Americanism. He does not want charity; he only wants justice and the protection of those blessed rights guaranteed to him by the organic law of the land. He wants his share of the national income, his rightful place in the national economy, and his rightful portion of human happiness. He wants to be freed from the merciless tyranny of that antiquated system which has enslaved him.

Of course, the farmer looks forward to the time when he can plant freely and harvest generously, in the certainty that he will have a market at home and abroad for the product of his toil, but for the present, recognizing the emergency, is willing to curtail his efforts in order to reduce the surplus which is depressing the price and which the world apparently does not want or cannot buy.

I have a genuine faith in the American farmer, and I believe that he today has an abiding faith in the leadership of the Democratic Party as it seeks to furnish him with the machinery which will enable him to gain control of his own industry and become the master of his own household.

Industry produces only that which it can profitably sell. Pray tell me why the farmer should continue to deplete his soil by producing that which the world will not buy? Neither the processor nor the manufacturer nor the consuming public has the right to eat the food nor wear the fiber produced by the sweat and toil of the farmer unless and until they are willing to pay the farmer not only the cost of production but reasonable compensation for his labor. If to pay the farmer reasonable compensation for his labor will result in closing factory doors, then let the doors close, for they have no right to remain open and expect the cotton farmer to put shirt tails on the people of the world while he himself is bled as white as the cotton he produces. Neither is the public entitled to the milk unless it is willing to feed the cow.

This is not a processors' measure. It was not designed to protect the manufacturer. It was not initiated and it is not administered for the protection of the other parasites who have in the past "farmed the farmer", and we do not intend to permit them to dictate the terms and conditions under which the program for the improvement of agriculture is carried out.

Restore to the American farmer this purchasing power and then, and only then, will the idle wheels of industry start to turn. This bill seeks to do that very thing, and at the same time it does no violence to the legitimate rights of others.

Everything from root rot to blue mold works against the farmer. Everything that crawls upon the earth, and even that which dwells beneath or falls upon the earth, fights against him. Every bug and beetle and bollweevil is his enemy. May we hope that Congressmen will be his friends and pass this act which will give strength and vitality to a program which has meant so much to him.

I need not bore you with statistics nor attempt to recapitulate nor even extol the virtues of the Agricultural Adjustment Act. Only those who are blind can fail to see the conspicuous signs of returning prosperity. It will suffice to say that the shadow is lifting from the farm; despondency is disappearing; confidence is being restored; and happiness is returning to the hearthstones of American homes.

Time will not permit me to even attempt an analysis of this bill, but I do want to say:

It will make the Agricultural Adjustment Act more certain and more effective.

It will certainly remove all doubt as to the constitutionality of at least some, if not all, of the provisions of the Agricultural Adjustment Act.

It safeguards the exercise and possible abuse of the powers conferred upon the Department of Agriculture.

It gives the farmer a voice in the initiating and terminating of certain programs which seek to bring about the declared policy of the act.

It sets apart 30 percent of the import duties collected by the Government, which is estimated to be around \$100,000,000, for the building up of the substandard of consumption; the development of foreign and domestic markets in the interest of a fuller utilization of our agricultural resources.

It provides for the payment of benefits to farmers cooperating in the great plan for adjustment of our national economy.

It protects the public by providing for an ever normal granary, which will provide adequate reserves of the major agricultural commodities to protect consumers from shortages.

This bill fixes, by act of Congress, the processing tax and prevents the filing of claims for refund of taxes already paid, and prevents the enjoining of the collection of processing taxes levied in the future. By fixing the tax ourselves, we certainly take care of the constitutional objection as to the delegation of power conferred upon the Secretary of Agriculture by the triple A, in this respect.

The bill spells out in certain terms the authority conferred upon the Department of Agriculture, and provides the conditions and limitations for the exercise of the power we have vested in the Secretary of Agriculture.

No farmer can be licensed or subjected to orders in his capacity as a producer.

No retailer can be licensed or subjected to orders in his capacity as a retailer.

No license or order can be imposed upon the processors of farm commodities unless the Secretary and the President first determine that it is the only practical means of accomplishing the declared policies of the act, and that two-thirds of the producers of the commodity favor the imposition of such orders. Thereupon, minimum producers' prices may be fixed so as to guarantee to the farmer a parity price.

As to the constitutionality of orders fixing minimum producers' prices, although we have no direct United States Supreme Court decision as a precedent, I desire to call your attention to a few decisions which we think justify the belief that these provisions of the Agricultural Adjustment Act are constitutionally sound. First, I would remind you that in many of the large metropolitan milk markets of the country by far the greater portion of the milk distributed in such markets is produced in States other than those in which such markets are located. The bulk of the milk supplied to these

markets thus moves in interstate commerce directly from the producer to the distributor. As an example, approximately 90 percent of all milk distributed in the Boston metropolitan area is produced in States other than Massachusetts.

The fixing of minimum prices which distributors are required to pay producers for such milk is clearly a regulation of the contract of purchase of such milk; that is, the very transaction which initiates the movement of this milk in interstate commerce. In *Baldwin v. Seelig* (55 Sup. Ct. Septs. 497), decided March 4, 1935, the Supreme Court held that the State of New York could not constitutionally prohibit the sale within its borders of milk produced outside of the State and purchased from producers at less than the minimum prices fixed under the statute for the purchase of milk in New York. The Supreme Court held that this attempt by the State of New York to fix minimum producer prices for milk moving in interstate commerce was unconstitutional, because it constituted a regulation of interstate commerce. The holding in this case that New York could not fix producer prices for interstate milk was tantamount to a holding that the Federal Government could fix such prices. Otherwise, it would mean that this aspect of commerce was beyond the control of both the States and Congress, a result which is logically inconceivable.

Another Supreme Court decision affirming the power of Congress to provide for the fixing of minimum producer prices for commodities which move in interstate commerce is *Lemke v. Farmers Grain Co.* (258 U. S. 50). In that case it was held that a North Dakota statute which fixed the price to be paid for grain purchased from growers in that State—a very large percentage of which moved in interstate commerce after its purchase—was unconstitutional because the fixing of such producer prices was a regulation of interstate commerce and hence could be imposed only by Congress and not by the States. The Court said:

It is alleged that such legislation is in the interest of the grain grower and essential to protect them from fraudulent purchasers and to secure payment to them of fair prices for the grain actually sold. This may be true, but Congress is amply authorized to pass measures to protect interstate commerce if legislation of that character is needed.

In other cases the Supreme Court has specifically stated that the buying and selling of goods for movement in interstate commerce is itself a part of interstate commerce (*Shaffer v. Farmers Grain Co.*, 258 U. S. 189; *Dahnke-Walker v. Vondurant*, 257 U. S. 282), and consequently the regulation of such contract of purchase by fixing of minimum producer prices is clearly a regulation of a transaction in interstate commerce.

In the *Schechter* case the transactions regulated by the Poultry Code occurred after the interstate journey of the poultry had ended and after the slaughterers had purchased it from commissionmen and it had come permanently to rest within the State of New York. The opinion specifically distinguished the situation before the Court from that involved here, to wit, the regulation of the purchase of a commodity for immediate shipment in interstate commerce. The Court stated that the provisions of the Poultry Code were not concerned with the purchase of such poultry from producers or their agents, the commission men, and said:

So far as the poultry here in question is concerned, the flow in interstate commerce had ceased.

The poultry had come to a permanent rest within the State. It was not held, used, or sold by defendants in relation to any further transactions in interstate commerce and was not destined for transportation to other States. Hence decisions which deal with a stream of interstate commerce—where goods come to rest within a State temporarily and are later to go forward to interstate commerce—and with the regulation of transactions involved in that practical continuity of movement are not applicable here.

Thus the Court carefully distinguished the type of regulation involved in the fixing of minimum producer prices for commodities which are purchased for immediate interstate commerce. It is significant that the Court cited at this point of its opinion, among other cases, *Lemke* against *Farmers Grain Co.*, which I have discussed, as an example of the extent of constitutional regulation of interstate commerce by the Federal Government. Hence the *Schechter* case indi-

cates that the fixing of minimum producer prices for commodities which move in interstate commerce is within the Federal commerce power.

Hammer v. Dagenhart (247 U. S. 251)—the child-labor case—is not an authority against the constitutionality of the fixing of minimum producer prices for interstate commodities. In that case the Supreme Court held that the real purpose and effect of the child-labor law was to regulate the hours of labor of children in factories within the States, a matter which has no relation whatever to interstate commerce. But obviously the purpose of fixing minimum producer prices for commodities named is to increase the price received by producers for a commodity which moves in interstate commerce. And the cases discussed demonstrate that the purchase and sale of the commodities named for shipment in interstate commerce is in itself a part of interstate commerce, and consequently that in regulating this contract of purchase by fixing minimum producer prices Congress is regulating a transaction which is a part of interstate commerce, not one related to interstate commerce, as was the employment of child labor involved in *Hammer* against *Dagenhart*.

In fixing minimum producer prices for such commodities, Congress is not regulating manufacture or production; the only transaction regulated is the purchase of such commodities by the distributor from the producer, and that purchase initiates the movement of such commodities in interstate commerce and is itself a part of interstate commerce.

In metropolitan milk markets such as Boston, there is, of course, a relatively small volume of milk which is produced in the same State in which it is distributed, and hence does not move in interstate commerce. The application of milk orders to this relatively small amount of milk is amply justified under the doctrine that Congress has the power to regulate intrastate commerce in connection with its regulation of interstate commerce when intrastate commerce is so intermingled with the interstate commerce regulated that effective regulation of the latter requires regulation of the former, or when the regulation of interstate commerce alone would give an unfair competitive advantage to intrastate commerce of the same character, or when intrastate commerce directly affects or burdens interstate commerce. Thus, the Interstate Commerce Commission may regulate intrastate railroad rates when such intrastate rates, if unregulated, would hinder effective regulation of interstate railroad rates, or would discriminate against those who ship goods in interstate commerce—the *Shreveport* case (234 U. S. 342); *United States v. Louisiana* (290 U. S. 70); *New York v. United States* (257 U. S. 591). It seems obvious that in these interstate milk markets the fixing of minimum producer prices for interstate milk could not be effective without fixing equivalent prices for intrastate milk which is in direct competition with interstate milk, and the fixing of minimum producer prices for interstate milk alone would clearly discriminate against such milk.

Therefore, it would appear that there can be no very serious question that the fixing of minimum producer prices for milk is permissible under the due-process clause of the fifth amendment. *Nebbia v. New York* (291 U. S. 502) and *Hegeman Farms Corporation v. Baldwin* (293 U. S. 163) establish that fixing such minimum producer prices for milk does not contravene the due-process clause of the fourteenth amendment, and it is well settled that the restraints of the fifth amendment upon congressional legislation are no greater than those of the fourteenth amendment upon State legislation (*Heiner v. Donnan*, 285 U. S. 312, 326).

We may expect new decisions upon new laws in this new and progressive age, but I am sure that no one Supreme Court decision, nor a dozen decisions, will halt the march of progress or send us back to the so-called "good old days" of starvation and woe and want.

In my State, and in the other flue-cured tobacco growing States, the situation, with reference to tobacco, is in many respects similar to the situation as to milk in the metropolitan areas. According to evidence introduced in the case of *Motsinger* and others against the collector of internal reve-

nue for North Carolina and others, now pending in the United States District Court for the Middle District of North Carolina, approximately 60 percent of the entire North Carolina flue-cured crop is exported annually. At least 65 percent of the North Carolina crop is either exported and transported in interstate commerce to other States prior to its manufacture, and 98 percent of all of the flue-cured tobacco produced in North Carolina is ultimately consumed either before or after manufacture outside of the State, and, therefore, goes into the stream of foreign or interstate commerce.

It certainly follows, then, that the prostration of the tobacco farmer is well calculated to dry up the streams of commerce insofar as tobacco is concerned.

As the price of tobacco rises, increasing numbers of motor cars are sold in the tobacco-producing States. The sale of farm machinery and fertilizer and of any number of other things which the farmer must have increases in volume and accelerates the stream of interstate commerce and stimulates national prosperity.

I do not believe that the Agricultural Adjustment Act, as it will be amended by the bill under consideration, will be found wanting on the ground that it is an unconstitutional delegation of legislative power. Time will not permit a further discussion of this particular phase of the measure.

In closing, I desire to remind you of the splendid defense of the Agricultural Act delivered on the floor of this House on Tuesday, April 23, by my good friend and colleague from North Carolina the Honorable LINDSAY C. WARREN, which, I think, is a complete answer to those who have not been willing to go along with this part of the new-deal program, under which the income to cotton farmers alone rose from \$464,000,000 in 1932 to \$862,000,000 in 1933. Insofar as my State is concerned, when I realize that the cash income to our farmers was increased from \$86,000,000 in 1932 to \$216,000,000 in 1934, I am unwilling to remain silent when their program is threatened or attacked, and I want it distinctly understood that I am for this bill lock, stock, and barrel. [Applause.]

Mr. JONES. Mr. Chairman, I yield 10 minutes to the gentleman from Nebraska [Mr. COFFEE].

Mr. COFFEE. Mr. Chairman, I cannot discuss very many phases of this bill in 10 minutes, so I am going to confine my remarks to the provisions of the bill that deal with our foreign trade. I should like first to answer the gentleman from New York [Mr. FISH]. He asks what has happened to our vanishing foreign trade. I may state that if he would search through the Tariff Acts of 1921, 1922, and 1930 he would probably find the reason for the retaliatory barriers raised by foreign countries which have practically wrecked our international trade.

There can be no general prosperity in this country until the purchasing power has been restored to the 50,000,000 people in this country who are engaged in agriculture. It was the loss of this purchasing power that largely contributed to the collapse of industry and our consequent major social problem—the army of unemployed. Agriculture was the first major industry to be forced down the toboggan into depression because of loss of foreign markets. Other industries closed as a consequence of the loss of this domestic market, throwing millions of men out of work and further reducing the purchasing power of the Nation. The chain of circumstances is known to all of you. Our problem is to rebuild that which has been destroyed; to restore national prosperity and regain what has been lost.

The Agricultural Adjustment Act has been of great benefit to agriculture. The adoption of this bill containing the amendments to the act will, in my opinion, make the Agricultural Adjustment Act the legislative machinery that will not only pull agriculture out of the bog of depression but will start the wheels of industry and help carry the army of unemployed back to work.

The amendments dealing with our foreign trade in agricultural products introduce into the Agricultural Adjustment Act a clear authority to maintain a two-price system for American agriculture. By adopting these amendments Con-

gress will be taking a great step forward in recapturing lost world markets for American agriculture. It will be possible to maintain a domestic price level the height of our tariff above the world level on the portion of our products consumed in this country, and provide a means of exporting the

surplus at the world level. In so doing, Congress will be adopting for the United States a system of marketing agricultural commodities already tried and approved in some form by practically every other country of any consequence engaged in exporting, as shown in the following table:

Two-price systems in export of certain agricultural products, by type of administration and source of funds (1929-34)

Country	Grains	Flax	Corn	Butter	Eggs	Beans	Olive oil	Pork and pork products	Beef	Cheese	Poultry	Live animals	Wine
Argentina	A-8.	A (seed)-8.	A-8.	B-4 A-5.									
Australia				E-6.									D-1.
Austria	E-6.								E-6.	E-6.			
Bulgaria	A-1+3 (2).		A-1+3 (2).										
Chile	A-3+1+7.					A-3+1+7.							A-3+1+7.
Denmark									A-1+3.				
Egypt			D-6 (1).			D-6 (1).							
Estonia				D-9+1.	D-9+1.			D-1+3 (9).					
Finland				D-2.	F-1.			F-1.		D-2.			
France	D-2 (1).	D-2 (1).											
Germany	E-6.			E-6.	E-6.			E-6.	E-6.				
Greece							D-1.						
Hungary	D(B)-3.			D-1.	D-1.								
Irish Free State											D-1.	D-1.	
Italy	A (rice)-2.												
Latvia		C-1.		D+C-1.				C-1.					
Netherlands								A-1.					
Poland	E-6+1.			E-6+1.				E-6+1.		E-6+1.			
Rumania	D-3+6 (1).		D-1 (6).										
Spain	A (Rice)-3.												
Southern Rhodesia			A-5.	B-4.					D-3.				
Sweden	F-1.												
Union of South Africa			A-7+2.	B+A-4.					A-7+2.				
Uruguay	A-1.							A-1.					
Yugoslavia	C-1 (3).												

LEGEND

Administration by: A, board created by Government; B, cooperative association; C, monopoly; D, bounties paid without any special administrative unit; E, import certificates; F, export certificates.

Source of funds: 1, general taxes; 2, special sales taxes; 3, processing taxes; 4, producers' assessments; 5, equalization fee plan; 6, general customs receipts; 7, special import duties; 8, foreign exchange profits; 9, tax on foreign exchange.

The substance of these amendments is very simple. First, they give the Secretary of Agriculture permissive power to make "payments to expand domestic or foreign markets", "payments to remove surpluses of agricultural commodities or products thereof." The comprehensive language of these phrases is intended to authorize three methods of disposing of surpluses: Exportation at world prices, diversion to relief channels, and conversion into low-cost by-products. Any of these payments may be made separately or in conjunction with the familiar rental or benefit payments now authorized under the act.

Second, the amendments provide the source of funds to make these payments. A processing tax may be levied with respect to any basic commodity. If no rental or benefit payments are to be made for adjustment of production, the tax would be reduced to the very low rate necessary to pay losses on exportation or to expand markets. In any case, even if all payments are being made, the rate of tax will not exceed the present rate.

Section 31 of this bill authorizes an appropriation of 30 percent of the customs receipts for the use of the Secretary of Agriculture for the principal purpose of encouraging the exportation of the surplus major agricultural commodities and products or diversion into relief. This fund will amount to approximately \$100,000,000 a year and can be used in conjunction with or independently of any funds raised through a processing tax to pay exporters a bounty to indemnify them against loss in the removal of the surplus agricultural commodities from the domestic market. Through the manipulation of this fund a dual price level can be maintained and in this way we can prevent our domestic price level from being forced to the world level when a surplus occurs.

This is about agriculture's proportionate share of the tariff duties, since approximately 30 percent of the population is engaged in agriculture. This fund is an independent fund and can be used in conjunction with funds provided through the processing tax, if there is such, or independently, to remove surplus agricultural products from the domestic market through the export channel. It will give the American farmer an opportunity to increase production as world mar-

kets are expanded and a stabilized price on that portion of his production consumed domestically.

Normally 18 percent of farm income is derived from foreign sales as against 5 percent for industry. There is nothing mandatory in these provisions which are designed to arm the American producer with a means of attaining and regaining his foreign market.

The following table indicates the trend of meat exports from the leading meat-exporting nations:

Meat and meat products, international trade, biennial, 1919-33
[In millions of pounds]

Calendar year	United States	Argentina	Denmark	New Zealand	Australia	Brazil
1919	3,118	1,596	34	552	521	254
1921	1,948	1,242	237	553	338	174
1923	2,342	1,853	492	405	212	250
1925	1,584	2,168	564	449	458	153
1927	1,290	2,280	682	441	321	93
1929	1,448	1,701	681	428	383	201
1930	1,183	1,552	875	514	344	288
1931	978	1,544	1,040	519	350	184
1932	865	1,436	1,025	581	446	116
1933	945	1,429	797	651	434	136

Third, the amendments take steps to protect our rising domestic price level against importations. A new section added to the act authorizes the President to cause the Tariff Commission to investigate the importation of any articles of commerce, and, upon their finding that such imports tend to prevent any agricultural commodity from reaching parity price, to license further imports, impose quotas, or exact compensating taxes. This section is essential to protect our domestic market against importations of competing agricultural commodities and is of particular interest to the livestock producer.

The maladjustment of tariff benefits has in general tended to force the farmer to buy on a protected market and to sell on a world market. The high tariffs provided for industrial products and the low tariffs provided on most agricultural commodities have tended to industrialize the United States at the expense of agriculture and labor. Since 1922 the

trend has been toward increased exportation of industrial products and increased importation of foodstuffs.

The following figures indicate this situation better than words can tell:

Foodstuffs
[In thousands of dollars]

Year	Exports	Imports	Excess of exports (+) or imports (-)
1922.....	1,046,593	717,228	+329,370
1924.....	966,183	946,473	+19,710
1926.....	838,083	957,635	-119,557
1928.....	760,488	955,706	-195,218
1930.....	541,183	693,573	-152,390
1932.....	241,537	406,891	-165,354
1934.....	226,968	517,861	-290,893

Semimanufactures and finished manufactures
[In thousands of dollars]

Year	Exports	Imports	Excess of exports (+) or imports (-)
1922.....	1,730,037	1,215,624	+514,413
1924.....	2,198,720	1,405,234	+793,486
1926.....	2,612,328	1,680,961	+931,367
1928.....	2,976,354	1,669,004	+1,307,350
1930.....	2,410,891	1,365,174	+1,045,717
1932.....	820,955	557,558	+263,397
1934.....	1,220,671	657,525	+563,146

There are quoted below the domestic exports and imports for consumption of cattle and beef products from and into the United States during the calendar year 1934 and the period from January 1 to April 30, 1935, inclusive:

	Calendar year 1934		Jan. 1-Apr. 30, 1935	
	Quantities	Dollars	Quantities	Dollars
DOMESTIC EXPORTS				
Cattle for breeding.....number..	5,440	178,900	717	69,575
Other cattle.....do.....	10,215	262,711	956	33,428
Beef and veal:				
Fresh or frozen.....pounds..	5,470,986	735,720	1,754,032	293,494
Pickled or cured.....do.....	13,940,031	823,817	2,025,949	169,330
Canned beef.....do.....	2,499,665	811,822	1,044,952	350,322
Tallow.....do.....	7,347,140	335,792	24,241	2,518
IMPORTS				
Cattle for breeding.....number..	6,860	424,007	2,955	230,799
Other cattle.....do.....	57,679	591,133	144,919	3,474,073
Beef and veal:				
Beef, fresh.....pounds..	140,474	13,445	3,190,313	371,487
Veal, fresh.....do.....	3,204	316	10,715	1,293
Cured, fresh.....do.....	823,613	49,314	299,743	29,708
Canned beef.....do.....	46,673,095	3,015,675	25,613,601	1,757,613
Tallow.....do.....	42,813,299	1,624,792	88,483,408	4,240,793

Wheat, total exports of principal exporting countries and position of leading countries
[Percent of total world exports]

Year	Total	United States	Canada	Argentina	Australia
Average:					
1909-13.....	745,194,000	13.5	12.2	12.8	6.7
1914-18.....	613,375,000	36.0	25.3	12.7	7.1
1924-25, and 1928-29.....	804,042,000	23.7	36.6	17.5	11.3
1929-30, and 1933-34.....	780,336,000	16.0	34.4	19.8	15.8
Crop: 1					
1929-30.....	973,115,000	16.8	43.4	23.3	11.1
1930-31.....	644,882,000	23.8	28.6	25.0	9.6
1931-32.....	847,225,000	15.5	31.6	14.2	16.6
1932-33.....	808,633,000	16.8	24.7	17.9	19.2
1933-34.....	627,045,000	6.6	42.7	19.2	23.7

¹ Beginning in 1922, World Exports compiled from June 1 to July 30 of each following year so that these figures may be more comparable with crop years.

Source: Yearbook, Agriculture, 1920-34, with latest revisions.

The objective sought in the Agricultural Adjustment Act is to attain parity prices for agricultural products. The inclusion of these amendments will be a step toward attaining for agriculture equal footing with industry, which has always

managed to obtain practically all of the tariff benefits without affording to agriculture proportionate compensation.

With a properly balanced agricultural production in conformity to domestic and foreign demand, prices on agricultural products can be stabilized at profitable levels. When this is accomplished the increased purchasing power will be immediately reflected in increased industrial activity which is so essential at this time to put the unemployed back on the pay rolls and take them off the relief rolls. There can be no general prosperity in the United States without restoring purchasing power to the consumer.

With the adoption of these amendments, the Agricultural Adjustment Act will be greatly perfected and made more flexible, so that under its provisions each surplus commodity can be dealt with in a manner most adaptable to that particular commodity.

The present act provides only one means of removing surpluses, and that is through a reduction program, and rental and benefit payments can only be made in connection with a reduction program. The amendments change the word "reduction" to "adjustment", and in connection with the other provisions will make it possible to gradually increase production as domestic and foreign markets are developed. The present policy of allowing each industry to determine upon its own program under the act will be continued. However, with the adoption of the bill, the producers of any commodity will have several options under the act of how best to utilize Government assistance in coping with the problems pertaining to their industry.

The Farm Board Act failed because it provided no means of controlling production nor any means of disposing of the surplus. The old McNary-Haugen plan, which provided for an equalization fee to provide a fund sufficient to remove surpluses from the domestic market through the export channel, passed Congress in 1927 and 1928 and was vetoed twice by President Coolidge on the theory that it provided no means of controlling production.

The present act provides the means of controlling production, and by incorporating in that act the principles of the McNary-Haugen plan and also the export-bounty plan, as provided in this bill, the Agricultural Adjustment Act will then be perfected to remove surpluses through the export channel without depending entirely upon controlled production. Weather conditions and other economic factors make it impossible to plan production to meet domestic requirements only. Consequently a means of removing any surplus that may be produced without demoralizing the domestic market is essential.

If we want to fight for foreign trade, we must be armed with the same weapons that the other countries have. There are 15 countries that are subsidizing the exportation of grain, as shown in the table above. You talk about rye coming into the United States; certainly, it comes in from Poland, and Poland pays 30 cents a bushel to get it out of that country, because they are going to maintain their domestic price, and therefore they pay 30 cents a bushel as a bounty to get it out. We only charge 15 cents a bushel tariff coming into this country, and naturally this is a good cash market.

Mr. ANDRESEN. Mr. Chairman, will the gentleman yield?
Mr. COFFEE. I yield.

Mr. ANDRESEN. The gentleman is making a very fine presentation, but there is a provision in existing law which permits the President to go ahead and increase our duties to offset something on account of subsidies paid in other countries, but he has not done this.

Mr. COFFEE. The gentleman appreciates the fact that I have tried to make that provision, restricting agricultural imports, in this bill as mandatory as possible.

Mr. ANDRESEN. I know that. The gentleman is a very good Republican in that respect.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. COFFEE. I yield.

Mr. MOTT. Does not the gentleman also realize that the President has the authority to put an absolute embargo upon these products whenever they interfere with American industry?

Mr. COFFEE. I will join with any of you people at any time to try and maintain the domestic market for the American producer.

I want to quote here a statement made by President Roosevelt in an address to industrial groups in Boston on November 1, 1932, which indicates his sympathetic attitude toward the provisions of this bill:

* * * We need to give to 50,000,000 people, who live directly or indirectly upon agriculture, a price for their products in excess of the cost of production. That will give them the buying power to start your mills and mines to work to supply their needs. They cannot buy your goods because they cannot get a fair price for their products. You are poor because they are poor. I favor—and do not let the false statements of my opponents deceive you—continued protection for American agriculture. I favor more than that. I advocate measures to give the farmer an added benefit, called a "tariff" benefit, to make the tariff effective on his products. * * *

These amendments which we are advocating are the only measures before the Congress to correct this fundamental lack of balance in our foreign trade. They apply correctives at either end of the trade channel.

Agriculture must have Government assistance in order to compete with subsidized exports from other countries. While all nations have suffered in the loss of trade, the United States has suffered more than other nations in the loss of her foreign trade. We must arm our nationals with the means of getting rid of these agricultural surpluses. Until we rehabilitate agriculture and restore the purchasing power to the farmer, we are not going to get the wheels of industry turning in the East and get unemployed back to work.

Our committee has taken the position and has included an amendment to provide that each industry must stand on its own bottom and that the processing taxes in one industry cannot be used for the benefit of another. Corn and hogs are the only commingled items. Each industry maps out its own program in collaboration with the Secretary and Administrator. Secretary Wallace and Chester Davis, the administrator of the act, have had a superhuman task to perform. Their commendable efforts to rehabilitate agriculture are showing results. By giving them this additional power and funds necessary to remove burdensome surpluses that may accumulate, and to restrict imports of foodstuffs that compete with domestic production, American agriculture will be given a better chance to fight its way back to prosperity.

Mr. HOPE. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. SAUTHOFF].

Mr. SAUTHOFF. Mr. Chairman, the purposes of the Agricultural Adjustment Act, as set forth in the bill itself, are as follows:

First. To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco shall be the pre-war period, August 1909–July 1914. In the case of tobacco, the base period shall be the post-war period, August 1919–July 1929.

Second. To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets.

Third. To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmers in the pre-war period, August 1909–July 1914.

The bill under consideration today, H. R. 8492, seeks to amend the Agricultural Adjustment Act in several particulars. Its chief provisions are as follows:

First. Secretary of Agriculture Wallace will hold hearings. As a result of these hearings orders will be issued affecting

processors and distributors but not producers. These orders will be subject to changes from time to time as emergencies arise which require change. These changes will be termed "regulations." These orders and regulations will take the place of licenses and amendments to licenses.

Second. Give the Secretary of Agriculture authority to keep an "ever-normal granary" by taking up surpluses in good years and dealing them out to farmers in bad years in the form of benefit payments in kind rather than in cash.

Third. Give him one-third of the customs receipts, a sum estimated at \$100,000,000 a year, to finance marketing surpluses abroad and to improve the domestic market.

Fourth. Permit him to use part of the \$100,000,000 to buy up and retire marginal lands.

Fifth. Presidential imposition of quota restrictions on tariffs on imports in event imports of agricultural commodities interfere with the program.

After many weeks of careful deliberation, the House Committee on Agriculture reported favorably on the amendments, and the House was ready to proceed with the amendments, which in their original form contained licensing features, but the Supreme Court ruling declaring the National Industrial Recovery Act unconstitutional made it necessary to send these amendments back to committee for complete revision. The licensing feature had to be eliminated, but in order that some measure of control be kept alive, the Secretary of Agriculture was vested with sufficient power to have some measure of supervision over agricultural products.

Whatever measure of control this may be, the writer sincerely hopes that it will not mean the destruction of any animal and vegetable life in the future as we have had in the past. The writer was taught as a child that the destruction of any food was a grave sin, and still believes firmly that the destruction of food is indefensible. No doubt, millions of our people were shocked when they read that cattle and hogs and grains and other foodstuffs were wantonly destroyed, while millions were undernourished and underfed, going to bed hungry for lack of these provisions. The writer is unalterably opposed to the destruction of any of the wealth produced from the land, as he believes that the creation of wealth is a blessing, and not a curse, to mankind.

However, it must not be forgotten that there are grave abuses in the processing and distribution of foods, and some measure of control must be lodged some place in order to minimize these abuses. Naturally, the proper place for that control should be lodged in the Agriculture Department, because all the available data relative to agriculture is collected in that Department. What this control should consist of no one knows, but the writer suggests that some plan similar to that which exists in Wisconsin under the Department of Markets might be successfully worked out. In our State we have defined unfair competition and unfair trade practices and we could also do that nationally. Under such a plan hearings could be held, testimony taken, and findings had, based thereon, which would constitute orders similar to those of our Marketing Division. If these orders were defective, or found to be incomplete as a result of experience, they could then be altered and amended to suit conditions. The writer feels this would give some measure of control and would not be as drastic or despotic as the proposed licensing scheme. Personally, I am very happy indeed that the licensing feature has been disposed of, as many of the Members of Congress felt that it gave the Secretary of Agriculture too much power.

In this article I have previously referred to the section of the bill which provides that 30 percent of all of the money collected by import duties under our tariff laws be turned over to the Secretary of Agriculture to aid agriculture. This money could be used for the removal of surpluses, the development of foreign and domestic markets, payment of cash or rental benefits to farms, or in various other ways for the benefit of American farmers. This provision, in itself, should materially benefit our farmers.

Another amendment to the Agricultural Adjustment Act contained in this bill, known as H. R. 8492, will give to the

President of the United States the power to fix quotas on imports, or to place a compensating tax on imports in order to keep farm prices up to the fair exchange value commonly referred to as the pre-war parity price, whenever there are actual or threatened imports of such commodities. This provision is of special importance to the dairy industry, particularly in view of the fact that in recent months there have been large imports of butter which have directly and adversely affected the price paid to American farmers for butter fat.

The legal division and the officials of the Dairy Section of the Agriculture Adjustment Administration believe that the amendment referred to will give the power which the dairy-men now desire without the use of a production-control program, or a processing tax on butter fat or milk. They believe that it will be possible to reinforce a domestic butter buying program on the part of the Government to stabilize markets, by putting quotas or compensating taxes on imported foreign dairy products which compete with and tend to lower the domestic price level. The A. A. A. people believe that if they started a butter- and cheese-buying program to stabilize domestic prices, that the use of that particular section in the proposed amendment would provide them with a method of doing this without instituting a national production-control program or processing tax on dairy products. At present they feel that when they start buying butter for relief and stabilization, it simply shoots the price of butter up and invites foreign importations and increased consumption of butter substitutes.

One feature of this bill seems to have been copied directly from Joseph's advice to Pharaoh when he exhorted him to store up his grain during the 7 fat years in preparation for the 7 lean years, for this act provides for a similar policy. If there is a large crop one year, the new policy will be to reduce such crop the next year, if it seems advisable, and if there should be a short crop in any given year, the program for the next year could provide for an increase in the production of this commodity. This is in accordance with the theory, "an ever normal granary", and anticipates the production of a sufficient amount of agricultural commodities to meet the demands, first, of our domestic market, and then of our foreign market, secondly, and to keep the production of agricultural products adjusted to a point that will insure to the producer the fair exchange value of his commodity.

In a study of this difficult subject it seems to me that we should bear in mind these things:

First. The purchasing power of the consumer at home.

Second. Manipulations of speculators and racketeers.

Third. Domestic competition.

(a) Substitute for butter.

(b) Healthy herds and high standards.

Fourth. Foreign competition.

Let us consider these factors in order:

PURCHASING POWER OF CONSUMER AT HOME

In examining and studying the reports of the United States Department of Agriculture, Bureau of Agricultural Economics, I find the following:

Trade output of creamery butter, January to March 1934 and 1935

Item	1934	1935	Change 1934 to 1935
	1,000 pounds	1,000 pounds	1,000 pounds
Production.....	344,157	304,193	-39,964
Out-of-storage movement.....	95,898	41,834	-54,064
Imports.....	128	8,538	+8,410
Exports.....	491	167	-324
Trade output.....	439,692	354,398	-85,294

Gain in imports in 1935 over 1934.....	Pounds 8,410,000
Decline in domestic production.....	54,000,000

In spite of import gains the domestic-butter consumption fell off one-fifth during the first quarter of 1935 under that of 1934. High butter prices placed butter beyond the reach of the average consumer, and he was forced to buy cheaper

substitutes, thus reducing the butter market. Production of oleomargarine in the first quarter of 1935 was 46,000,000 pounds larger than in the same period of 1934.

The increase in imports has not been nearly as large as the decrease in production.

From a study of the foregoing we arrive at the conclusion that the sale of butter can never go beyond the power of the consumer to purchase it. The consumer wants butter and needs it, but he is prohibited from purchasing it because the price gets out of his reach. In order to increase the sale of butter we must increase the power of the consumer to buy it, and this, of course, can only be done by more employment and better wages. Prices of agricultural commodities follow very closely the prices paid for labor. When labor gets better wages the farmer gets better prices, and when wages go down the farmer's market declines.

Statistics show that wages run nearly parallel with the prices of all crops. In 1929 both fell sharply, the low being reached in 1932. From 1932 to 1934 there was a noticeable increase, wages and crop prices still maintaining almost parallel relations.

A study shows that the income of the industrial worker sets the figure of the farmer's income. This fact is clearly established. When wages were high and the industrial worker could buy, the farmer's income was on the level with the worker's wages. As soon as the wage earner's income dropped, the farmer's income dropped with it. So we see that, as far as the domestic market is concerned, and 90 percent of the farmer's products are sold in the domestic market, it is dependent almost entirely on the ability of the industrial worker to buy. Low wages and unemployment wrecks the domestic market for agricultural products. This means the destruction of the income for the farmer, and as soon as his income is destroyed, then he cannot buy what the wage earner makes, and as a result the wage earner cannot earn and buy the farmer's products. One helps to break down the other, and it is apparent from these studies that one is closely allied with the other and dependent upon it. It is to be hoped that the expenditure of the \$4,880,000,000 will increase the purchasing power of the worker and thereby expand and increase the income of the farmer. However, this must be borne in mind: that the \$4,880,000,000 is only 10 percent of the total amount that should be expended in industry in order to put this country back on its feet in normal business activity. With this public-works relief money we are merely priming the pump of industry. Private industry must expand the other 90 percent, or \$45,000,000,000, in order that we may be back where we belong. Such a program is a vast one and cannot be accomplished in a day. It will take time, courage, and confidence to bring it about. Therefore, there must be absolute co-operation and a spirit of willingness to get together. We will not get ahead by fighting each other and wrangling among ourselves. Calm, cool judgment, clear vision, and the faith and perseverance to go on with our program as we see it will bring about the desired results. Do not place confidence in so-called "economic lightning-rod experts", "financial rain makers", and "social-security patent-medicine fakirs" to bring back the rainbow of prosperity overnight.

MANIPULATIONS OF SPECULATORS

The farmer has been the victim of the chiseler, grafter, racketeer, and manipulator in the field of food supplies. The latter's methods have been many and varied, but his objects and results have been the same. His object was, and still is, to depress the farmer's prices and then sell the farmer's products in the cities at the highest possible price, so that the consumer also is a victim to this menace's operations.

Unfortunately for the farmer, he does not sell directly to the consumer, especially in the great populous areas of the country. There is a middleman, who buys from the farmer and sells to the consumer, and here I want to point out an outstanding fact in the economics of the distribution of farm products, and that is this: The middleman always gets his margin. The unfortunate farmer may be producing at

less than cost, but the middleman does not sell at less than he pays the farmer. He adds his margin, so that under no conditions, whether it is drought, insect pests, plant diseases, overproduction, floods, or any other untoward emergency which wrecks the farmer's chances to make a profit, the middleman's profit is always secure. Furthermore, the middleman wants the volume of agricultural products large, so that he can keep the price to the farmer low, but, on the other hand, increase his own profits, because if the volume of business is large and the price to the consumer is low enough, the middleman makes his greatest profits. The middleman is not interested in the farmer's profit as long as he does a big volume of business and thereby makes a large profit himself. It is evident from these facts that the middleman's desires and interests are antagonistic to that of the farmer. If we could eliminate him, we would aid both the producer and the consumer.

Let me point out two specific instances in the dairy field: One of the "rackets" in the purchase of milk is to set a base supply and price for it and then a surplus supply and price for it, the theory being that only a certain quantity of milk and cream can be consumed in a given area and that consumption constitutes the base. All milk and cream over that consumption constitutes the surplus. The price for surplus milk and cream is therefore very low, much lower than the cost of production. Let us say that Mr. Smith owns and operates a large milk-processing and distributing company. He purchases the base and surplus of 1,000 farmers in a given area. He then bottles the surplus and sells it at the same price as the base, thus reaping an unfair and enormous profit at the expense of the farmer.

There are also racketeers who go out into farming communities and buy surplus milk which they peddle in small milk stations to the consumer in such large cities as New York and Philadelphia.

Another method of racketeering is to use butter substitutes and wrap them in fancy creamery butter wrappers, leading the consumer to believe that he is buying a high-grade creamery butter when in truth and in fact he is getting an inferior substitute. This practice was exposed by the Department of Justice in the summer of 1934. The plan worked out by the racketeers was as follows: Large quantities of uncolored oleomargarine were purchased from the manufacturers in Elgin, Ill. This oleomargarine was then shipped to Massachusetts, usually to bakers, because in that way the tax on oleomargarine would be avoided. Three hundred and seventy-five thousand pounds were shipped into Boston in this manner between November 1933 and June 1934. However, the Department got hold of this practice and discovered that such shipments were being intercepted in transit and reshipped to a cheese company outside of Boston where the oleomargarine was processed to look and taste like butter. This processed oleomargarine was then cut into rolls, wrapped in beautifully colored wrappers, marked "creamery butter made from pure cream" and sold on the market as butter. About 50 creamery prosecutions were begun in Boston alone against defendants caught working these practices. When you figure that in 9 months Boston used 375,000 pounds of this fake butter, you get some conception of the havoc that this bootlegging of oleomargarine is working in the legitimate field of honest butter.

I should add one more practice to the list above and that is, the unjustifiable profits, salaries, and bonuses of such companies as the National Dairy Products Co. and the Borden Co. I have many figures to bear out this contention, but I shall add only one to give you an idea of what can and does happen as a result of monopolies in the dairy field. It must be remembered that all of this is at the expense of the farmer:

The National Dairy Products Corporation and subsidiaries last year had net profits of \$6,551,930 compared with \$7,051,872 in 1933. Profit was equal, after preferred dividends were paid, to 93 cents a share on 6,263,165 shares of common against \$1.01 in 1933. Sales aggregated \$267,414,547

in 1934 compared with \$231,196,979 in 1933 an increase of 15.6 percent.

Year ending Dec. 31, 1931

Officers	Salary	Other compensation	Total
Thomas H. McInnerney, pres.....	\$180,000	\$7,947	\$187,947
W. S. Scott, v. pres.....	60,000	600	60,600
V. F. Hovey, d. p.....	35,000	640	35,640
F. J. Bridges, v. pres.....	35,000	140	35,140
L. A. Van Bomel, v. pres.....	75,000	8,120	83,120
Charles R. Bowman, c. and ex.....	48,000	120	48,120
H. W. Breyer, d. and ex.....	36,180	20	36,200
B. S. Halsey, d. and ex.....	36,000	3,800	39,800
J. L. Kraft, d. and ex.....	75,000	120	75,120

Year ending Dec. 31, 1932

Thomas H. McInnerney, pres.....	\$168,000	\$3,099	\$171,099
W. S. Scott, v. pres.....	46,666	600	47,266
V. F. Hovey, d. p.....	35,000	680	35,680
F. J. Bridges, v. pres.....	31,641	180	31,821
L. A. Van Bomel, v. pres.....	70,000	660	70,660
Charles R. Bowman, c. and ex.....	44,681	200	44,881
H. W. Breyer, d. and ex.....	10,208	-----	10,208
B. S. Halsey, d. and ex.....	33,600	180	33,780
J. L. Kraft, d. and ex.....	75,000	18,850	93,850

A careful consideration of these figures shows that the "middleman" was not suffering during 2 of our depression years.

DOMESTIC COMPETITION

The most pronounced substitute for butter is oleomargarine. The consumption of margarine in the United States in the past year was only about 10 percent as much as the consumption of all butter. In recent years the consumption varied from about 10 to 15 percent, this variation being due largely to changes in the supply and prices of butter. When the price of butter was relatively high, the consumption of margarine increased. As the supply of butter increased and the price declined, even in the face of the depression, the consumer increased his purchase of butter and reduced his takings of margarine.

An interesting question arises: What would be the effect upon butter consumption and upon the price of butter of eliminating margarine? Since margarine is much cheaper than butter and is known to be consumed mostly by those whose purchasing power is low, it is not to be assumed that the eliminating of margarine would result in a corresponding increase in the consumption of butter. In other words, the consumption of butter would not be increased 10 percent, unless the price of butter were lowered. A study of the relation of the supply of butter or its consumption to price indicates that the total purchasing power of the consumer is a very important factor in determining the price of butter. It seems likely, therefore, that the consumption of butter would be increased only to the extent that the consumers who are using margarine would be able to buy butter. At the most, the total expenditures for margarine would be available for the purchase of butter. Assuming that the margarine consumers would spend their money for butter and not for cheaper fats, the increase in the price of butter might be as much as about 1.4 cents per pound. Allowing for some shift to other fats, such as lard or vegetable oil, it might be reasonably estimated that the price of butter, with the purchasing power of consumers at its present level, would be increased by a little more than 1 cent per pound by the elimination of the use of margarine as a substitute for butter.

Another question that arises is this: What would be the effect of changing the composition of margarine? Twenty years ago oleo oil, cottonseed oil, and neutral lard constituted the bulk of the fats used in the making of oleomargarine. Now coconut oil constitutes the bulk of the fat in margarine. The weight of the coconut oil in a pound of margarine increased from three-fourths of 1 percent in 1916 to 55 percent in 1932. The significance of this shift in the proportion of this fat in the margarine is emphasized by noting that the percentage of milk increased from 11 to 23 percent, leaving only a small percentage of the total

weight to be made up from other fats. In November 1933 the price of nut margarine at Chicago was 7.5 cents per pound, and white animal-fat margarine was 9.3 cents per pound. The cost of the materials used in the manufacture of oleomargarine, as it was made in 1916, would have been 4 cents per pound. In other words, the shifting from using primarily animal fats and cottonseed oil to the use of coconut oil as the bulk of the fat, would reduce the cost, in terms of the prices of November 1933, by about 1.5 cents per pound. It is interesting to note that in November 1934 the price of the white animal-fat margarine was 1.8 cents per pound higher than the price of nut margarine.

To shift from the use primarily of an imported oil to a domestic product would not require a return to the use of the animal fats as the cottonseed, peanut, and soybean oils could be substituted for the coconut. Using equal quantities of cottonseed and soybean oil would raise the cost of the materials in the pound of margarine from 4 cents to approximately 5 cents per pound, which would be an increase of a little less than 1 cent per pound. This would tend to increase moderately the price of butter, but the effect would probably be not half as much as the total elimination of the use of margarine. It would, of course, tend to strengthen the market for cottonseed and soybeans.

FATS AND OILS IN RELATION TO DAIRYING

In formulating any policy in regard to butterfat and its imported substitutes, the situation with respect to all other principal fats and oils used in commerce must be taken into account.

This is because in an indirect and sometimes a direct way, all fats and oils produced in or imported to the United States compete more or less with each other. The suitability of a given oil for specific purposes is perhaps the first consideration, but the degree of use is also determined by its price and the cost of its chief competitors.

Soybean oil may be used for food, soap, paints, and varnishes. Likewise fish oils may be utilized for making soap, foodstuffs, and paints. Butter fat thus far is restricted to table and cooking purposes.

DOMESTIC AND FOREIGN PRODUCTION

Disappearance of fats and oils in this country has been tabulated by the Division of Statistical and Historical Research in the United States Department of Agriculture. The total domestic consumption for 1932 amounted to 6,823,000,000 pounds for domestic products of this class, while foreign-made oils and fats consumed here amounted to 1,323,000,000 pounds, which means that 16 percent of all fats and oils used here for all purposes came from abroad.

Taking them by broad classifications based on their chief uses, it is indicated that the percentages of total consumption of foreign-made products were greater in the case of fats and oils used for drying purposes and for soaps than they were for those used in food. In 1932 the imported drying oils represented 51 percent of total consumption here, the imported soap oils represented 44 percent of total disappearance here, while imported fats and oils used in food products constituted only 5 percent of the total home consumption.

To repeat, 95 percent of the oils and fats utilized here for food were produced within this country and only 5 percent were imported.

Looking at the domestic production picture, out of 6,823,000,000 pounds of fats and oils used here from our own home production, 80 percent went into foods, 12 percent into soaps, and only 3 percent into paints and varnishes.

Of the total imported fats and oils in 1932, coconut oil led with 173,000,000 pounds, edible olive oil was second, with 74,000,000 pounds, and palm oil was third with 25,000,000 pounds. Fish and marine oils, sesame oil, and palm-kernel oils made up the lesser balance.

Of the total domestic fats and oils used for food in 1932, butter led the list with 2,264,000,000 pounds of farm and factory product, lard was second, with 1,862,000,000 pounds, and domestic cottonseed oil was third, with 1,107,000,000 pounds. Of course, all the butter and lard went into food

production, whereas a portion of the cottonseed oil was used for soap and other purposes.

TRADE BALANCE ON FATS AND OILS

From the same authority, it is shown that in 1933 the trade balance of this country was 916,000,000 pounds on the import side of the ledger for all primary fats and oils. Not since 1924 has this country had an export balance in fats and oils in its favor.

Our exports of fats and oils in 1933 were 808,000,000 pounds, of which lard was 584,000,000 pounds, oleo oil, 33,000,000 pounds, and butter only 1,190,000 pounds.

Our total fats and oils imports in 1933 were 1,750,000,000 pounds. Of this amount coconut oil and palm oil amounted to about 603,000,000 pounds, or nearly one-third. Butter imports in 1933 amounted to just about the same figure as our exports, 1,022,000 pounds.

Taking oleomargarine by itself, the total materials used in its manufacture in this country in 1932 amounted to 232,000,000 pounds. Of this total amount, 84,500,000 pounds came from animal sources—milk, butter, neutral lard, oleo oil and stearin, and oleo stock. The rest, or 147,500,000 pounds, was derived from vegetable sources—coconut, cottonseed, peanut, soybean, and other forms.

Coconut oil alone represented 128,000,000 pounds of the total of 232,000,000 pounds utilized in 1932 in domestic manufacture of oleomargarine.

There is a drive on now at Washington by the oleomargarine makers to bar foreign oils such as copra and coconut oil, palm oil, and palm-kernel oil in order that the odium of the "coconut cow" may be avoided. Makers of oleomargarine are astute enough to know that the term "coconut cow" has put a curse on their product, and they are now out to bar foreign oils in order to get away from this curse. To Wisconsin butter makers let me say that this move on the part of the oleomargarine makers is not a philanthropic move in the interest of the butter makers but is a program devised to substitute cottonseed oil in place of coconut and palm oil, and then advertise themselves as great benefactors to the Nation because they are aiding the home producer by buying home products. The Wisconsin butter maker will be just as bad off, if not worse off, with this kind of competition as he was before, because the oleomargarine maker will not have to pay the tax on imported coconut and palm oil. Under these conditions, we friends of the farmer at Washington will attempt to have some sort of handicap placed on the use of cottonseed oil as a substitute for butterfat, but with the South controlling both the House and the Senate, it seems utterly impossible for us to make any headway with a 3 to 1 majority against us in both Houses of Congress.

Oleomargarine, however, is not the only dairy substitute. Let me show you some of the milk substitutes that are now on the market. The following copies of the wording of well-known advertisements will show you articles that are now appearing on the market as substitutes for milk. These substitutes should be printed in all advertisements for what they really are—not the real thing but an imitation. It is only another illustration of how the farmer loses out in his fight for the home market and a decent price for his products.

ADVERTISING OF COCONUT OIL FILLED MILK BY ILLINOIS GROCERS

Note the implication in each case that filled milk—Milnut or Carolene brands—is the same as whole milk or evaporated whole milk:

Milk. Van Camp's evaporated, large can, 6 cents. Carolene, "so rich it whips", large can, 5 cents.

[Picture of can] Milnut, better than ordinary milk. Milk, "so rich it whips", 4 for 19 cents.

Borden's, Pet, Carnation, tall, milk, 6½ cents per can. Tall Milnut, 5 cents per can.

Milnut milk, 2 small cans, 5 cents.

Milk—Armour's, Libby, Carnation, Pet, 3 tall cans, 18 cents. Milnut, "so rich it whips", 3 tall cans, 15 cents.

Milk is higher. We still have some at the old prices. Dundee, Carnation, Pet, or Borden's, large cans, 3 cans, 19 cents. Milnut, large cans, 5 cents.

Carolene Milk, "so rich it whips", large can, 5 cents.

HEALTHY HERDS AND HIGH STANDARDS

I feel that one of the best ways for our Wisconsin producer to meet domestic competition is by setting a high standard both as to his herds and as to his cream and butter. Undoubtedly the drought has aided in bringing about a better grade and a healthier condition in our herds. Eradication of tuberculosis and Bang's disease will steadily improve conditions in our herds. A careful grading of cream and butter and the labeling of our products so that these grades are specifically set forth, will result in a demand for Wisconsin cream and Wisconsin butter. Such a program would have to be balanced by a careful expansion based on quality products. Such a program should also be applied to Wisconsin cheese which today does not mean anything in the consumer's market. I have asked storekeepers in Washington if they handled Wisconsin cheese and they would not know what you were talking about. If we had careful grading of Wisconsin cheese and sufficiently high standards, then you would have a demand that would mean considerable revenue to our Wisconsin producers.

Suppose farmer A delivers no. 1 cream and gets 30 cents per pound of butterfat, while farmer B delivers no. 2 grade cream and gets 28 cents per pound butterfat, according to mandatory State law. The manufacturer converts this cream into butter and sells it on the Chicago exchange. But on February 2, 1935, taking exact quotations then current, the 92 score butter made from no. 1 cream would have been worth 36 cents per pound, while the butter known as no. 90 score from the no. 2 grade cream would have brought 36¼ cents per pound. Thus the profit from the second-grade cream, based on the butter market quotations, would have been greater than for the first-grade cream.

Selfish interests, which are not usually allied to the better cooperative creamery associations now grading cream and labeling butter, are opposed to any system of quality improvement that emphasizes the butter grade in connection with the cream grade. This is partly due to their system of obtaining cream from long distances and of lower average quality for centralized car-lot butter, as against the well-knit frequently delivered cream at the cooperative local plants. When will farmers realize this distinct handicap and move to connect cream grading more firmly with consumer discrimination and premium prices?

Emergency herd tests for Bang's disease and tuberculosis have been a noteworthy part of the sanitary program of the A. A. A. and the Bureau of Animal Industry under the appropriation secured by the La Follette amendment to the act in 1934. States cooperating—without financial cost to them—were allowed to choose whether to take up T. B. testing or Bang's disease, depending on the status of their work to date. Work is now under way in more than 40 States. Out of a total allotment of the fund amounting to about \$38,000,000, about \$25,000,000 has been used for Bang's disease and \$12,000,000 for T. B. testing and indemnity, and \$1,000,000 for mastitis control. It is voluntary on the part of producers; no compulsion, but being widely used by breeders especially to get better herd foundations and to get set on more economic grounds.

Reactors from Bang's disease average about 40,000 cattle per month all over the country. Raise of \$5 per head in maximum indemnity, making it \$30 for grade reactors is contemplated, which will be helpful as grades are in majority over purebreds. If this raise is granted, and work proceeds at present rate, funds now available will last until about March 1, 1936. As the money is only available until December 31, 1935, an extension is desirable in the appropriation law.

FOREIGN COMPETITION

During 1935 there has been an ever-increasing influx of dairy products from abroad, and while such imports are not

sufficient to displace any considerable quantity of the domestic product, nevertheless the effect on the price structure of the domestic product is disastrous. The President has the power to increase the tariff duty on foreign imports without consulting Congress up to 50 percent of the maximum limit. This power he has not seen fit to exercise, although he has been frequently requested to do so. The invariable answer of the administration leaders is that it would tend to increase the prices of dairy products to the consumer and also it would shut out of foreign markets the opportunity of American manufacturers to sell abroad. In other words, our farmers are being sold "down the river" in order that our manufacturers may have a better foreign market.

It would be a much better policy to let the farmers dispose of their surplus products abroad and thereby increase and revive their purchasing power, which, because of our high standard of living, would give our manufacturers a much more desirable market than any that could be found abroad. In this brief article I cannot touch upon reciprocal trade agreements which are now being written under the direction of the Secretary of State, Cordell Hull. I may, at some future date, prepare a brief article on this question, which is too large to be treated satisfactorily here.

CONCLUSION

First. What can be done in a legal way to protect the farmers and get for them not only the cost of production of their dairy products but also a fair profit in addition? First and foremost, we must have purchasing power on the part of the consumer. This is a solution of 90 percent of our problem. We must find work for the unemployed and we must get good wages for that work, because the industrial worker at home furnishes the ideal market.

Second. We must prosecute and punish by heavy fines and severe sentences the bootleggers, racketeers, and gangsters now operating in the dairy field. We must also restrict the profits of the manipulators of food markets and see that the producer and consumer get the benefit.

Third. We must not only uphold the principles and practices of cooperative associations in marketing, but we must also encourage, by wise legislation, larger and more effective cooperatives, so that the farmer exercises control of his distribution as well as his production. This will help him to get out from under the dominance of the middleman.

Fourth. We must continue the fight on the butter substitutes by shutting out the importation of foreign oils and by taxing substitute oils, such as vegetable and animal fats, which may be used in place of butterfats.

Fifth. And last but not least, by furnishing a market for surplus agricultural products abroad, by purchasing from those countries—like the British Isles, Germany, and France—which are not agricultural countries their manufactured articles in exchange for our agricultural products. Unfortunately there has been little or nothing to encourage the sale of manufactured goods from foreign countries across the seas in exchange for our agricultural products. This policy should be resumed so that we may again, as we did before the war, ship agricultural products out of the country and thereby sustain a market for our agricultural products.

Mr. Chairman, in the brief time I have I shall discuss some amendments which I propose to suggest for this bill. First, I ask the chairman of the committee, the gentleman from Texas [Mr. JONES], whether or not I got his statement correctly. I understood him to say that allotments of importations from foreign countries affected by the processing tax may be limited, but this does not affect those products on which there is not a processing tax. Is that correct?

Mr. JONES. No. It may affect imported competing products. It must be either a commodity on which there is a processing tax or a commodity which competes with that product.

Mr. SAUTHOFF. My point is this: In Wisconsin we are vitally interested in dairy products. There is no processing

tax on dairy products. How are we going to protect our dairy products through this allotment arrangement?

Mr. JONES. Dairy products, of course, are a basic commodity, the gentleman understands?

Mr. SAUTHOFF. Yes.

Mr. JONES. And commodities that compete with any of these commodities might be included. Some of the products of the hog, of course, compete with dairy products. There are various ways in which those commodities might be included in addition to being in direct competition with a commodity not subject to a processing tax.

Mr. ANDRESEN. Does the gentleman from Wisconsin refer to increasing the tariff?

Mr. SAUTHOFF. Yes; or placing an embargo on them entirely. I am talking especially about butter, in which the gentleman from Minnesota is also interested.

Mr. ANDRESEN. There will be a program on dairy products; and under section 22, relating to imports, the President will have the power to increase the duty.

Mr. SAUTHOFF. Oh, yes; I know.

Mr. ANDRESEN. If he does.

Mr. SAUTHOFF. Yes. I am not optimistic about the exercise of that power, as already there has been introduced into this country from abroad in the last 4 months 17,000,000 pounds of butter, so that we have not much confidence in the exercise of that power.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. No. I have only a little time and I want to discuss a few amendments. When I have finished with these amendments I shall be very glad to yield if there is any time left. I shall suggest an amendment on page 26, line 6, where the Secretary is empowered to examine books, papers, records, documents, and so on. I shall offer an amendment to include in that the Federal income tax, particularly the Federal income tax on such companies as deal in food products, and I have in mind particularly the Borden Co., the National Dairy Products Co., and General Foods, so that they cannot cover up with a holding company or through a subsidiary.

My idea is to find out what they are making out of this business, how much the processor is getting and how little the farmer is getting, and the thing to do is to include holding companies and subsidiaries as well as those handlers that are directly concerned. We know some of the huge salaries and bonuses paid to the officials of these companies even during depression years, when the farmer has not been able to get the cost of production for what he produced. Let us see who is making the profits out of the farmers' products—and I know of no better place to secure that information than from the Federal income-tax reports.

The best way to reach these facts is through the income tax.

Mr. ANDRESEN. Will the gentleman yield on that point?

Mr. SAUTHOFF. When I have finished.

On page 51, line 4, I want to add an additional section:

No agricultural products shall be imported into the United States unless such agricultural product shall bring to the producer of such product in the United States a price on the open market in excess of cost of production of such agricultural product in the United States. Cost of production as used herein shall mean cost of seed, labor, depreciation of tools and machinery, and buildings used in producing the same, a fair rental for the land used in such production, including insurance thereon, taxes, and special assessments, plus a reasonable profit.

One more amendment, which I have in mind and which I intend to offer is also on page 51, line 21. After the word "lands", add the following:

None of which shall be used for creating any agricultural product within the purview of this act.

My object in doing that is this: It is simple enough to enter into a lease or contract that you are not going to produce cotton, tobacco, or something else on certain acreage, and then turn that acreage into pasturage and raise either beef cattle or feed milk cows and get some more com-

petition in the dairy industry. That is the thing I want to prevent, and that is why I am suggesting adding that amendment.

Last but not least, on page 20 I want to add another section:

Sec. —. (b) No marketing agreement, order, or regulation shall contain any term or provision which will tend to result in preventing or hindering any agricultural commodity or product thereof produced in any region or area of the United States from being brought into or sold in any other such region or area, or shall have the effect of subsidizing the production or sale of any agricultural commodity or product thereof in any such region or area, in such a manner that such commodity or product thereof will tend to be sold in such other region or area at prices which will tend to depress prices therein of such commodity or product thereof.

One of the things we have to contend with is the fact that every State, during this depression period, has been setting up barriers, in spite of the Constitution of the United States, to prohibit the introduction into another State of products that it raises in its own State. It is high time that we set our feet down on that and prevented it, or we will get ourselves into the same unenviable position that Europe is in now, where every little country or principality has set up tariff barriers against the introduction of products from any neighboring State. We are doing it now in the United States between different States, and this is one place where we can very well afford to put an end to it. I think we had better put an end to it before it gets wide-spread, because it will only result in damage and injury.

Mr. WHITE. Will the gentleman yield now?

Mr. SAUTHOFF. I yield.

Mr. WHITE. The gentleman said he was not optimistic as to the possibility of getting antidumping orders in effect. I want to state for the gentleman's information that within the last 60 days the Treasury Department issued a countervailing duty preventing the importation of peas into this country which were being financed by a firm in Holland.

Mr. SAUTHOFF. Inasmuch as we can one-fourth of the peas consumed in the United States, I am glad to hear it, but I would like to have the gentleman see about shutting off the butter that is being brought in.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. BEAM. Mr. Chairman, I yield 6 minutes to the gentleman from Washington [Mr. ZIONCHECK].

Mr. ZIONCHECK. Mr. Chairman, I realize that very few Members on the Democratic side will vote against the present measure providing for amendments to the Agricultural Adjustment Act. I do not blame any Representative for voting for this measure if he has a rural district to represent, for without a question the triple A helped the farmers who have produced the commodities upon which the processing tax is levied and for which the benefits are paid.

In my representative capacity I am constrained to vote against this measure, because it adversely affects the great majority of the people of the First Congressional District of the State of Washington, which is composed of the entire city of Seattle and Kitsap County. I made inquiry several days ago of the Agricultural Adjustment Administration to ascertain the amount of benefits paid out under the act. I learn that more than \$1,000,000,000 has already been paid to the farmers of the United States for restricting production, destroying hogs, burning wheat, and ploughing under cotton, that the State of Washington has received to date approximately \$9,000,000 and that the district I represent has received the grand and startling sum of \$374, whereas the cost of living has increased in this community approximately 25 percent. When I voted for the triple A 2 years ago I labored under no illusion as to its possible failure as far as the consuming public was concerned. On page 774 of the CONGRESSIONAL RECORD of March 22, 1933, I stated:

By my affirmative vote I do not endorse as a general policy the restriction of production, for I am a firm believer in the policy of economic planning of consumption, for then production will take care of itself without any planning whatsoever.

I am also mindful of the fact that this measure may, to some degree, amount to a sales tax if no steps are taken to prevent the first processors from passing the cost on down to the consumer, but I feel that there is such a great spread between the prices paid to the farmers and those paid by the actual consumers that the tax that the processor pays can well be absorbed in this differential, which can be best illustrated by the fact that the farmers of the State of Washington are receiving approximately 5 cents a gallon for their milk, which when laid down to the consumer costs him 40 cents a gallon, hence a 5- or 10-cent increase to the price paid the farmer need not necessarily increase the cost to the consumer.

In another part of the same speech, on page 773, I made the following remark:

I might state in passing that I am of the opinion that there never will be any real relief until we cease to talk about the leaves and the bugs on the leaves and commence to speak in terms of the roots of the tree, its trunk and main limbs, for it is going to necessitate more than mere palliatives to remedy the situation, and to do that we must seriously lend ourselves to the intelligent solution of the problems of rent, interest, and profit.

Now let us see what actually happened during the 2-year administration of the Agricultural Adjustment Act. I have before me the report of the administration of that act, released June 17, 1935. On page 241 the chapter designated as "Consumers Counsel" commences. Six and one-half pages of this entire report are devoted to the consumers' problem, while the report itself is 456 pages in length. Under the title "Salient Facts About Expenditures for Food" we have as follows:

1. Retail value of month's supply of 14 foods for typical family in 1934.....	\$18.39
2. Value at farm (exclusive of benefit payments).....	\$6.90
3. Margin between farm value and retail price, including processing tax.....	\$11.49
4. Farmers' share of consumer dollar spent for food for typical family in 1932.....percent.....	32
5. Farmers' share in 1933, exclusive of benefit payments.....percent.....	35
6. Farmers' share in 1934, exclusive of benefit payments.....percent.....	37.5
7. Approximate increase in cost of living, 1934 over 1933.....percent.....	5
8. Increase in retail prices of foods, 1934 over 1933.....do.....	10
9. Approximate increase in urban purchasing power, 1934 over 1933.....percent.....	9

Now, Mr. Chairman, I do not believe these figures to be accurate. It is only natural that a department will juggle figures so that they show the department's activities up to the best advantage. Everyone knows that the increased cost of living since 1932 approximates 20 to 25 percent, particularly in retail prices for foods. It is very significant that the so-called "purge" of the A. A. A. took place a few months before this report was released. At that time Frederic Howe was dismissed as the Director of the Consumers' Counsel and at the same time Gardner Jackson and Jerome Frank, who had the consumers' interest at heart, were likewise dismissed.

In my opinion, had these individuals, together with the others who were discharged, remained with the Department until this report had been completed the figures would show the consumer at a greater disadvantage. But let us take the figures as they are. You have the farmers' share in 1934, exclusive of benefit payments, as 37½ percent, as compared to the farmers' share in 1933, exclusive of benefit payments, of 35 percent, which is a 2.5-percent increase. Now, divide 35 by 2.5 and you find the farmers' increase amounts to a gain of but 1.4 percent, while the increased cost of retail prices of foods of 1934 over 1933 is 10 percent. Here you have the answer to this whole problem. When the farmer receives an increase of 1½ percent the consumer must pay an increased cost of 10 percent.

The real difficulty, Mr. Chairman, in our present economic system is the wide spread between the price the farmer and workingman receive for their labors and the price they must pay for the products of the farmer and laborer when they buy them in return. The middlemen consume the greatest portion, and under the present program the share which the middleman receives is growing proportionately larger and, in my opinion, aggravating the situation rather than relieving it.

On page 244 of the same report, table 50 is as follows:

TABLE 50.—Comparison of farm and retail prices for various cotton products on July 27, 1933, and on Dec. 18, 1934, showing margin between farm and retail price, and amount of processing tax

Article	Retail price		Farm price		Margin		
	July 27, 1933	Dec. 18, 1934	July 27, 1933	Dec. 18, 1934	Processing tax	July 27, 1933	Dec. 18, 1934
Overalls.....	Cents 109	Cents 160	Cents 20	Cents 26	Cents 8.27	Cents 89	Cents 125.73
Work shirts.....	73	90	9	11	3.49	64	75.51
Sheets, 81 by 99 inches.....	99	130	19	24	7.66	80	98.24
Unbleached muslin, yard.....	10	14	3	4	1.13	7	8.67

This, Mr. Chairman, is further proof that the consumer, and when I speak of consumer I mean the farmers as well as the workers, can never get ahead under such a program of restricted production. As you see in the above table, overalls, for which the farmer received 20 cents July 27, 1933, and 26 cents December 18, 1934, cost the worker and farmer \$1.09 in 1933 and \$1.60 in 1934, showing a spread of 89 cents between the farmer price and retail price in 1933, and a spread of 125.73 cents in 1934.

On page 285 of this same report the Department recognizes the fallacy of the program when it states:

Lasting improvement in the welfare of farmers is necessarily bound up with increased production and consumption of agricultural products. A long-view policy for agriculture, therefore, cannot passively accept the present limited purchasing power for food and fiber products of large numbers of our people, nor conceive future production on that basis. Rather it must contemplate a more abundant economy for all groups.

This, Mr. Chairman, is an admission by the Department that we must come soon to the economic planning of consumption rather than production if we are to survive without serious troubles.

On page 244 of this same report appears the following paragraph:

These comparisons do not take into account the situation of the unemployed. However, it appears that the real problem of the urban consumer was not the increase in food prices, but the lack of income among a large number of unemployed who had relied on industry for their livelihood.

In the State of Washington we still have more than 200,000 individuals upon the relief rolls. According to the figures of the F. E. R. A. for the month of January 1935, the amount received by each individual amounted to less than \$1.66 per week. I am informed that a single person in the State of Washington who is on relief, receives but \$1.35. With these said amounts every increase in the cost of food means further privation, suffering, and semistarvation for these unfortunate recipients of relief. When one looks forward to the work-relief program under the \$4,000,000,000 bill and the "security wage" of \$19 to \$55 per month per family, one cannot help but come to the conclusion that a vote for further restricted production and increased cost to the consumer amounts to taking food from the mouths of the unfortunate who are already undernourished and practically desperate.

Now, as to the employed in the First Congressional District. Most of them are on a fixed salary or wages and any increase in the cost of living merely decreases their real wage. I have heard of no wage increases in that community, although I have heard of many wage cuts, so this program which we have before us today has worked against the interest of those who have been fortunate enough to have employment during these distressing times.

Now, Mr. Chairman, I represent a group of farmers in Kitsap County, and I here insert two typical letters, which state their position more vividly and more accurately than I could.

POULSBORO, WASH., May 17, 1934.

HON. M. A. ZIONCHECK,
Washington, D. C.

DEAR SIR: Thought I would write a few lines from the western front. All is not quiet on the western front. Conditions are bad for the small, diversified farmer, the millworker, and logger. I am writing you a few of my observations and of conditions as they are here. They may be of interest to you.

First, about the new deal. Have left my gate open for a year now, and it has not made its appearance yet. Poultry and dairy product prices are down to last year's levels, with feed prices \$5 to \$10 a ton higher. For example, sold 5 gallons of cream to the creamery. With a test of 30 percent butterfat, received \$1.87 for 40 pounds, about 37 cents a gallon. No purchasing power created at this price. With processing tax and bonuses to wheat, corn, and hog farmers, what consideration is the small diversified farmer getting?

There is an enormous purchasing power dormant; take, for instance, the little farmers of western Washington and of the whole United States. Each 5-, 10-, 20-acre farm is a complete home and farm. It needs housing, machinery, automobiles, etc. The wheat farmer, say, with a section of land, 640 acres, maintains a home and farm equipment for one farm; 640 acres divided into 20-acre farms, as they average in small farms, would make 32 small farms and each a complete home with equipment. No assistance or thought has been given this enormous purchasing power by the A. A. A. We have been penalized by processing taxes to help wheat, corn, and hog farmers from our small disappearing income. The Frazier-Lenke bill would be the best relief in sight. I urge you to use your influence in securing its passage.

Now, a little news from the lumber industry. These are conditions at Port Gamble. The worker or the forgotten man who labors at the mill is rewarded as follows: Twenty-five hours a week at 42½ cents an hour; total weekly wage, \$10.60. Board and room, \$9.60. Forty cents a week for medical, hospital, and insurance, leaves a sum of 60 cents for weekly wage or \$2.40 for the month. The company's rent for family houses was raised \$5. Conditions like these do not need any agitators to foment discontent. The lumber prices have raised from \$16, last spring's price, to present price of \$28 and \$30 per thousand, nearly 100 percent increase. The mill is cutting as much in 6 hours now as in 8 before everything speeded up. Logging camps are highball madhouses; now 6 hours' work accomplishes 8 hours' work. Men are scared to death for their jobs. The exploitation is still in its fury, more than ever before.

While I am on the lumber subject, I will compare the poultryman's plight in buying lumber. One year ago I could buy 1,000 feet of no. 1 common lumber with 4 cases of eggs. Now I have to have 8 cases to buy the same amount and grade. The old slogan, "Profits first, service after", is still the key to recovery. It is a shame that our reforms and changes come so slowly.

POULDSO, WASH., April 16, 1935.

HON. MARION ZIONCHECK,

Washington, D. C.

DEAR SIR: We represent a group of farmers from Kitsap County, Wash., who, like farmers everywhere, are trying to find out what the processing tax, the ploughed-under wheat, the subsistent farming, and the 57 other varieties of Government remedies that are advertised over the radio and in the newspapers as a cure for the farmer's economic ailments, are all about.

We do know that the farmers in this locality are poor risks for financial insurance and are getting no better fast. We once made a living selling eggs and poultry products, but as no one has decided to pay us for plowing under the hens, after we pay the processing tax, the tax for retailing products, the dairy-products tax, the sales tax and the countless other taxes that are added to our grocery and feed bills, there isn't enough left to pay the personal and real-estate tax.

Consequently the Government takes our land and it is used for colonization by subsistent farmers. These usually are the embarrassing persons on the city relief rolls that make a politician's face red at election time, so they are exiled to the country at Government expense. A paid start of stock, machinery, tools, seed, and even a living is provided for these potential farmers, and the cost is financed as just another tax added to the burden already carried by the established farmer who has been foolish enough to stay out of debt. The subsistent farmers, it is assumed, will either get their living from the land, or from the rural communities, which are less able to support them but not so efficient in evading their responsibilities as are the urban authorities.

Neither can we understand the logic of paying our fellow farmers to plow under wheat, cotton, and corn, but still allow him to use the land for other agricultural purposes. For example, our Midwest brother gets a check from the Government to pay for the corn he does not raise. He puts the check in the bank and the land into buckwheat. The buckwheat is fed to a flock of chickens that are practically clear profit, and the farmer can afford to sell the eggs and poultry at a lower price than the Pacific coast poultryman who gets no Government aid and who has to pay high freight rates.

The Pacific coast rancher must pay an added cost to his feed corn to finance the processing tax; he must sell the poultry products at a lower price to meet the Midwest competition. Consequently the Western farmer loses his credit, taxes consume his home, and the abandoned farm is then ready for more subsistent farmers.

Very few farmers are chosen to make laws. But, if there is some concealed logic in the present plan of aiding the farmers by sending out more farmers financed by the Government to compete with the first group, or if there is any permanent care for the farm problem to take the earnings out of a farmer's pocket in one section of the country and place them in some other farmer's pocket somewhere else, we would like to know about it.

Very truly,

NORTH KITSAP POULTRY LOCAL.

The theory underlying this present bill is the old worn-out theory of supply and demand; that if we decrease the supply which the farmer produces, the demand increases and a greater price will be received for what the farmer produces, so that he can pay for the cost of production and get a little profit besides, and that thereby the demand of the farmer in his prosperity on industry will be such by way of new purchases that the factories will have to re-employ all the unemployed in order to satisfy this increased demand, and thereby everyone will again be prosperous. The proponents of this theory fail to mention where the purchasing power of the workers will come from or what they will purchase with.

We have had upward of 2 years' experience under this theory, and we find that, instead of prosperity for all, the poor have become poorer and the rich have become richer. I have a letter from the Treasury Department, dated May 21, 1935, in which the Commissioner sets out the relative decreases and increases of the different income class groups of 1933 as compared to the same groups of 1932. The net incomes of the \$10,000 per year group saw their revenues decrease 5 percent in 1933 as compared with 1932, which does not take into consideration the 11,000,000 people who find themselves without any income whatsoever or those receiving less than \$1,000 per year.

The income-tax payers who had a net income of \$50,000 and over showed a 14-percent increase in 1933 as compared with 1932, while those who received a net income of \$100,000 and over showed an increase of 23 percent over their incomes of 1932, and the increase in the number of returns of individuals reporting a net income of \$1,000,000 and over increased from 20 to 46. I here quote from the book entitled "The Economic Consequences of the New Deal", by Benjamin Stolberg and Warren Jay Vinton, wherein they state:

In the last 12 months of the new deal, from October 1933 to October 1934, the real weekly wages of our industrial workers have declined by 2 percent. Yet the dividends of our great corporations increased 17 percent in the same period. And their industrial profits in the first 9 months of 1934 were 76 percent greater than during the same period in 1933.

These figures speak louder than words, and it is very evident that we must get down to economic planning of consumption rather than production; that we must decrease in a marked manner the spread between the cost of the product to the consumer and the price paid to the worker and farmer for its production, if we are to get out of this, the longest and most severe depression in the history of our machine age.

MR. HOPE. Mr. Chairman, I yield 10 minutes to the gentleman from North Dakota [Mr. BURDICK].

MR. BURDICK. Mr. Chairman, the bill we are now considering, so far as I am personally concerned, shows to me conclusively how difficult the work of a Congressman is. Personally I do not think that the benefits that are intended should be derived from this kind of legislation will ever come into being.

I do not believe we have the right to delegate to any body of men in this Union, or to any organization, the power to impose sentences, to take away men's liberty; but that is what is done in this bill. I do not believe we have any power under the Constitution to say that a majority of men engaged in agriculture can force a program on another minority group. I do not believe, for example, that this Government has the right to go into any State of this Union and try to regulate a business which is carried on wholly within the boundaries of the State.

These are my personal beliefs. This is the way I should like to vote; but I happen to be a Representative of, and was elected by, farmers in North Dakota who have voted 10 to 1 for this A. A. A. program. Those farmers are resting assured this afternoon that they will have a Representative here in Congress to give them that support, and I am willing to give it to them. I will vote for this bill, but I want you to understand that personally I do not believe we have a right to pass many of the provisions of this bill.

Answering the insistent question raised this afternoon as to what those opposed to the bill would suggest as a substitute, the answer, to my mind, is very easy. First, I say,

enact Massingale cost-of-production bill for that portion of farm products used in this country.

Mr. PIERCE. Mr. Chairman, will the gentleman yield?

Mr. BURDICK. I yield.

Mr. PIERCE. Does the gentleman believe that bill is constitutional?

Mr. BURDICK. Yes; I do.

Mr. PIERCE. How can the gentleman feel that bill is constitutional if he regards the pending bill unconstitutional?

Mr. BURDICK. For the reason that the Massingale bill places cost of production only on that portion consumed within the borders of the United States. If the people raise more than that they would sell it at their peril.

I maintain that we have no moral right, either in Congress or elsewhere, to limit the amount of production in any country, because the human race for 6,000 years before Christ has been producing and it has never produced a bushel more than the human race needs. If they have, I ask now, where is it?

Here is my next question to you, beside the Massingale cost-of-production bill, which in my judgment is constitutional, I would suggest the bringing in of a bill that will relieve these farmers and spread this huge debt that they cannot pay now over a long period of time at a low rate of interest. Give them a chance to come out. You know as well as I do that today in America every farmer, on the average, owes at least twice as much as his property is worth, still under the ruling of the Supreme Court those farmers must pay. If they must pay, give them a chance to pay. We have a chance to do that in this Congress.

Mr. Chairman, there is a bill pending before this Congress that will do this very thing. It requires the signatures of 218 men to that petition up there to give it consideration, yet only 190 Members have signed the petition. You have a chance to enact this legislation if you want to do so.

Here is no. 3: During the period of distress, and while we are trying to work out a solution of this situation, the Congress may enact a moratorium measure for 2 years in order to prevent the Government from foreclosing upon loans for which they are responsible, and may I say to you Members that at this very moment the Government is foreclosing loans which it made to the people of this country. You can stop that if you want to. Another thing that should be done, but neither side of the House will do it, is to take control of the issue of the money and credit of this Nation and put it back in the Government itself.

Mr. PIERCE. Will the gentleman yield?

Mr. BURDICK. I yield to the gentleman from Oregon.

Mr. PIERCE. The gentleman would do that through a moratorium act based upon the Minnesota case? Is that the way he would stop foreclosures?

Mr. BURDICK. I would declare a national moratorium for a period of 2 years and prevent Government agencies from foreclosing any mortgage where payment has not been made through no fault of the mortgagee.

Mr. PIERCE. Does the gentleman think, under the Minnesota case, the Supreme Court would declare such an act constitutional?

Mr. BURDICK. I do not know as I would be limited to the Minnesota case.

Mr. PIERCE. Is that not the only one we have at the present time?

Mr. BURDICK. That is the only one that our Supreme Court has passed upon. In that case the Supreme Court upheld it upon the ground that the mortgagor had to perform certain equities. I have no objection to certain limitations. I am simply pointing out to the Members of the House what can be done, instead of indulging in what we are doing at the present time.

My last point is that the Government should take over the control of the issuance of its money and credit that it never lost. We cannot escape this responsibility. The Congress is charged directly under the Constitution with the control of the issuance of money, yet we have surrendered this prerogative through various laws during the last 100 years until today what do we have? The cash in circula-

tion is about \$6,000,000,000, \$4,000,000,000 of which has been issued by the private bankers of the country through the Federal Reserve System. We have surrendered this power of the American people to private banking interests. I say that under the Constitution this Government has never surrendered that power. The question has never been presented to the Supreme Court of the United States and if it is presented, from my experience as a lawyer I would say that the Supreme Court would hold that any attempt to give away the power to issue money and regulate the value thereof is unconstitutional.

Mr. CHRISTIANSON. Will the gentleman yield?

Mr. BURDICK. I yield to the gentleman from Minnesota.

Mr. CHRISTIANSON. What does the gentleman think about the policy of the Government issuing money against its own obligations? In other words, making its own obligations security for another obligation?

Mr. BURDICK. On the Government debt of this country there is an annual interest burden of about one and one-quarter billion dollars that it would not be necessary to pay at all if the money was issued direct and upon any basis that we have for the issuance of money.

For example, if gold and silver is the basis upon which we issue currency, we have enough gold and silver on hand upon which we could have a currency issue of \$20,000,000,000; yet there is in circulation only \$6,000,000,000 and the private banking interests of the country have issued \$4,000,000,000 of that.

Mr. Chairman, the ball game is on, but very few people can get to the ball game. We complain because the gate receipts are small. But the only reason they are small is because we have not tickets enough to go around. The people are complaining because they cannot get tickets to go in. We do not have enough money in circulation to do the Nation's business and remember that the amount of money in circulation plus the demand deposits in circulation multiplied by three in any one period of this country's history will give you the national income. Just try that out. For instance, what was the income in this country in 1920? First, what was the amount of cash and demand deposits on hand in this country in 1920? The amount of cash in circulation plus demand deposits was \$21,000,000,000. Multiply that by three and you have the national income. When we look up the record we find that it shows that our national income at that time was \$67,000,000,000. Take 1927. In 1927 we had cash in circulation and demand deposits of \$25,000,000,000. Our national income was \$77,000,000,000.

[Here the gavel fell.]

America's capacity to consume—The growth in income of the American people, 1900-29¹

[In current dollars]

Year	All income		Income from current production ²		Other income ³	
	Total (in millions)	Per capita	Total (in millions)	Per capita	Total (in millions)	Per capita
1900.....	19,100	251	17,035	224	2,065	27
1909.....	30,900	341	27,726	306	3,174	35
1910.....	32,530	353	29,175	316	3,405	37
1911.....	32,547	347	29,066	310	3,481	37
1912.....	35,223	370	31,604	332	3,619	38
1913.....	37,122	382	33,309	343	3,813	39
1914.....	36,232	366	32,254	326	3,978	40
1915.....	39,322	391	35,200	350	4,122	41
1916.....	48,227	473	43,823	430	4,404	43
1917.....	56,061	542	51,307	496	4,754	46
1918.....	62,394	597	56,770	543	5,624	54
1919.....	70,281	668	63,880	607	6,401	61
1920.....	75,397	707	67,325	631	8,072	76
1921.....	60,685	558	52,745	485	7,940	73
1922.....	67,601	613	59,602	541	7,999	72
1923.....	76,770	685	68,381	610	8,389	75
1924.....	78,600	688	69,924	612	8,676	76
1925.....	84,768	731	75,918	655	8,850	76
1926.....	86,395	735	77,177	657	9,218	78
1927.....	86,333	725	77,063	647	9,330	78
1928.....	89,335	741	79,679	661	9,656	80
1929.....	91,988	755	81,940	673	10,048	82

¹ Exclusive of profits from the sale of property. See table 5, pp. 152-153, for sources.

² Exclusive of income from foreign investments.

³ Chiefly returns on property used in direct consumption. Includes also net income from foreign investments.

Income and its distribution—The growth in real income of the American people, 1900-1929¹
[In dollars of 1913 purchasing power]

Year	All income including business savings ²		All income, excluding business savings ²		Income from current production only ³	
	Total (in millions)	Per capita	Total (in millions)	Per capita	Total (in millions)	Per capita
1900.....	24,331	320	23,694	311	22,009	289
1909.....	32,424	358	31,034	343	29,371	325
1910.....	33,381	362	32,202	349	29,801	323
1911.....	33,554	358	32,842	350	30,823	329
1912.....	35,905	377	34,635	363	32,053	336
1913.....	37,122	382	35,722	368	33,309	343
1914.....	35,944	363	35,354	357	32,449	327
1915.....	39,049	388	36,945	367	34,510	343
1916.....	44,204	433	39,677	389	37,044	363
1917.....	43,593	421	39,914	386	33,911	328
1918.....	41,139	393	39,821	381	32,720	313
1919.....	40,001	380	37,536	357	33,943	323
1920.....	38,079	357	37,374	350	31,285	293
1921.....	35,845	330	37,431	344	32,458	299
1922.....	42,704	387	41,646	378	37,604	341
1923.....	48,041	429	46,519	415	41,468	370
1924.....	49,054	429	48,150	421	42,404	371
1925.....	51,312	443	49,587	428	44,605	385
1926.....	51,983	442	50,645	431	45,775	390
1927.....	52,038	437	51,408	432	46,387	389
1928.....	55,800	463	54,308	450	47,231	392
1929.....	57,673	473	56,270	462	48,543	398

¹ Exclusive of profits from the sale of property. Based on table 5, p. 152.

² Deflated by index representing prices of goods and services purchased by consumers. (Based on King's data in *The National Income and Its Purchasing Power*.) This does not strictly apply to the portion of the income retained as savings in business enterprises. However, the proportion of this type of income is so small and the difference between the price index of capital goods and that of consumers' goods is so slight for the most part that it was not deemed essential to compute a new index.

³ Deflated by an index intended to represent values of goods and services produced. (See pp. 147-148 and 151.)

Circulation of money and credit

[Henry G. Bahr, Feb. 19, 1935]

	Amount of demand deposits subject to check ¹	Amount of money outstanding ²	Amount of money in the vaults of banks ³	Population of the United States (estimated) ⁴	Per capita circulation of money and credit ⁵
	Thousands	Thousands	Thousands		
June 30, 1916.....	\$12,045,909	\$2,177,109	\$2,364,600	100,757,735	\$141.16
June 30, 1917.....	10,632,323	2,579,100	3,099,700	102,172,845	129.30
June 30, 1918.....	12,116,364	3,599,000	3,307,200	103,587,955	151.71
June 30, 1919.....	14,721,725	3,895,300	3,793,100	105,008,065	177.30
June 30, 1920.....	15,679,376	4,420,300	3,738,200	106,543,031	188.65
June 30, 1921.....	16,074,125	3,954,700	4,189,800	108,207,853	185.37
June 30, 1922.....	14,334,122	3,649,300	4,626,900	109,872,675	163.67
June 30, 1923.....	14,248,370	4,045,200	4,656,000	111,537,497	164.02
June 30, 1924.....	15,061,944	3,948,900	4,898,000	113,202,319	167.93
June 30, 1925.....	16,532,201	3,876,900	4,422,500	114,867,141	177.95
June 30, 1926.....	18,208,622	3,910,100	4,518,900	116,531,993	159.81
June 30, 1927.....	21,144,148	3,856,200	4,801,100	118,195,785	211.60
June 30, 1928.....	21,059,876	3,930,100	4,188,000	119,861,607	208.49
June 29, 1929.....	21,427,747	3,947,200	4,591,600	121,528,429	208.50
June 30, 1930.....	21,087,523	3,698,200	4,638,400	123,191,000	200.95
June 30, 1931.....	18,678,236	3,956,500	5,123,100	124,070,000	182.44
June 30, 1932.....	17,327,339	4,921,000	4,053,400	124,822,000	154.21
June 30, 1933.....	13,408,593	5,070,800	5,007,600	125,693,000	147.02
June 30, 1934.....	14,961,774	4,683,900	8,950,500	126,425,000	155.39
Jan. 1, 1935 ⁶					

¹ Individual deposits subject to check in all reporting banks, as shown in the annual reports of the Comptroller of the Currency.

² Figures in this column include only money in general circulation, exclusive of amounts held by reporting banks, Federal Reserve banks and Treasury. Source: Annual reports of the Comptroller of the Currency.

³ In the Treasury, Federal Reserve banks, and reporting banks. Source: Annual reports of the Comptroller of the Currency.

⁴ Continental United States. Estimates as of the middle of the year. Source: Statistical Abstract of the United States, 1934, p. 10.

⁵ The sum of the first and second columns divided by the population is given in the fourth column.

⁶ Not available.

Mr. HOPE. Mr. Chairman, I yield 15 minutes to the gentleman from Michigan [Mr. CRAWFORD].

Mr. CRAWFORD. Mr. Chairman, I take the floor at this time in order to secure some information. I dislike very much to break into the statements that are being made, but I should like to ask any one of the members of the Agricultural Committee a few questions on certain points of the bill which I have not been able to clear up in my own mind in the short time in which we have to consider it.

On page 7 of the bill, I should like to inquire as to why the growers of rice are permitted and encouraged to assign away the benefit payments they would likely have in due course for the purpose of production credit?

This seems to be the only provision of its kind in the bill, and I wish to inquire if this was placed in the bill because of the fact that the rice producers are in such financial straits that they must mortgage their potential benefit payments in order to secure production credit?

Mr. JONES. That provision is in the law at the present time. This is merely a repetition and this was wanted by the rice producers themselves, whose representatives were gathered here from all over the country in the early part of the session and asked that this provision be put in the bill. Their methods of production are peculiar and their methods of marketing and handling are peculiar, and they said this would be especially beneficial to them. The representatives gathered from every rice-production section of the country were here and asked that they be given this credit privilege, and it was put in at their request as an amendment to the old bill.

Mr. CRAWFORD. Now, on page 9, I wish to inquire whether or not agreements can be entered into on any or all farm commodities, whether basic or otherwise?

Mr. JONES. Agreements may be entered into, but the Secretary may not issue orders on any of these agreements that are binding on all handlers except these particular commodities named, milk and its products, fruits and vegetables, with the exceptions named.

Mr. CRAWFORD. Then, to make it a little clearer, if the producers of any given commodity other than those set forth on page 10, paragraph 2, voluntarily enter into a marketing agreement, whether it be 65 percent or 95 percent of them, after having entered into this voluntary marketing agreement, as I understand, the Secretary of Agriculture may not issue orders covering those products.

Mr. JONES. He cannot do so under the terms of this bill.

Mr. CRAWFORD. Then, on page 17 of the bill, lines 16 to 20, read:

No person acting as a member of an agency established pursuant to this paragraph (B) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

As I read the bill, it is my understanding that the Secretary may bring into operation an agency, and it appears from the language I have just read that there may be members of that agency other than those on the pay roll of the Federal Government.

Mr. JONES. Yes; that is particularly true of the local committees. The gentleman will understand that this particular provision puts under the ban men engaging in speculation in respect of a commodity and forbids any official from speculating on the exchanges or in futures markets, and so forth, in a commodity which they have a part in handling. When they have local committees that are mapping out the program, they are interested in the commodity, and it is felt that this ban should not be extended to them, and that is all it is intended to cover.

Mr. CRAWFORD. It seems to me on that point that is a very dangerous provision to have in the bill, because I think it could be determined that there are many people—

Mr. JONES. If these people draw anything from the Government, and some of them do draw a little pay, they are under the ban.

Mr. CRAWFORD. I understand that.

Mr. JONES. But if they are simply asked locally to help the local people who fashion most of these programs, it is felt if they are not being paid by the United States Government we did not quite have the right to forbid their engaging in such dealings.

Mr. CRAWFORD. If by chance a commodity operator should be placed on one of these agencies, he can certainly secure sufficient inside information to put him in position to make a wonderful scoop in the commodity markets from time to time by reason of having such inside information.

Mr. JONES. These men are selected by the producers in the communities themselves and they probably would not select that kind of man.

Mr. CRAWFORD. That agency, insofar as its personnel is concerned, then, is to be restricted to local people engaged in the production of the commodities in question.

Mr. JONES. Yes.

Mr. CRAWFORD. In that event, it would probably help the situation considerably.

Then with reference to the base period for marketing agreements, mentioned on page 27, I should like to have a little clearer information as to how this base period can be shifted from 1909-14 to 1919-29. Can the gentleman give us a little information on that?

Mr. JONES. There are some of the commodities on which definite figures in the regular base period are not available in the Department of Agriculture; that is, the records were not kept accurately for those commodities during the former base period and they are not available. I believe I am correct in my recollection that this provision covers such commodities and provides that he may take this later period in order to arrive at just what the parity price would be and what the figures would show.

Mr. CRAWFORD. And that would be used only in the absence of these other figures.

Mr. JONES. That would be used only in the absence of definite figures on the regular base period.

Mr. CRAWFORD. The bill, on page 32, refers to specific tax rates, where it appears that the rates in effect as of June 1, 1935, are frozen until December 31, 1937. Is it possible under this provision of the bill and by reason of the freezing of these rates for the farmers to be denied or deprived of what might be termed "parity payments" or "parity benefits"?

Mr. JONES. No; those rates are frozen subject to this change. Refer to subdivision 4 which begins at the bottom of the page. They were frozen to make certain of the legality of the tax. Congress really enacted the processing tax under that provision beginning in subdivision 4, line 22. The regular method of varying those taxes is set out; that is, the Secretary of Agriculture may increase or decrease them, but if this power granted here is held invalid by the Supreme Court the tax automatically goes back to the fixed rate. In other words, these are only fixed and would only remain fixed in the event the power conferred by Congress to move them up and down is denied by the Supreme Court.

Mr. CRAWFORD. Mr. Chairman, I take this opportunity to express my appreciation of the great effort the members of the committee have made in an attempt to solve this problem. I wish I could agree with all the features of the bill. It appears to me that the people who founded this country, having prepared and signed and published the Declaration of Independence, established themselves as a free people.

Then they proceeded to draw up a Constitution. It was accepted and adopted. Through its terms and provisions rights were recognized, and to date have been guaranteed to that free people. Out of this Constitution there came a Federal Government, with limited powers which were specifically set forth therein. The powers not delegated to the Federal Government were retained unto the people themselves, and therein is their freedom.

The observation has been made that out of the sphere of liberty there evolved or was carved that of government, and that freedom was not created by a Federal Government. Free men carved our Government in the form in which we find it as defined and circumscribed by the Constitution.

Historical but unbounded and indefinite rights and privileges which our people have inherited must again be guarded as they were in times past. Many men who are Members of this body never until recent years were forced to give much consideration to fundamentals of this nature. Life moved along smoothly for us, and we exercised our liberty without much thought, if any, as to how it came to us.

Today we have heard remarks dealing with the great problems of modern life, industry, agriculture, world trade; domestic production, consumption, and exchange. Perhaps the greatest task of free men today, acting under the terrific pressure under which modern life has placed us, with all of

its social, economic, and relationship problems—is that of requiring government to mind its own proper business. It can be well argued that there has come to us here in this House at this very hour the opportunity and the responsibility to say to government that it must desist from any further attempts, under any guise or pretense, to invade the liberties guaranteed and preserved for us by and through that great charter of human rights which the Supreme Court of this land has so recently shielded in its three sweeping decisions. Those who framed that Constitution did not bow down to or recognize that there was in existence anywhere or in any form an all-powerful state which goes before, or which is superior to, and of necessity in control of, individual life and effort. The philosophy of man's immortality may have led him to believe that insofar as spiritual matters are concerned there is an all-powerful and all-knowing Supreme Being; however, to recognize such a power insofar as a political state is concerned, having to do with the economic, social, and political actions of mankind, I submit, is to deprive man of his liberty and freedom while living his life here on earth.

Therein is the crux of this bill insofar as I am concerned. It seems to me that if we are to preserve our freedom in this country we must, working cooperatively among ourselves, solve these problems independent of Federal control or Federal dictatorship in any form whatsoever. However, if the Members of this House and if the farmers of this country have come to the conclusion that they cannot, through cooperation with each other and in their own way, solve these problems themselves as free men, and that they are now ready to surrender the freedom which they have heretofore enjoyed and prospered under and all without any further effort now insist that Government strengthen its authority, that, I submit, is a startling situation. If this be true and if there be problems which must now be solved, then our people will have to come to the Government and sit down at its feet and say, "Mr. Federal Power, we are unable to reach the benefits which we must have, and therefore we seek your aid." Insofar as I am concerned, I believe that our people through cooperative, intelligent, and free effort accomplish fivefold to what will be accomplished when Federal bureaus interfere. Apparent in this bill there is such a plea now being made, as evidenced by the farmers of Mr. Burdick's territory. They have indicated, he says, 10 to 1, I believe, that they now desire the Federal Government to step in and lead them out of the wilderness. That to me appears to be the substance of this bill. It has many things in it that I think are very commendable. At the same time, there is no question in my mind but that we are surrendering, perhaps once and for all, much of that freedom which we have heretofore enjoyed and exercised and prospered under. Personally I believe we did not go far enough in our own efforts before we appealed to the Government.

Perhaps the situation came down on us in a crash in such a manner that we felt compelled to rush into something, but we come right back to the proposition that millions of our farmers say that they desire now to travel this road, that they desire to be led by Federal authority, and in working out this bill I can see where the committee has in a somewhat marvelous way inserted provisions which call for cooperation among the farmers themselves by putting here two-thirds vote for producers, two-thirds vote for volume, and then at the same time, as I understand it, a majority of the producers can issue an edict whereby the Secretary must cancel an order which has been issued. Is that correct?

Mr. JONES. He may cancel if a majority of the producers want it.

Mr. CRAWFORD. In my opinion, this bill will not bring to the farmers of this country the economic and social rights which they have reason to expect in this advanced day and age. It has been pointed out there are near 900,000,000 acres of farm land with a today's value of more than \$30,000,000,000, and owned by more than 30,000,000 farm people. These farm folk must be recognized in a material and substantial manner. They are not paid cost for their production. They want wages comparable to those paid to people who

produce the goods and services which farmers buy—goods in the form of something to consume in stomach and on body and overhead. Goods in the form of travel. In the form of a few luxuries; in the form of education and training for their children. To have these things the farmers must be able to sell their labor in the form of the goods drawn from their farms at a price which compares favorably with that paid by them to the other branches of our population.

The organized processors of this land who are engaged in purchasing farm goods and processing them into finished products will not pay the farmers a reasonable price for their labor unless those processors are forced to do so. This bill does not carry the necessary teeth. It will not prove satisfactory to the farmers. There are too many exemptions. The Supreme Court properly held that certain powers should not be delegated by Congress to the Federal administrative officers. Now, to present a bill which comes within the circumscribing of the Supreme Court insofar as the powers that may be delegated by Congress to the Secretary of Agriculture, or an administrative office not responsible directly to the people, is one thing. But what the farm population wants is a bill which will assist the farmers—all of the farmers, in whatever State they may be located and for whatever crop they may be growing—giving them cost plus a profit for the goods they place on the market. If this bill protects the cotton grower and leaves the farmer who grows vegetables for the canner, fruits for the canner, beef, wool, mohair, and a hundred other crops without any protection, we should know that will not work. And this bill exempts canned vegetables, canned fruits, and many other crops from any kind of control or protection or benefits.

Furthermore, it will not be possible for the Secretary to reach out and gather into his hands the control of all the powers and purposes and aims set forth in the bill. When he attempts to do that it will set in motion other forces which will be just as disturbing and damaging as some force which he attempts to correct. There is too much artificial interference. Time and tide wait for no man to act. Neither does weather. The ebb and flow of world trade, the offers to buy and sell of the trader, and the increased and decreased amount of production by reason of climatic conditions, such as rainfall or lack of rainfall, are matters beyond the control of the Secretary.

His Bureau cannot work rapidly enough to meet the constantly changing factors that are involved in his calculations as to production, consumption, the ordering of the investigations, the determination of the facts based on the findings, the calling of hearings, the securing of approval of handlers and producers, the issuance of orders, and through the votes of a majority the cancelation of those orders after having once been issued. It is not reasonable to expect that a bill such as here presented will work out satisfactorily to the farmer, because this is a makeshift—a result of the original Agricultural Adjustment Act plus a lot of amendments which were on the way to be added to the original act, and which were arrested by a Supreme Court decision, and then some more additions which are hoped to be found constitutional.

Page 7, paragraph (8), sets forth a provision with reference to the growing of rice which appears to me to be grossly unfair to the rice growers of the country. When the production credit is in such a state that growers must assign or contract away the potential benefit payments they may receive under the act I think that is conclusive evidence the rice provisions of the A. A. A. are not now giving the relief it was claimed would be forthcoming on their enactment. This is a provision which must ultimately work hardships on the rice growers.

IMPORTS

Section 30, page 49, of the bill deals with this highly important matter of imports. This is not a strong section. There is too much beating around the bush. Here we are dealing with a vital matter. A policy which permits the operation of a plan of reducing crops, retiring acreage, holding down production, and at the same time allows millions of tons of farm products to come into this country from other lands is one in which I cannot concur.

Many countries have and are entering into reciprocal trade agreements with the United States. They will expect and will demand the right to ship farm goods into this country in increasing quantities. It is being done now. As prices advance, more goods will be offered to this country. Throughout the world there can be found warehouses with bulging sides filled with the goods of other lands. The highly trained and alert international traders are keenly aware of every point of advance or decline in the commodity markets. It is such an easy matter for them to flash an order to buy or to sell. Market news and other information having to do with human relations at home and abroad encircles the globe with electrical rapidity. Day and night, every second of each day, news travels to all points of the world from other points. In the fraction of a second commodity markets can be passed around the world to the waiting traders. Governmental machinery is too slow for this game. "Whenever the President has reason to believe." Who is going to give any President that "reason to believe"? Cannot we comprehend those countries enjoying reciprocal trade treaties will exert every influence at their command to pour more and more goods into this market as our production recedes through the retirement of acreage and the giving of benefit payments to our farmers as a price to take away from them the domestic market so that it may be filled by goods imported from other countries? Sure! Investigations are to be made—but how? The President shall specify to the United States Tariff Commission how the investigations shall be made. Why not let the Tariff Commission proceed under its own rules and make its investigation quickly but along its established lines? Why should its powers be set aside by some regulation issued by the President to support some reason he may have? If the importation of goods from other lands are causing great distress in our land, why not our Congress have the power to place an embargo on further importation? Why not make it mandatory on the part of the President that he must act upon the findings of the Tariff Commission? Furthermore, any decision of the President as to facts under this section shall be final. The committee, no doubt, has done its best in dealing with this question of imports. However, it is my opinion the act has not gone far enough.

In conclusion, I do not wish to be understood as contending that the Government should not at any time interfere in the interests of the farmer, nor do I contend that the present bill is wholly bad. I do most emphatically contend, however, that it is not an adequate solution to the problem of our 30,000,000 American farmers. With great responsibility in a great emergency must necessarily come impatience to fashion some sort of bill to meet a critical situation. This bill proposes to do that, but does it only partially; and I for one cannot support it in its inadequacy to meet our fundamental problem. It is true that the bill provides for payments to the farmers which help to mitigate a depressing and a miserable state of affairs. Yet that mitigation is bought at a stupendous price; that price is the sacrifice to decreased production while millions of our people are literally crying for food; that price is the sacrifice of personal liberty which cost the fathers of our country a vast amount of suffering and bloodshed to establish and under which our people have risen from a state of serfdom to that of a sovereign; and, finally, that price is the perpetuation of merciless poverty in the midst of plenty. Why must we continue the hopeless policy of cutting down production, plowing under food, when the world is crying for the products of the farm? Why must we continue the stupid policy of actually taxing part of our people in order to pay another part to destroy the very food we need? Why cannot a bill be fashioned which will permit the farmer to till and sow as nature intended that he should, and in return pay him the cost of his production plus a small profit to enable him to bring up his family in the independence to which they are entitled? I cannot and shall not by voting for this bill sacrifice the future physical and spiritual welfare of our farm population for a meager mess of pottage thrown at them now in the form of charitable benefit payments. My vote must be in the negative.

Mr. HOPE. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. LORD].

Mr. LORD. Mr. Chairman, I want to speak in behalf of the farmers of New York State who have not received any benefit from the processing tax. It has been a detriment to them. For the most part, we are dairy farmers, and we have not received any more for our dairy products, while the feed for our stock has cost us much more. I cannot see where the farmers of New York State or the East are going to get any benefit from this legislation. They will still have to pay more for what they buy, so the entire legislation, as I see it, will not be of any benefit to them.

I want to speak a little about production and the plowing under of wheat and cotton and the destroying of pigs. I happened to be chairman of the Red Cross in my section for some years, during the war period and since that time. During the time when the Red Cross had flour to distribute to the poor—and cotton clothing, socks, and underwear—to feed them, we were able to take care of them in very good shape, especially in the winter months. During this time, when crops have been plowed under and these products have not been available, it has cost us a great deal more to maintain our poor. If we might have those crops, if we might have the cotton and the wheat, we could give it to our people and save a great deal of suffering.

We are not producing any more than we need in this country. We are not producing enough. The only trouble is in the distribution. If we were distributing to our poor people what we are wasting, what we are plowing under, and what we are curtailing, they would be better taken care of than now. They would be much happier. They could have a living and they could have warm clothes to wear. I hope that we may get that distribution, that we may give to the poor the proper amount of wheat and other crops, and that we may give them the proper amount of clothing to keep them warm. It will permit the cotton farmer to raise more cotton and the wheat farmer to raise more wheat, and it will take care of the people who are suffering, especially during the winter months. This is true in our section of the country, and it would be much better for the entire country.

Mr. GILCHRIST. Will the gentleman yield?

Mr. LORD. I yield.

Mr. GILCHRIST. The gentleman says that he thinks the farmers of New York State should not have to pay any more for their feed.

Mr. LORD. No; I did not say that.

Mr. GILCHRIST. The gentleman says he is against the bill because his farmers will not be benefited inasmuch as the processing tax requires them to pay more for their feed.

Mr. LORD. I did not say that. I did not say I was against the bill. I was simply telling how it worked out in the State of New York.

Mr. GILCHRIST. The gentleman says he does not feel that the wheat farmers should go on producing wheat at 30 cents a bushel and the corn farmer should go on producing corn at 10 cents, does he?

Mr. LORD. No.

Mr. GILCHRIST. Even though that makes cheap feed for the dairy farmers.

Mr. LORD. I did not say I was opposed to the bill. I was telling the way it worked out in New York State.

Mr. JONES. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. JONES, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, had come to no resolution thereon.

HOOR OF MEETING TOMORROW

Mr. JONES. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow, and that further general debate on the bill H. R. 8492 be limited to 1 hour, to be equally divided and controlled by the gentleman from Kansas and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ORDER OF BUSINESS

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent that business in order on Tuesday and Wednesday of this week may be dispensed with.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, will the gentleman tell us what business is in order on these days?

Mr. TAYLOR of Colorado. The Private Calendar is in order on Tuesday and the call of the committees is in order on Wednesday. We want to go on with this bill.

Mr. MARTIN of Massachusetts. The gentleman does not think we shall finish the bill tomorrow, then?

Mr. TAYLOR of Colorado. It is hoped that we shall finish the bill tomorrow. We have other matters that we feel ought to be taken up. The deficiency bill is one of them.

Mr. MARTIN of Massachusetts. What will follow this bill?

Mr. TAYLOR of Colorado. I am not sure, but the deficiency bill is ready and is quite important.

Mr. MARTIN of Massachusetts. The gentleman, then, would go on with the deficiency bill on Wednesday if this bill is concluded in time?

Mr. TAYLOR of Colorado. I think that is the order of business.

Mr. MARTIN of Massachusetts. Mr. Speaker, I have no objection to the gentleman's request.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

JAMES J. DEIGHAN

Mr. STACK. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record.

The SPEAKER. Is there objection?

There was no objection.

Mr. STACK. Mr. Speaker, on the 14th day of June 1935 the great State of Pennsylvania lost a distinguished son in the untimely death of James J. Deighan.

The American Legion lost a sterling soldier and comrade in the person of Comrade James J. Deighan, department adjutant.

Commander Harry K. Stinger and every World War veteran of the Sixth District of Pennsylvania lost a distinguished friend and advocate when the Great Bugler sounded taps over their buddy, James J. Deighan.

Jim Deighan served with honor and distinction as a member of the Nation's armed forces in the Eightieth Division of the American Expeditionary Forces in 1918. He was honorably mustered from the military rolls on July 15, 1919. As a chartered member of the Woodrow Wilson Post, No. 2, Department of Pennsylvania, the American Legion, he was active for many years in the Legion's program, and in 1923 was chosen by the late J. Leo Collins, then department commander, as the department adjutant, in which capacity he continued to serve until his death. He was an authority on matters pertaining to the service men and women, and his advice upon such subjects was sought and followed throughout the United States. His innate disposition endeared him in the hearts of his friends and earned for him a Nation-wide reputation and appreciation for his meritorious labors and services on behalf of veterans and the widows and orphans of veterans. His life was a noble one spent in untiring effort to help the other fellow. He so lived that when his summons came to join the innumerable caravan he went with head erect, a smile upon his face, mute evidence of his unflinching trust in his God and the knowledge that he had done his part in life honorably and well. May we emulate his splendid example. He was a kind and loving husband and father.

The Sixth District and the American Legion of Pennsylvania, through its commander, Harry K. Stinger, expresses the wish of all of us when he tells Mrs. Deighan that she and her children have our sincere sympathy in their bereavement.

month, provides that the Speaker may direct the calling of the Private Calendar, and there is no provision to the effect it shall not be dispensed with.

Mr. O'CONNOR. Mr. Speaker, this was all done deliberately and thoroughly and understood when the rule was adopted.

The SPEAKER. I am sure that is so, and I think the author of the rule and the House knew that when the rule was adopted.

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT

Mr. JONES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8492, with Mr. Cox in the chair.

The Clerk read the title of the bill.

Mr. JONES. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon [Mr. PIERCE].

Mr. PIERCE. Mr. Chairman, in the short time allotted me, I do not expect to be able to discuss this bill in detail, but under the wise provision that someone started years ago, giving us permission to revise and extend our remarks in the Record, there will be found at the end of my remarks a more complete discussion of the problem as a plain, real farmer sees it.

Mr. Chairman, I remember when I came to this Congress a little more than 2 years ago, one of the first friendships I formed was with the genial, brilliant gentleman from Illinois, who spoke yesterday for the processors. We had many things in common. We early became friends. We were both members of the Agricultural Committee. I said to him one day: "Why are you, a Chicago lawyer, on the Agricultural Committee?" He looked at me and smiled and said: "Governor, the stockyards are in my district." I needed no further explanation. I congratulate the brilliant and talented attorney for the wonderful defense he made of the stockyards, the packers, and the processors. We will hear much of that speech in the coming months.

I sincerely hope someone with the ability of the able Chairman of the Agricultural Committee, the gentleman from Texas [Mr. JONES], will give us a detailed answer to that marvelous array of, shall I say, misinformation from the farmers' point of view.

The millions and billions of dollars that the farmers are supposed to have received, according to that speech, would have made us all rich. Most of the money borrowed by farmers will be returned. Many millions of this borrowed money have already been returned. Many millions of the money that you set out in your wonderful array of figures have not even been appropriated.

Mr. BEAM. Mr. Chairman, will the gentleman yield?

Mr. PIERCE. I am sorry I cannot yield.

Mr. BEAM. I just want to correct the gentleman's statement by changing the word "appropriated" to "authorized." If the gentleman will read the Record, he will see that the statement says "authorized."

Mr. PIERCE. The Record will show the facts.

I want to compliment the chairman of this committee for his very careful consideration, not only of this bill but of every bill that came before the Agricultural Committee. He has certainly displayed a wonderful degree of generalship harmonizing the requests of the departments and the views of various members of his committee.

FARM PRICES ARE BETTER

The meat of this whole thing is this: When we passed the Agricultural Adjustment Act in June 2 years ago the farmer was getting less than one-third of the consumer's dollar and two-thirds of it was going to the processor and middleman. Today the best compilations we have show that the farmer or the producer is getting about 45 cents out of each consumer's dollar. The statement of my lawyer friend that the farmer had a perfect right to take his prod-

ucts to the ultimate consumer and get 100 cents of the consumer's dollar is certainly true, but what chance has the farmer of Ohio or the cattleman of Oregon or the wheat man of Nebraska to take the products of his farm to the ultimate city consumer and get anything for it? It has to go through the hands of the processor.

Fifty years or a little more ago, when I commenced my career in Oregon as a farm hand, the farmer was getting more than 50 cents out of each consumer's dollar. This has been gradually forced down, reaching 32 cents for the farmer's share. Since the present administration came into power it has gradually increased, until today the farmer is getting 45 cents of that dollar. Is it any wonder that the processor or the transportation man is getting alarmed and has flooded Members of the Congress with his propaganda, threatening us with the dire disaster that will follow if we pass these simple amendments, to do what? To make more effective the present act.

[Here the gavel fell.]

Mr. PIERCE. Mr. Chairman, I ask unanimous consent that I may revise and extend my remarks for those who are interested in the farmer's point of view.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. PIERCE. Mr. Chairman, Charles Beard, in his justly famous book, *The Rise of American Civilization*, opens his chapter on agriculture with words something like these, "In every age and in every clime where civilization has passed its most primitive form there has always appeared a small group of men devoted to finance, commerce, and industry. This group has always borne down with terrific oppression upon that group which derived its sustenance from agriculture." True in ancient, medieval, and modern days. The early agriculturists were mere slaves, often tied legally to the soil and sold with it when transfers of title were made. In Europe as well as in Asia those who produced the food and fibers that made possible industry and commerce were mere peasants, working for a bare subsistence, having nothing left over after the exactions of landlords and tax gatherers were met. They had no opportunity to share and to enjoy even the meager comforts which were then available for the average man of the time. When America became known to the farming and middle classes of Europe 300 years ago, a new vision gave hope to those who tilled the soil and produced the commodities that civilized men desire. It was a new vision, because they saw across the stormy ocean a land where they might acquire title to precious acres, where they might grow most of the things they needed, be enabled to sell their surpluses, and become free, independent landholders, enjoying the fruits of their labors and constructively building for the future.

FARM CONDITIONS HAVE CHANGED IN AMERICA

In our Colonial era, before the American Revolution, the larger percentage of the people lived on their own farms, where they were largely self-sustaining as to food, clothing, and housing. The Virginia farmer, as well as the farmer of New England, cured his own meat, ground his wheat and corn, constructed most of his own implements and tools, and made his own clothing. The average Colonial farmer sold about 5 percent of the commodities he produced. He consumed the other 95 percent of his products. The average present-day farmer must sell about 80 percent of commodities produced, either in grain or livestock.

Our governmental institutions were worked out and formulated principally by farmers, who had no other ideal than the economic and social conditions which prevailed in 1787. They were not able to pull aside the curtain that hid the future from their day. The wisest men of the day could not envision the America of today. The isolated, independent farmer of Revolutionary days is gone forever. Industrial evolution has settled his fate. In the place of the independent, individual farmer we have a highly industrialized farming population.

Not so many years ago, we lived in a world of scarcity. Clothing was scarce; food was scarce; the few simple ma-

chines were scarce. I can, myself, remember when my father's binder was the only one in the whole neighborhood, and they ran it during all the daylight that the long summer days afforded. Today, even the farm is mechanized, and the farmer is producing farm commodities on a commercial basis by means of hired labor and machinery, with little or no work of his own hands. Such a farmer is a commercial farmer. Conditions require such a farmer to use machinery in its most modern, up-to-date form.

On my own farm in Oregon, I have plowed my land with walking plows and gang plows, with horses and mules for power. On that farm some three different types of tractors have been used in the farming operations, as these machines have become perfected. Land, that it formerly cost me \$1.50 an acre to plow with horses or mules, can today be plowed for less than 50 cents an acre. This includes not only the cost of fuel but the upkeep and the wear and tear, and all items considered. In other words, a farmer who has any quantity of plowing to do cannot afford, today, to hitch up his own horses against a Diesel engine, where the actual fuel cost is about 8 cents an acre for plowing. This machine age, in which we live, has brought about these same changes for the majority of all farming activities.

In his diary, George Washington complains of constant farm losses throughout his long years of experience and ownership. During the past hundred years, there has been some farm prosperity, and certainly a hopeful attitude on the part of the farmer. It appears that even this is gone, today. I know there are many who say the farmer has been extravagant and that his troubles have been brought on by his expensive and costly methods of operating. Speaking as a real farmer, who has operated under changing conditions during 50 years, I wish emphatically to assert, that I think the farmer is entitled to all of the necessities of life together with a reasonable share of modern luxuries and up-to-date machinery. The automobile and truck are a necessary part of the commercial farm equipment. The time was when the farmer could drive his own horse to the county seat. He raised the feed for that horse on his own land, and he had a horse growing up in the back pasture to drive when the other animal had outgrown its usefulness. Now, if that farmer wants to be a part of the world, and to enjoy a little of its society, and to keep his boys and girls around him on the farm, it is necessary for him to have the modern mechanical devices.

Rural electrification is a subject which is receiving much attention on the part of this administration. Electric light and power add much to country life. With the millions of electric horsepower going to waste down our streams, it is not right to ask those who live on the farms to do without this electrical energy which can be produced so cheaply. In order to facilitate rural electrical development, promoter's profits must be eliminated, and the natural resources used wisely for all mankind and not for the specially favored few.

PERIODS OF AGRICULTURAL PROSPERITY

When the World War was over and the great European emergency market for the American agricultural products was brought to a sudden end, there were very few who properly analyzed the situation. I remember the days of 1920 and 1921 very distinctly. I was then a large producer of cattle, hogs, and wheat. I often said "You will never see wheat less than \$1.50 a bushel, and the fat steers and hogs will always bring at least 10 cents a pound." Along with millions of others, I could not envision the dark hours that were to follow for the farmer. We farmers of America 15 years ago were the most optimistic, happy group of tillers of the soil the world has ever seen. We had been large borrowers of money; we paid liberal interest; we paid high taxes; and we were sending our children to college; we were buying books and manufactured articles from industries. The future looked bright. We could not foresee the wreckage of our hopes and ambitions.

The three periods of great prosperity for the American farmer were periods of war. The first was that period from the formation of our Government in 1789 to 1815, the years in which Napoleon led the armies of the French from Mos-

cow to Egypt. During those Napoleonic wars, every article the American farmer produced brought a good price and he was prosperous. Another great period of prosperity was during the time of the War between the States. Our third and last great period of prosperity was that period extending from 1914 to 1920. No one wants to see war return anywhere on this earth, even to create prosperity for any group or class. The point I want to make is that the prosperity justly due the farmer has been taken from him by the three groups mentioned by Beard, those "devoted to finance, commerce, and industry." This always happens unless their greedy hold is broken by some catastrophe such as war, which yields them such great profits from other sources that they temporarily relinquish their throttlehold upon the farmer. Without governmental backing or cooperative organization the individual farmer is as helpless as a mouse in a cat's paws.

CAUSES OF AGRICULTURAL COLLAPSE

There must be some sound basic reason or group of causes which have prevented general and permanent prosperity for the tillers of the soil, for, in America alone, the tiller in large part has also been the owner, especially in the North and West. Various causes for present unhappy conditions are given by students of agricultural economics, but I am convinced that we must accept a series of causes which combined to crush the landowner. First, he paid too large a share of the taxes for support of Government, because his wealth was tangible, and the holders of intangible wealth went scot free under an unjust system of taxation. Second, he paid too high a rate of interest on the money he was compelled to borrow for seasonal operations and for purchase of land. Third, he was compelled to pay excessive profits to speculators in land. Fourth, he was victimized by the excessive cost of farm machinery, due to uncurbed trusts. Fifth, excessive freight rates and preferential Government treatment of railroads, with their profits on watered stock, kept him from his markets. Sixth, tariff privileges were bestowed by Government on his oppressors and denied him. Seventh, speculation on commodity exchanges in prices of agricultural commodities made his selling operations a gamble. Eighth, producer organization was neglected by agricultural colleges and agencies, while they promoted quantity production. Their shortcomings and their manipulation by "finance, commerce, and industry" resulted in neglect of those aspects of farm life which should have been studied earlier. Ninth, the farmer follows a hazardous occupation subject to weather conditions and fluctuating markets.

With such an array of adverse circumstances, it is not strange that the farmer is today demanding an economic reorganization with governmental aid and control.

I am well aware of the fact that since the World War our greatest difficulty has been the loss of European markets, where we sold our surplus cotton, wheat, and hogs. Europe was ready to buy at a fair price because we bought of her, and because we owed her large sums of money borrowed to build our railroads and other improvements. That foreign market collapsed after the World War when an era of barrier tariffs was ushered in by our privileged friends in "finance, commerce, and industry." Nationalism became a fetish. Germany, France, England, and Italy strove to produce not only their own wheat and meat but, in fact, everything that they wanted to consume. That spirit of nationalism has driven from the high seas the trade of the world. No longer are our cargoes of farm commodities welcomed in foreign ports; they are now subject to quotas and to prohibitive tariff walls. Consequently, our surplus has been thrown back on the American markets. These markets have broken under the strain, and bankruptcy has followed in the wake of our orgy of nationalism. Ruin faces not only the farmers of America but the financiers as well, and also many an industrial concern that made the better part of its profits from articles manufactured and sold to the farming world.

Value has practically gone out of farming land and it is my judgment today, that if accurate figures were obtainable, it would be found that taxes alone are taking over one-half

of the rental value of the farming lands of America. I know figures are often quoted showing that the larger percentage of the farms in America are not mortgaged and that a large percentage of the farmers are prosperous. I challenge those figures. In order to arrive at that conclusion every acre and half-acre lot in every suburban tract must be counted as a farm. The real honest-to-goodness farms are 80 percent mortgaged, from the Allegheny Mountains to the Pacific Ocean. When once mortgaged, the farms are practically lost as far as the farmer is concerned, for at prices which he can secure now and probably in the future, there is little or no hope that the farmer can pay the expenses, taxes and interest, and wipe out the mortgage.

GOVERNMENT AID NEEDED

Left to his own resources, the American farmer cannot recover. He is not only ruined financially himself, but he is pulling down with him the industrial and financial world. The ill-fated Farm Board was created to help restore his prosperity, it failed because it was dominated by that group devoted to finance, commerce, and industry.

The Agricultural Adjustment Act has helped to bring back partial prosperity. We must now enact into law these amendments, H. R. 8492, so that the fight may still continue to restore parity in exchange to the farming community. By that I mean that a given quantity of farm commodities should purchase the same quantity of tax receipts, farm implements, or other articles that the farmer must have, which would have been purchased in the base period of 1909 to 1914.

Full well do I know that many say "Let the farmer alone. He is all right. Do not hamper him with laws." That doctrine can lead only to trouble. Under present conditions we must have controlled production or financial failure for the American farmer. He is still holding a long-view objective and hopes for a more abundant economy for the industrial groups. He is sure that with a relief from the exactions of the financial group there ought to be a profitable market for everything he will be able to produce.

IMPROVEMENTS WROUGHT BY TRIPLE A ACT

When this administration came into power farm prices were approximately 35 percent below the relation of farm prices to industrial prices which had held for the 20-year period prior to 1920. Farm prices are still 25 percent below that relation.

Two years ago this June month we passed the Agricultural Administration Act, known as the "triple A." It was a bold, far-seeing, brave, generous conception. It was an attempt to give the farmer a larger percentage of the dollars that the consumers paid for the commodities produced. Careful compilations made at that time showed that the producer received about one-third of the consumer's dollar; or, in other words, it took an average of two-thirds of the amount that the consumer paid to cover transportation and pay the profits and expenses of the middle man and the processor. Never lose sight of the fact that the object of the triple A is to help and assist the farmer to get a better price for his commodities. The real purpose of this act was to give the farmer a few more cents out of the consumer's dollar. Careful compilations show that, at the present time, the farmer is now getting about 45 cents out of each consumer's dollar instead of the 33 1/3 cents, which he had under the old system. Those extra cents out of the consumer's dollar have gone to the man who milked the cows, raised the hogs and produced the wheat. No wonder the processor is up in arms! He has simply flooded the Congress for months with his propaganda, begging, threatening; in fact, doing everything humanly possible, and many inhuman things belonging to the category of the nether regions, to prevent any amendment that would strengthen the Triple A Act. I know there are a few farmers who will contend that they have never been benefitted by this act. They are simply deceived, or are the victims of this propaganda. They have listened to the siren voice of the processor who would like to have the farmers produce commodities in immense quantities so that he could get his rake-off. The processor has been greedy, and he has been

short-sighted, possibly he has sometimes used this power corruptly.

Rates for processing and transportation remain the same whether crops are small or large. In good years and poor years, those charges are like the laws of the Medes and the Persians. They hold through all conditions and change only to be more firmly fixed. They certainly charge all the traffic will bear, and then some.

FURTHER CONTROL NEEDED

Between 1929 and the spring of 1933, agricultural commodities dropped in price 63 percent, and during the same period the output dropped only 6 percent. Farm implements during the same time dropped in price only 6 percent, but they dropped in output 80 percent. No wonder there was trouble. Implement makers had control of production. Farmers did not have that control.

In spite of the drought and agricultural curtailments of crops, the total volume of farm commodities in 1934 was only 15 percent under the production of 1929, while industrial production was off 42 percent during the same period. In 1870, 53 percent of the gainfully employed were on farms; they received 26 1/2 percent of the total income. In 1932, 62 years later, 23 percent of the gainfully employed were on farms, but they received only 7 1/2 percent of the income. All the immense profits that had resulted from the use of machines and modern methods had been absorbed by that group mentioned by Beard, those devoted to "finance, commerce, and industry."

PRICE FIXING NOT INCLUDED

I have never in the past been an advocate of prices fixed by Government mandate. It has never seemed to me possible for the Government to fix the prices without injury to many people and many interests. I am free to confess that my service on the Agricultural Committee for three sessions of Congress has somewhat softened my opposition to price fixing, and, after listening to hours of hearings, I am beginning to wonder if we may not be approaching the time when fixed prices for farm commodities will be a part of the agricultural program. The Triple A Act does not attempt to do this. It is based upon the theory that if we could cut down the amount of our farm commodities so that we would consume what we raised, and provide a normal carry-over granary, the prices of farm commodities would regulate themselves.

BENEFIT PAYMENTS ARE LIFESAVERS

Those who cooperate in reducing the quantity so that there shall be no exportable surplus are rewarded by benefit payments. I do not know what farmers in some parts of my district would have done had it not been for the money they received by way of the benefit payments. In many counties that I represent on this floor there are scores of farmers who have found those benefit payments a sort of an insurance, enabling them to pay taxes, clothe their families, and send their children to school.

FARM INCOME HAS INCREASED

Substantial improvement has been made under the present administration. In 1932 the farm cash income was \$4,328,000,000. In 1934 it was \$6,100,000,000, an increase of 41 percent. The value of this advance was partially lost by the fact that during the same period nonagricultural commodities advanced 15 percent over the price in 1932.

About 23 percent of the Nation's gainfully employed are farming. In 1932 that 23 percent of our population received only 7 1/2 percent of total income. In 1934 that same farming population received 10 1/2 percent. The farmer is not getting one-half of his share yet, but there has been a real improvement.

In 1934 the purchasing power of units of farm products averaged 73 percent of the pre-war level. In March 1933, at the low point, it stood at 55 percent of pre-war level.

UNFAIR PRACTICES MUST BE STOPPED

There never has been justification for raising the price of flour and bread as the millers and bakers have done. They have forced flour and bread prices higher, using the processing taxes for an excuse for their unjustifiable increases. Actually the increase in the price of bread has been 2 cents

a loaf; the farmer got out of that increase one-half of 1 cent a loaf. The cotton farmer received about 8 cents increase on a pair of overalls. Other articles were in like proportion, but the processor and the seller reaped immense profit. A neighbor in my home county reported to me last week that wheat was down to 51 cents a bushel and local flour \$1.84 for a 50-pound sack. At this price for flour, wheat should sell for \$1.64, including the processing tax of 30 cents; the farmer should net \$1.34. Someone is making too much. Why not divide more equally? It is our business to regulate this. A congressional investigation should be made at once, and, if it reveals what I expect, it should be followed by drastic legislation next session.

AMENDMENTS OVERCOME CONSTITUTIONAL DIFFICULTIES

The National Industrial Recovery Administration made an attempt to force the business world to sell to the consumer at reasonable prices and to pay reasonable wages. Unfortunately, the chiseler, the obstructionist, and the courts have ruined that experiment. The Agricultural Adjustment Act is also a finely conceived attempt to give to agriculture a chance to exist, a chance to receive a reasonable price for the products of labor, so that interest and taxes may be paid, so that the steady march of the American farmer toward peasantry may be stayed. It must not be ruined by court decree or legislative act.

These triple A amendments, which our Committee on Agriculture is offering today and asking this House to pass, amend the present law in several important particulars. They are carefully drawn to meet the requirements laid down by the Supreme Court in their recent Schechter decision. In that case, which is now history, the Supreme Court held that Congress could not delegate its legislative power, except within certain limitations. This Supreme Court decision is the most important and far-reaching decision that has come from that august tribunal since the Dred Scott decision, 78 years ago.

Our American citizens demand an end to the present inhuman and cruel economic system upheld by the Supreme Court in the Schechter case. We must find a way to legislate within the Constitution so that Government shall be allowed to act in all respects for the protection of the citizens. We believe we have provided, in this pending bill, all the specifications and rules, all of the conditions that the Supreme Court will find necessary to make an order of the Secretary of Agriculture constitutional.

COMMODITIES INCLUDED IN THE AMENDMENTS

The commodities under discussion for inclusion through amendment were fruits, vegetables, and milk. Canned fruits and vegetables were omitted from the operation of the act because it was believed by the committee that, in a large measure, vegetables and fruits for canning were produced by farmers very closely tied in with the canners. In many cases the canning and producing are cooperative enterprises. It was thought by the committee that it was not best to have any agreements or orders pertaining to these industries at the present time. Hence, they were omitted, as were apples. Other fresh fruits and vegetables remained in the list. Soybeans and tobacco were included because it was thought by the majority of the committee that the same rules that applied to fresh vegetables and fruit could be applied to tobacco and soybeans. The most important commodity covered by these amendments is milk and its products. Milk today is a necessity and its production and distribution is a utility charged with public use. There is no food that our people depend upon as much as milk and its products. It is believed that when the final test comes before the Supreme Court this law will be found to be constitutional. I regret to state that it was concluded by the committee that it would not be best to include wool and mohair because we are still importers of wool and rules were difficult to formulate.

PROCESSING TAXES

Processing taxes of nearly a thousand million dollars have been collected under the act; and should the Supreme Court of the United States declare unconstitutional the original Triple A Act, and if there be no prohibitive legislation, the

processors may demand that the Government return to them this immense sum of money. This would be most unfair and unjust because, generally, the processor has passed on to the consumer the charge for the amounts of money collected. It would be unjust to repay to processors millions of dollars which they paid in the first instance, and then made their customers pay back to them in the higher price of the processed goods.

It is the belief of the committee that this amendatory act will prevent suits from being filed that will have any standing in a court of law or equity. For this one reason, if for no other, this bill should be passed now at this session. The act also provides that in the future this processing tax shall be collected under the taxing power of the United States, using an entirely different power upon which to base the right to levy the tax, one that the courts, we feel certain, will hold constitutional.

CONTROL OF SURPLUS AND IMPORTS

In this bill, H. R. 8492, now pending, there is a provision that 30 percent of our customs duties shall be kept in a separate fund and be used by the Secretary of Agriculture to assist in an effort to bring back price parity between agriculture and industry. This will amount to about \$100,000,000 annually and may be used to—

(1) Encourage the exportation of major agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities, or by other means, from the normal channels of trade and commerce; (3) purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands; and (4) finance adjustments in the quantity planted or produced for market of agricultural commodities.

This provision follows some of the principles of the Grange debenture plan and the McNary-Haugen bill.

Particularly will these provisions benefit the Pacific Northwest, where we annually raise 80,000,000 bushels of wheat, more than half of which must be exported from that coast. In that great region we are handicapped by a railroad rate of 42 cents a bushel on wheat to the Missouri River. Under the pending bill the Secretary of Agriculture will be authorized to use money to export that regional surplus as he did a year ago when he took 28,400,000 bushels of surplus wheat out of the Northwest at a loss to the A. A. fund of a little more than six and a half million dollars, or 23 cents a bushel, for the purpose of stabilizing prices.

There is also another provision in this bill that should endear it to the heart of every agriculturist, and that is the provision that will make it possible for the President practically to prohibit the importation of agricultural products from foreign countries. He shall do this when he learns through his fact-finding boards that the importation of these farm commodities is not necessary for the maintenance of our people or to fill a normal granary, but that such imports are used to break our domestic markets or to "render ineffectual or materially interfere with any program or operation to the Secretary of Agriculture to benefit agriculture." I believe the day is close at hand, unless there is a decided change in the nationalistic sentiment so prevalent in the world today, when we must absolutely prohibit the importation of any agricultural product that can be produced in the United States. This section of the bill probably goes as far as we ought to go at the present time.

THIS CAREFULLY PREPARED BILL SHOULD PASS

I can assure you no bill of this session could have received more care and attention, more thoughtful study. For hours, days, and weeks the Agricultural Committee has labored faithfully, and we believe we have brought for final passage before this House the most important bill of this session. It would be a calamity to see this bill fail of final enactment. It would not only be a calamity but it would be an irreparable disaster. Congressmen who represent particularly the industrial and financial districts should vote for this bill for their own safety and the safety and well-being of our entire people. Those devoted to finance, commerce, and industry are dependent upon farm prosperity.

The American farmer will not be forced to peasantry without one most desperate struggle. He and his family have tasted of the better things of life. He has the right to vote and he will rise up with the power that he has. He may be driven to follow demagogues, he may wreck this very Government itself, but he will not tolerate loss of home, occupation, and self-respect. He has lost through court decision the opportunity to save his farm from foreclosure pending return of values. This Congress has been gravely negligent in omitting legislation providing a moratorium by means already held constitutional in the Minnesota case.

We who sit in this Hall today may be very conservative compared to the group that may follow us. Should this bill fail of passage, or should it fail to accomplish the purpose that we believe it will accomplish, then danger threatens. A vote for this bill is a vote to establish stability and confidence in the farming world.

Mr. HOPE. Mr. Chairman, I yield 15 minutes to the gentleman from Iowa [Mr. GILCHRIST].

Mr. GILCHRIST. Mr. Chairman, the committee has worked diligently upon this bill for 4 months, and since the middle of February. There was another bill before the committee, which was referred to yesterday by the gentleman from Illinois [Mr. BEAM], which was open to the objections that he recited, but there is no one of those objections that is relevant to the bill now before us. I could spend 2 hours in showing you this, but the best proof of it is that when the original bill came to a vote in the committee it passed the committee by a vote of 11 to 13 and then was recalled and a new bill substituted, which new bill eliminated the faults of the old one.

The new bill is now before you. It is not open to any of the objections proposed by the gentleman from Illinois—not one of them. For example, the gentleman referred to the colloquy he had with Mr. Davis with respect to 1,000,000 being affected by the old bill. That was possibly true at that time, because the old bill related to all processors, to all handlers, and to every grocery man, either at a crossroads or in the cities, who might be selling a can of peas or a pound of potatoes. All of those things have been taken out of the pending bill. It does not affect retailers or producers. There is nothing left of them. I do hope that when gentlemen come to vote upon this bill they will make up their minds on the facts with regard to the bill now before us, and on nothing else. Do not be misled by arguments directed against a bill that is dead and has been buried in the committee for months.

Mr. Chairman, there was an old agriculture which had to do with old-style things, where the farmer was a self-sufficient man and self-contained man living with his family upon the farm. They produced and made for themselves nearly everything needed. I can remember my grandmother making tallow candles. I can remember the old spinning wheel, and so on. In my 15 minutes I cannot dwell on these things. But there is now a new agriculture, and the agriculturalist is in business just as much as the banker or the merchant or the broker who deals in stocks or bonds. This new agriculture is a commercial business. Under conditions that have been existing since I was a boy in northwest Iowa, covering a period of time greater than I care to admit here, agriculture has been broke almost twice in every generation of mankind. I have seen the farms sold. The time comes in the life of nearly every family on the farm when the father dies and the mother dies and the eldest son puts a mortgage on the farm to pay out the other children. Then adversity comes. Prices go down. However diligent and honest and careful he may be, the owner finds himself overwhelmed by conditions which he cannot remedy or overcome, and for which he was not responsible.

After that I have often seen the sheriff come to sell that old homestead farm. It has happened in my family, and it may have happened in your family. I am asserting that agriculture has been broke or "busted", to use a very suggestive term, practically once, and possibly twice, in every generation of mankind, as the game has been practiced out on the farms of Iowa. And the theory has been that agri-

culture must take what it can get under a sort of seepage theory. Let the rich and those who are in commercial businesses prosper—and I want them to prosper; I am not going to make a demagogic speech here—but let those at the top prosper, and then there will be sufficient seepage from above down below to the farmer, the agriculturalist. The theory is that it will be a good deal like Lazarus and the rich man. There will be enough crumbs fall from the rich man's table so that Lazarus can at least eke out a living. So it has come to pass that many folks believe that the farmer should have only the necessities. I have here in my hand a letter from a man who is a great packer in the city of Newark, Ohio. He pretends to tell me, who have lived on a farm in northwestern Iowa and watched farmers all of my life, that the trouble with the farmers is, first, that they spend too much time in town; and, second, that they do not limit themselves to necessities. The letter is dated March 22. There is no group of men on earth who work so much and so diligently and for so many hours as do the farmers. In the summertime they work 12 and 14 hours per day and in the wintertime 10 hours per day. Necessities! So this packer says that they spend so much for luxuries that they have nothing left for necessities. I hold it to be true that the best things we can do for all of our people, whether they work in the mines or in the textile factory or on a farm, is to give them sufficient income so that they can live in comfort and culture and have the beautiful things and good schools and good churches and good homes and all of the other things that twentieth century civilization calls for. There is no reason why a farmer should not have an automobile. If there is any one man on earth who ought to have an automobile it is the farmer. I do not have one here in Washington and do not have to have one. I can take the street cars and the taxis, but the farmer is so isolated that he must have and use one. His wife and family should have schooling and churches and fine things that make for culture and for decent living. I am willing to go with the textile boys. I want their workmen to have the same kind of treatment. I want the boys who work in the mines to have the same kind of treatment, but the farmers have not yet had it.

There are too many folks who are like the man who wrote this letter, who think the farmers ought to limit themselves to necessities—no silk dress for the farmer's wife, no automobile for the farmer, a crust of bread and a bone is enough, existence only. That is where a lot of opposition to this bill arises.

I cannot dwell on that. I have only 15 minutes. There has been too much interference with the farmer. He is interfered with by the grain importations. We ought to give him the American market. We ought to prevent blackstrap and tapioca coming in from foreign fields, so that the farmer would have a right to that market. The farmers have been compelled to compete with Government agencies. For example, there are the reclamation projects. The Government is paying for them. If the Government would set up a Government textile factory and start the manufacture of textiles, what would the boys in the East and the South say to that? But that is exactly what the Government is doing with the farmer. Then there is the spread between price of agricultural products as sold by the farmer and as paid for by the consumer. It is entirely too much. One could make an oration on that for hours. I went down here the other day and saw potatoes au gratin at 40 cents a service. The trouble with the farmers is that they cannot raise potatoes "au gratin" and get \$50 to \$100 a bushel for them. If we could regulate these things so as to give them a proper and decent percentage of the price the consumer pays, the farmer would be much better off; and possibly we would not have to put into force these positive ways of assuring them a parity price and of assuring the cost of production for the things that society gets from them. No man has a right to eat the bread they produce without paying for its cost. No group has a right to mooch upon some other group.

Gentlemen yesterday talked about parity. The gentleman from Chicago [Mr. BEAM], able as he is, told you that farm

prices had doubled. Yes. What does that mean? Double zero, and what do you get? Double corn at 10 cents, and what does that mean? Twenty cents. Yes; corn has doubled. Wheat at 30 cents. Double that. Sixty cents for wheat. Yes; wheat has doubled; but, Mr. Chairman, when you get down to the actual proposition in hand, you will find that everything that the farmer buys has quadrupled, so that today the official figures, without dispute, show something that the gentleman did not say yesterday. Why do not they tell the whole truth? A half truth is as deceptive sometimes as a fraudulent statement.

They ought to be fair about it. The farmer's price has not come yet to parity. He is now, this day, carrying a heavy burden in the economic race with other business men.

How can he compete that way? How can I succeed in a race with you if a 15-pound ball is chained to my feet? The bill has not been in operation above 2 years. Farm commodity prices have improved because there has been a devaluation in the dollar, but the principal thing that has made the approach toward parity is because there has been an unprecedented drought. The crop was cut short, so that you get a good price for corn if you have any, but you do not have any. When you talk about the rise in the price of corn, you are talking about a bushel of corn that the farmer does not have.

Mr. HOPE. Will the gentleman yield?

Mr. GILCHRIST. I yield.

Mr. HOPE. In other words, the parity in price does not necessarily mean parity in income?

Mr. GILCHRIST. No; nor in prosperity.

I do not know of a single farmer that would not be willing to give the boys in the industrial field prices that will put them up to parity. Since I have been in Congress I have voted for every one of these things that would return good income and wages to workingmen.

Now the time has come for you to understand this bill—not H. R. 5585 under discussion a few months ago, which the Committee refused to put on passage.

There has been a great deal of misinformation and misunderstanding in describing this bill. I have letters from men in which they said that it will put a processing tax on every product the farmer raises. That is not so. This does not put a processing tax on a single article that did not heretofore have a processing tax on it or was not subject heretofore to such a tax. This bill does not increase processing taxes upon anything. It adds no new taxes. Why not be fair about it?

A certain chamber of commerce said that the bill took away every semblance of human rights. The bill does not do anything of the kind. As now written, it simply adds a few regulations to cover certain products such as milk and a few of what they call "specialty products", which experience has shown is necessary, in order to do what? Why, in order to give the farmer an honest price and a decent living.

Mr. Chairman, at Springfield, Ill., last week there was a gathering of folks who called themselves "Grass Root" Republicans. At that meeting Governor Lowden was the principal speaker. Governor Lowden is an Iowa boy, born in a little village in Iowa. His father was a blacksmith. He went forth into the world from a humble home and became the Governor of a great State. He is revered and loved by hundreds of thousands of farmers and of Republicans. He made a speech in 1926, and I will just quote one sentence from the speech on account of my short time.

Under present conditions we have this anomaly: The farmer is not nearly so likely to suffer from a short crop as from a bumper crop.

He wrote an article published in the *World's Work*, and another one for the *Review of Reviews*, in which he said—

The CHAIRMAN. The time of the gentleman from Iowa [Mr. GILCHRIST] has expired.

Mr. HOPE. Mr. Chairman, I yield the gentleman from Iowa 3 additional minutes.

Mr. GILCHRIST. I will not continue to read the quotation, but I will put it in my extension of remarks. That is the theory that Governor Lowden has had during these

years. That is the theory of this bill and of the A. A. A. It is the theory of Henry Wallace, another great Iowa product. God Almighty has had a great deal to do with raising farm commodity prices because of the drought that has existed, but I think the Agricultural Act has had something to do with it also. Furthermore, Governor Lowden at that convention last week said:

So long as we have a protective tariff for the benefit of industry we must give agriculture a corresponding benefit for that portion of the product of the soil which goes into domestic consumption.

And this bill is for the purpose of giving a corresponding benefit to agriculture.

I stand for those things. It is good Republicanism. It is espoused by such men as Governor Lowden and other Republicans, and it is not partisan. I think everyone on the Republican side of this committee is going to vote for this bill. I think all the Democratic Members, except possibly one, will vote for it also. There is absolutely no partisanship in this bill. It will help to restore farm prices, and until this is done there will be no prosperity for anyone.

I cannot close without paying my small tribute to the Chairman of this great Committee on Agriculture. Splendid as he is in character, intelligence, and ability, it is a pleasure to work under him as we have done for the last 4 months. It is also a pleasure to work with my colleague, the leader on the Republican side of that committee, Mr. HOPE, of Kansas. There are just two men in this Congress who know all about agricultural legislation and agricultural regulations, and if I had to tell you their names, one of them would be MARVIN JONES, of Texas, and the other would be CLIFFORD HOPE, of Kansas. [Applause.]

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

Mr. JONES. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama [Mr. STARNES].

Mr. STARNES. Mr. Chairman, we have before us one of the most important measures that this House has been called upon to consider at this session of Congress. I think that our able chairman and the members of that committee are to be congratulated on the unremitting toil and effort they have put forth in order to bring to us this perfected bill.

There have been voices raised in criticism of this measure. This measure seeks to do simple, elemental justice to the greatest consuming group in American life today, the American farmer. Those voices come from a section which has long prospered at the expense of the farmers of this Nation and other sections of this country. We should either have a tariff for all or a tariff for none. That is the real battle cry of the American farmer today. For more than a century in the history of this country the American farmer has paid tribute to a certain section of this country in the form of a tariff, and it is nothing more, as I stated in the beginning, than simple, elemental justice that the farmers should receive just recognition at this late hour. If we destroy the processing tax feature of this measure we destroy the heart of the measure.

What does the farmer seek at our hands? He is not coming here asking for any special privileges. No high-powered or highly paid propagandists have been raising their voices in behalf of the farmer, but we are merely giving to the farmers of this country justice so long delayed. We must restore the prosperity of the farmer before we can restore the prosperity of this Nation.

What has the A. A. A. done? Let us speak of terms of benefit when we speak of legislation. We have been accused of passing destructive legislation. We have been accused of attempting to pass legislation which would destroy the initiative of the American citizen, which would destroy individualism, which tended toward collectivism and communism; but this measure gives to the greatest single group in this country an opportunity to live and to live decently. The farmer asks for no special favor at your hands and mine. He simply asks for a square deal. He seeks not special privileges. He does not want a dole, and he resents the idea of charity. All he asks is that he be placed on a parity with

industry and other organized groups in this country who have been able, through organization methods, to get special benefits from this Congress. [Applause.]

The administration of the A. A. A. has been of untold benefit to the farmer. It has sought to balance production with demand. It has revived a prostrate agriculture and breathed the hope of life in the hearts of millions of our people. The following statistics will show the financial benefits to the Nation by reason of the operation of the principles of the A. A. A., to wit:

1. Farm cash income:	
1932.....	\$4,328,000,000
1933.....	\$5,051,000,000
1934.....	\$6,100,000,000
2. Percent increase in cash income, 1934 over 1932.....	41
3. Percentage of rental and benefit payments to farm cash income:	
1933.....	2.6
1934.....	7.3
4. Index of average farm prices (pre-war 100):	
In December 1933.....	78
In December 1934.....	101
5. Percent farm prices were of parity:	
December 1933.....	67
December 1934.....	80
6. Number of production control contracts in effect:	
At close of 1933.....	1,925,000
At close of 1934.....	3,699,000
7. Percent of total farm cash income in 1933 contributed by commodities now covered by production-control programs.....	49.9
8. Number of marketing agreements and licenses in effect:	
At close of 1933.....	60
At close of 1934.....	107

The farmer is told by the industrialists that by subscribing to the principles of the A. A. A. he is losing his initiative, individualism, and his constitutional liberty. The industrialist argues that the farmer should be permitted to work as many hours per day and night as he desires, to produce in unlimited quantities, and to sell in an open and unprotected market. He is willing for the farmer to produce and sell cotton at 5 cents per pound, corn at 25 cents per bushel, wheat at 33 cents per bushel, and hogs and livestock at a price below the price of production. Strange to relate, the industrialist does not practice the theory and doctrine he asks the farmer to accept. Some figures with reference to this phase of the problem will prove illuminating. The volume of farm production in 1934 was only 15 percent below that of 1929. By contrast, the volume of industrial production in 1934 was 42 percent below that of 1929. Industrial prices received the support of a greater curtailment of production than did agricultural prices. While prices of industrial products declined 14 percent, farm prices declined 40 percent.

The effect of increasing the farm cash income since 1932 has been to increase retail and wholesale trade. A study made in 10 Southeastern States showed that shipments of industrial goods from 16 Northeastern States had increased 38.8 percent during the year ending June 30, 1934, as compared with the year ending June 30, 1933.

The effect of the increase in farm cash income has enabled the farmer to pay his debts, save his farm, buy necessities for his family, and to indulge in the fond hope that his years of unremitting toil will be rewarded by raising the social and economic standards of his family life.

Let us pass this measure for the benefit of those who have toiled through the years without asking special favors at our hands. They have shown a wonderful spirit of cooperation. During the past year they have expressed their sentiments toward this measure by cooperating with the program of the Department of Agriculture and by their votes on the question of continuing the policies of the A. A. A. They ask no more of us than to give this program an opportunity to function. We can do no less. [Applause.]

The CHAIRMAN. The time of the gentleman from Alabama [Mr. STARNES] has expired.

Mr. JONES. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. O'MALLEY].

Mr. O'MALLEY. Mr. Chairman, since I have been a Member of this House I have supported almost every bill

that has come before the House which had for its purpose relief for agriculture. I represent a constituency that has few, if any farms. My objection to this particular bill, however, is the continuation of that vicious, un-American, and discriminatory processing tax, because I believe it is nothing but what its name implies, the process of making the underpaid worker and underpaid consumer of the cities provide the funds to enable the farmer to get out of the depression caused by the concentration of wealth in the hands of the few. My personal opinion is that most of this money from the processing tax does not go to create more purchasing power among the farmers, but it goes to the bankers who hold the mortgages and charge the farmers the high interest upon their loans made on agricultural lands in the good years. Processing taxes, parity prices, and a lot of the other buncombe will not help the farmer until his debt burden is scaled down and refinanced.

The Frazier-Lemke bill, in my opinion, was a practical way by which the farmer could be brought back to his own, in this country. That bill provided for the refinancing and reorganizing of the capital structure of the farms in much the same way that big business is refinancing its debts under the Bankruptcy Act. Mr. Wallace let the cat out of the bag as to the real, underlying purpose of this processing tax, when in his remarks before the committee, he said that the processing tax would be figured high enough to make the parity price include the mortgage and the interest charges that the farmer has to pay to his overlords and overseers, the bankers.

I submit, Mr. Chairman, it is unfair for us to pass legislation which compels the poor of the cities to help the poor of the farms—the blind to lead the blind. It is absolutely unfair to dip into the almost empty pockets of the people of the city for a processing tax to help the farmer to get prices sufficiently high to pay the unequal tribute to the bankers that now makes farming unprofitable. Through the processing taxes the consumer is taxed to pay the farmer a bonus to enable the farmer to raise less to charge the consumer more! If this is not the most illogical, asinine, and cockeyed plan that could be conceived, I am unable to reason. I wonder how many of the farmers who have received processing-tax checks have actually been able to buy more than the necessities of life? I have not yet seen a statement from the Department of Agriculture as to how many farmers have been able to reduce the debts upon their farms by reason of these processing taxes.

The theory of the processing tax is that it comes out of the processor. Everybody knows the tax comes from the consumer. For instance, let us take wheat and the finished product produced from wheat, bread, which the poorest citizens of this country, many of them on relief, need as part of their daily diet. Mr. Wallace says a bushel of wheat will produce 40 loaves of bread. If he is no better at baking bread than this statement would indicate, it would seem that it were better for him to farm the farmers of America than to engage in the baking business. I have been told by those who ought to know, that with 58 pounds of flour to a bushel of wheat, approximately 67½ loaves of bread can be produced from that bushel. I refer to the common chain store bakery kind of bread and not the kind they tell us mother used to make. This being the case, it does not take much of a mathematician to figure that with a process tax of 30 cents a bushel on wheat and the market price of 35 cents a bushel, that the processing tax plus the market price makes 65 cents, or 1 cent additional per loaf of bread cost to the consumer. But the price of bread since these processing taxes were levied, has increased approximately 2 cents a loaf. This means that the consumer of bread, be he on relief where one loaf of bread can mean the difference between an empty stomach and a full one, or be he a small wage earner with little enough with which to support his family, has to pay this increase of nearly 2 cents per loaf of bread. This means that the processing tax has cost the consumer of the finished product of wheat, approximately \$1.37 per bushel more when he gets that bushel in loaves of bread than it did before this tax levy. Thus the consumers of the

country are paying the chain stores or the bakeries or somebody else, even 1 cent extra for each 1-cent collection by the processing tax supposedly finding its way into the pocket of the farmer. Thus, in addition to being a levy to supposedly help the farmer, the process tax becomes a disguise and an excuse for more price gouging from the consumer.

Pursuing this line of thought, if the farmer bought bread on the market he would pay out in increased cost to the processor and the seller of bread the 1 cent that he gets under the guise of a processing tax.

I am perfectly willing to vote again for a bill like the Frazier-Lemke bill which has for its purpose a refinancing and reduction of farm mortgage charges, but I object to a policy that makes one group of the masses of this country reach into the pockets of another underpaid and hungry group to help bring the agriculture out of a financially rigged and Wall Street conducted depression.

Mr. Chester Davis, in an article in yesterday's paper, had this to say about the lack of any need for more processing taxes on the food and clothing of America's "still forgotten" masses:

DAVIS, OF A. A. A., GIVES HIS ANNUAL REPORT

A. A. A. Administrator C. C. Davis reported today on his organization's 1934 activities and dedicated it to a policy of "controlled expansion, in step with increasing domestic and foreign demand."

He said it was up to industry to produce further improvement in farm income.

"Since the agricultural price level is now being largely supported by shortages due to an unprecedented drought, it is doubtful whether further increases in agricultural prices would be practical at present", Davis wrote.

"Improvement in the exchange value of agricultural for industrial products can be accomplished, then, either through lowering industrial prices and costs or through such a rise in city buying power as would support an increase in farm prices and in the farmer's share of the national income."

I submit that if you pass this bill every Member who represents a city will find it costly, for the one thing their constituents will remember is that it reaches into the pockets of these underpaid and unemployed citizens for their few remaining pennies.

Mr. HOEPEL. Mr. Chairman, will the gentleman yield?

Mr. O'MALLEY. I yield.

Mr. HOEPEL. The best way to get this money would be by a general tax levy, instead of taxing the unemployed, as happens in the processing-tax procedure.

Mr. O'MALLEY. I propose to offer an amendment when the bill is read under the 5-minute rule, so that the consumers of the city will know just how much this "poor-help-the-poor" program of farm relief we have had for 2 years is costing them. I will propose that each processed article bear a tag showing just what the processing tax on the article amounts to. Then we shall know whether or not the consumers are footing the whole bill, when the bankers who hold the farmers in bondage to huge mortgage and interest payments should be the ones to pay for the farmers' recovery.

Mr. PIERCE. The facts of the case are that the farmer gets but one-half a cent out of each dollar of increase.

Mr. O'MALLEY. It is time the consumers knew what was being done in the name of the processing tax, and not compel them to be the goats for an atheistic, unsound, and suicidal plan that literally flies in the face of the Creator by paying money to destroy the bounty which His benign hand has lavished upon America, the favored of all nations under His firmament.

[Here the gavel fell.]

Mr. RICH. Mr. Chairman, I would like to ask the chairman of the committee a question for the purpose of getting information with regard to the processing tax.

Mr. JONES. Mr. Chairman, I have promised all my time. If later I find I have any time remaining, I shall be glad to yield to the gentleman.

Mr. RICH. I am sorry the gentleman cannot yield.

Mr. JONES. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. LEA].

Mr. LEA of California. Mr. Chairman, I am in sympathy with the general purposes of this bill. I make no criticism

of the committee members. I realize they have worked faithfully and deserve the commendation of the Membership of this House.

I believe, however, that certain provisions of the bill in an important respect deserve criticism.

My particular criticism is directed at the nonbasic commodities provisions of the bill.

The provisions relating to these commodities prescribe no uniform system by which the farmers of the country on an equal basis may receive the benefits of this bill. Instead of providing a common standard under which the growers of any products may qualify for the benefits under this bill the committee have designated certain specific products and excluded all others.

This method of procedure has eliminated from the benefits of this bill certain important products which were operating under marketing agreements in 1934. Canned cherries, peaches, olives, and asparagus, all heretofore under marketing agreements, are excluded from benefits under this bill. For instance, in 1933 and 1934, in my own State cling peaches were handled under a marketing agreement to the advantage of the industry. They are eliminated from the benefits of this bill. Cling peaches are of no particular value except for canning so the whole cling-peach industry is excluded without any just reason. All canned fruit is eliminated.

The California Legislature at a recent session by act provided for the State to cooperate with the Federal Government in carrying out marketing agreements. That act provided that all the farmers of our State on showing the approval of a sufficient majority of the producers of any one product would be entitled to the benefits of the act. All agricultural products were intended to be placed on an equality and have an equal opportunity to come into the program.

The bill before the House plays favorites. Those favored cooperate to exclude other producers. Congress selects the particular products that may get the benefits. The others go without this aid. If this plan of aiding agriculture is just and practical, it should be applied to all the farmers of the country on equal terms. New products are brought in while old ones, without reason, are excluded. The right to participate in a recovery plan should not be made a special privilege without just discrimination. No congressional committee should deny to any particular class of farmers the benefits of this plan when they are able and willing to meet the just requirements for such participation. The result is that certain products that have overwhelming majorities in favor of marketing agreements in our State are denied any benefits under this bill or any right to be even considered.

This is true of hops. Practically all the hops in the United States are produced in the three Pacific Coast States. These producers recently voted by a very large majority in favor of a marketing agreement. This act denies the hop producers any opportunity to receive the benefits of the act.

I am hoping that before this bill finally becomes a law changes will be made which will give the farmers an equal opportunity when they demonstrate sufficient approval to have the benefits of this bill.

[Here the gavel fell.]

Mr. JONES. Mr. Chairman, I yield myself 1 minute to answer a question which the gentleman from Pennsylvania desires to ask.

Mr. RICH. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Pennsylvania.

Mr. RICH. I would like to ask the chairman of the committee a question which I have asked a number of the speakers, but I have received a different opinion from different individuals in the House. Under this bill, H. R. 8492, is the Secretary of Agriculture permitted to levy processing taxes the same as under the A. A. A.?

Mr. JONES. He is permitted to levy processing taxes. We have made some changes in order to assure that there is no taxing power delegated. We make more certain, insofar as it is possible to do so, the exact conditions under which the processing fee will be levied. Then he is given the power to vary those taxes, and given other methods that may be used in addition.

Mr. RICH. Then the Secretary of Agriculture will have the power to regulate these taxes up or down as he may determine?

Mr. JONES. There is a provision herein which will permit him to do that under certain very restricted conditions.

Mr. RICH. Is he permitted under this bill to add any other commodities than those stipulated under the new A. A. A. amendment?

Mr. JONES. No; not so far as processing taxes are concerned.

Mr. GIFFORD. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Massachusetts.

Mr. GIFFORD. On page 47, it seems that refunds and credits are to be allowed in the future when the processor swears that he did not get the money from the vendee. I would like to have the gentleman explain that provision, if he will.

Mr. JONES. In an effort to recover processing fees, where there is a refund, except in case of overpayment or duplicate payment, before the processor is permitted to recover he would be required to show that he did not pass it on to the consumer.

Mr. GIFFORD. Suppose he did not pass it on?

Mr. JONES. He would be permitted to show that fact. [Here the gavel fell.]

Mr. HOPE. Mr. Chairman, I yield myself 12 minutes.

Mr. JONES. Mr. Chairman, I yield the gentleman from Kansas [Mr. HOPE] 5 minutes also.

Mr. HOPE. Mr. Chairman, may I join in the tribute which other members of the committee have already paid our chairman? We all appreciate the patience with which he has listened to the suggestions of the various members of the committee, the courtesy he has shown us at all times, and the leadership that he has exhibited in making this bill, I believe, the most important bill that the Committee on Agriculture has reported to the House.

Before I go into a discussion of the provisions of the bill itself, I want to take a few moments to reply to the attacks made on the processing tax this morning by the gentleman from Wisconsin and by the gentleman from Massachusetts [Mr. GIFFORD] on yesterday. I appreciate the statement of the gentleman from Massachusetts with reference to his interest in farm prosperity, and I have no reason to doubt that at all. I note his suggestion that he and his constituents are not opposing benefit payments to the farmers, but that they do oppose making those payments from the proceeds of a processing tax. I note his suggestion also that we do away with processing taxes and make benefit payments out of the Federal Treasury.

Mr. GIFFORD. Only on one commodity. Please do not forget that.

Mr. HOPE. The gentleman corrects me by saying that is only on one commodity. I presume that is cotton.

That proposal is, in my opinion, both unfair and illogical. The gentleman admits by his statement that the farmers of this country are not receiving a fair price for their products and that, I submit, is the only reason why any benefit payments should be made to the farmers, because if they are receiving a fair price they are not entitled to anything further. If they are not getting a fair price it is because the consumers of those products are not paying a fair price.

The most practical way to insure that the consumers of these products will pay a fair price—at least, the most practical way that has been devised so far—is to apply the processing tax to make up the difference between the going farm price and the fair exchange value. That is what has been done in applying the processing tax. If we should follow the plan suggested by the gentleman from Massachusetts and make benefit payments out of the Federal Treasury, we would in effect say to the consumers of farm products, "We are going to let you have these products for less than a fair price, less than you ought to pay for them, and we are going to tax future generations in order to give you this subsidy." That is exactly what we would do if we

adopted the plan suggested by the gentleman from Massachusetts.

Mr. GIFFORD. Will the gentleman yield for just one question?

Mr. HOPE. Yes; I yield for a brief question.

Mr. GIFFORD. Speaking of taking money from the General Treasury, does not your exportable feature in this measure, where you take \$100,000,000 from the customs, take money out of the General Treasury?

Mr. HOPE. I understood the gentleman to say he had no objection to that.

Mr. GIFFORD. I do not; but it applies just the same to the other method.

Mr. HOPE. It is used primarily, of course, as the gentleman understands, for another purpose, and I propose later to discuss that feature so far as that is concerned; but I do not want to be diverted now.

Whether the gentleman from Massachusetts agrees to it or not, the fact is the processing tax is the farmer's tariff. The prices of agricultural commodities of which we have an exportable surplus are fixed in the world market. There are times and conditions under which tariffs are effective upon these commodities. In general, however, they are largely ineffective. This means that producers of those commodities must buy on a protective market and sell on a world market. The processing tax is the one method which has been devised thus far to give producers of these commodities a price commensurate with the general price structure of the country. Every argument which can be made for a protective tariff can be made for processing taxes. The theory justifying each is the same, and I predict that in the future the two will stand or fall together. This is inevitable because the farmer, whose prices are fixed in world markets, cannot continue to buy in a protected market. Either the tariff will have to come off or a compensating benefit in the form of a processing tax will have to continue.

I want to call the attention of the gentleman from Massachusetts and other members of my own party to the recognition of this principle, which was contained in the resolutions adopted at the recent "grass roots" Republican convention, in part as follows:

We hold that no economic advantage of agriculture thus far attained shall be ended. The farmer is of right entitled to a fair and proportionate part of the national income, and to receive a parity price for the products of his farm in domestic markets.

And, continuing, it is stated:

We endorse the statement of Governor Lowden in this conference that so long as we have a protective tariff for the benefit of industry we should give to agriculture corresponding benefits for that portion of the production of the soil which goes into domestic consumption.

That is exactly what the processing-tax program does. This principle has been supported by Republicans in the Middle West ever since the days of the first McNary-Haugen bill. We will continue to support it, and I do not believe that I am speaking out of turn when I say that unless the tariff-protected industries of the East are willing to afford that measure of protection to agriculture then we of the West cannot be expected to continue to support high tariffs for industrial products.

Now, Mr. Chairman, before discussing the details of this measure, I wish for a moment to say something about the agricultural situation as it exists at this time.

Mr. RICH. Will the gentleman yield for a question?

Mr. HOPE. Yes.

Mr. RICH. In speaking of the tariff for industry and the tariff for agriculture as exemplified in the processing tax, the tariff for industry is a prohibition on the import of commodities from foreign countries. Is that applicable in the same manner to agricultural products, as was stated by the gentleman a few moments ago?

Mr. HOPE. The gentleman has a different idea of the tariff than I have if he thinks a tariff prohibits imports from other countries. The gentleman evidently means an embargo. The tariff provides for a compensating duty on products which come in from other countries, in order to equalize

the difference in the cost of production here and abroad, and that in effect is what the processing tax does.

Mr. FOCHT. Mr. Chairman, will the gentleman yield for just a short question?

Mr. HOPE. Just briefly; yes.

Mr. FOCHT. The gentleman has been speaking about this new tariff he is going to have for agriculture. What about the tariff we have always had for agriculture? From a blade of grass to the biggest steer or mule raised on a farm we have had protection. What are you talking about when you refer to another tariff? Does the gentleman want two tariffs? This is a plain question.

Mr. HOPE. All right, I will answer it in a plain way.

Mr. FOCHT. All right.

Mr. HOPE. I will say that tariffs are usually not effective as to agricultural commodities which are on an export basis, at least, not fully effective. The reason for this is that the price of these commodities is made in the world market. It is based upon the export price, and as long as we are on an exportable basis we take the world price. The only way you can give the farmer a domestic price is to do it by the method we have adopted in applying the processing tax. This, of course, does not apply to all agricultural products. On some of them, such as dairy products, where we are on an import basis, tariffs are effective in increasing price.

Mr. GIFFORD. Mr. Chairman, will the gentleman yield to allow me to clear that question with a short statement? The processing tax on wheat, for instance, would have to be immensely larger if we did not retain the tariff of 42 cents a bushel on wheat.

Mr. HOPE. It is true that during recent months—

Mr. GIFFORD. You must have that tariff of 42 cents just the same.

Mr. HOPE. Not necessarily. It is true that during recent months the tariff has been partly effective on wheat because of the fact we have had a great drought and a shortage. We have had three short wheat crops in this country; but ordinarily, when we are on an exportable basis, the price in this country is the world price less transportation charges.

Mr. GIFFORD. If you did not have the 42-cent tariff now, you would have plenty of foreign wheat coming into this country.

Mr. HOPE. If we did not have the 42-cent tariff, the processing tax would be higher at present.

Mr. GIFFORD. Very much higher.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. JONES. Mr. Chairman, I yield to the gentleman from Kansas 5 minutes more.

Mr. HOPE. Now, Mr. Chairman, I want to say a word about the agricultural situation at this time, because I believe that is important in considering what this measure is expected to do.

In the first place it has immeasurably improved as compared with 2 years ago. Some commodities, notably corn and tobacco, have reached a parity price. Others have approached it more nearly than for several years. Surpluses of cotton and wheat have been greatly reduced. The excess of meat animals has been reduced. Several causes have contributed to this—the drought, the adjustment program, the devaluation of the dollar, and commodity loans have all played a part. Some commodities have been affected by all of these factors, others by only a part of them. Aside from whatever price enhancement may have come from dollar devaluation to crops, the price of which is fixed in world market, the chief reason for the better position in which agriculture finds itself is that burdensome surpluses have been removed, and there has been a better adjustment between supply and demand. This means, therefore, that whatever improvement has been made is likely to be lost unless efforts to balance supply and demand are continued. In other words, if we should plant the same number of acres as our average from 1926 to 1932, should harvest therefrom a normal crop, and were not able to develop new markets, we would in another year—certainly 2 years—approach the same condition which existed in 1931 and 1932 as far as agricultural

prices are concerned. This makes it essential that the adjustment program be continued. By that I mean that the American farmer must continue to hold his production to a point where it will not result in a buyers' market like we had during the first 3 years of the depression.

I have no patience with those who call a course of this kind a program of scarcity, with the implication that farmers are interested in creating a shortage of food supplies to the detriment of the consumer's stomach and pocketbook. It is true that after having long been the victim of a policy of this kind on the part of industry, farmers might be justified in retorting in kind, yet I do not know of a single farmer or responsible spokesman for farmers who advocates a policy of that kind. Why, today, even after the most devastating drought in our history, and with the adjustment program in effect for 2 years, we have ample supplies of all food commodities, and in some cases a much heavier carry-over than in any predepression year. Our wheat carry-over this year will be between one hundred and sixty and one hundred and seventy million bushels, whereas the average for the years 1920 to 1930 was 120,000,000 bushels. The carry-over of American cotton on August 1 will be at least 8,000,000 bales. In spite of the Government cattle purchases there are more cattle in the country now than in 1928, and yet no one ever suggested a shortage at that time. There are ample supplies of beef, pork, and dairy products. In fact, it is impossible to name any agricultural commodity in which there is an actual or potential shortage at this time. Rather than being a program of scarcity, the plan now in effect is one of plentiful supplies at fair prices. The farmer is asking for no more; the consumer is entitled to no more.

The philosophy of this measure recognizes the necessity for continuing a program of adjustment, but at the same time sets up machinery by which advantage can be taken without injuring domestic price of any export demand which may be developed. It is a fair statement, I think, to say that this bill embodies in principle the equalization fee, the export debenture, and the domestic allotment plans. There is no inconsistency in this, because the basic principle of all three is that of giving the farmer a price for that part of his product which is consumed domestically which is on a par with the price of the things he buys, with a world price for any exportable surplus. It is true that the domestic allotment plan provides for a better control of production, and to that extent is generally preferable in the existing situation. However, it is thought that conditions may make it advisable on occasion to use either or both of the other methods and they are in the bill to be used if needed.

The provision in the bill which, in effect, makes the McNary-Haugen equalization-fee plan in order is that which authorizes the use of processing taxes for the exportation of basic agricultural commodities. The export debenture plan is contained in the provision which authorizes the appropriation of 30 percent of the customs receipts each year for the purpose, among others, of financing exports.

Frankly, I am not so enthusiastic about the equalization-fee and the export-debenture features of this bill as some. I am glad they are in the bill. I hope they can be used to build up our foreign trade in agricultural products. However, these provisions in themselves will not open up any markets. The matter of price is not the fundamental reason our foreign trade in agricultural products has dropped so materially. The real reasons are our inability or disinclination to take exports from countries which would buy our products and the instability of currency which has disrupted all world trade.

Our situation now is not materially different from what it has been since we became a creditor nation during the war, except that until 1929 we loaned enough money abroad to enable importing nations to buy our surplus agricultural commodities. When the loans stopped our trade began declining and has continued to decline ever since. I think the provisions in the bill making funds available to overcome what price obstacles there may be in connection with exports of agricultural products will be helpful in special cases, but

I do not expect to see any great increase in agricultural exports until world currencies are stabilized, and until we are willing to accept imports from the countries which can use our agricultural products.

Generally speaking, the provisions of the bill may be divided into five main parts. The first deals with changes in the law affecting those basic commodities on which programs are now in effect, involving the payment of benefits to producers in connection with adjustment programs.

The second deals with the matter of orders covering certain specified commodities which cannot be included in the benefit payment plan or in which it is felt that it is necessary to supplement the benefit payment plan through the use of orders.

The third deals with the new provision authorizing the appropriation of 30 percent of the customs receipts for the development of foreign markets, together with other agricultural purposes and the use of processing taxes under certain conditions to promote the exportation of agricultural commodities.

The fourth is the provision which gives the President authority to impose compensating taxes or quotas on imports which are rendering ineffective or which materially interfere with the agricultural adjustment program.

The fifth deals with the imposition and collection of processing taxes.

I do not mean to imply that all of the provisions of this bill can be grouped under the five heads above mentioned, but these five subdivisions do embrace the more important features.

The most important provisions of the bill, as they relate to the programs involving benefit payments, are those which make this specifically an adjustment rather than a reduction program. It is not necessarily a change in policy, because the title of the original act indicates that an adjustment program was to be undertaken. However, the provisions in that act for the payment of benefits contemplated their payment only in return for crop reductions. The amendments contained in this bill provide that payments may be made for crop adjustments. Another feature contained in this part of the measure is the provision whereby benefit payments may, at the option of the producer, be made in commodities rather than in cash, specific provisions of the amendment, however, requiring that payment only be made in the commodity with respect to which the payment is being made.

Closely connected with this feature is the ever normal granary plan which authorizes the Government to acquire from the proceeds of processing taxes agricultural commodities which have been pledged as security for Government loans and to use the same in making payments in kind rather than in cash to producers who have cooperated in the program in question. It is the thought that through the use of this plan it may be possible to prevent violent fluctuations in prices due to excessively large or small crops and maintain for the benefit of consumers adequate reserves of agricultural commodities from year to year.

By reason of the decision in the Schechter case it has been felt advisable to rewrite the provisions of the original Agricultural Adjustment Act which gave the Secretary of Agriculture the right to make rental and benefit payments. The new language makes provision for findings by the Secretary upon which the determination to make rental or benefit payments may be based and specifies what the Secretary must find in order to put those payments into effect. In other words, the delegation of power to the Secretary is specifically set out and the basis which he must use in making his findings is written in the act. It is also specified that benefit payments must be terminated when the Secretary makes certain other findings in the exercise of the power conferred on him in the bill.

Of importance also is the provision to the effect that in determining parity prices in the case of all commodities for which the pre-war period is used as a basis, that account must be taken of the difference in interest payments and tax payments per acre on farm real estate between the base period and the present. It is estimated that at the present

time taxes and interest payments per acre are approximately 160 percent or 170 percent of the pre-war level. Such items are an important part of the cost of farm operations and their inclusion in the matter of determining parity prices afford a much fairer basis for the same.

There are certain very important agricultural commodities upon which it is not possible to put into effect plans involving benefit payments to producers. The most important of these commodities are milk and fruits and vegetables. Under the provisions of the original Agricultural Adjustment Act, attempts have been made to handle these commodities by means of marketing agreements. In some cases these efforts have been quite successful, particularly as to some fruits and vegetables. In the case of milk the efforts have been successful only in part. As a matter of fact, the milk situation is the most aggravated in the agricultural picture today. This is particularly true in the large milksheds, every one of which seems to have a different problem to meet. The great difficulty in most cases is that the distribution of milk in these areas is under what amounts to monopolistic control and the dealers have apparently been able to force the producer to take any price which they care to pay. This has been brought out very clearly as a result of the investigation which the Federal Trade Commission has made in some of the larger milk sheds of the country. Inasmuch as the dairy industry is the largest single branch of agricultural production and includes more farmers than any other, it is important that everything possible be done to relieve the distress which now exists.

The decision of the United States Supreme Court in the Schechter case makes it necessary to entirely rewrite those provisions of the original Agricultural Adjustment Act relating to marketing agreements and licenses in order to meet the constitutional questions raised by that decision. To this end the power of the Secretary in such matters is limited to the power of the Federal Government over interstate commerce as stated by the Court in the Schechter and similar cases. The transactions affected are by the terms of the bill confined to agricultural commodities or products thereof in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce. Likewise, in conformity with the decision, the powers which are granted the Secretary are specifically set out in the bill itself. Also, in order to more nearly express the character of the regulations made by the Secretary, they are in this measure called "orders" instead of licenses. I know no one who is familiar with the nature of these regulations who will not agree that this is a more accurate term. The commodities embraced in the marketing agreements and orders section are limited to the following, and with the exception of naval stores, extend to the products thereof: Milk, fruits—including pecans and walnuts, but not including apples and not including fruits for canning—tobacco, vegetables—including soybeans but not including vegetables for canning—and naval stores. As to milk and its products, there are certain specific provisions set out which the Secretary may include in his orders and he is given no authority to include provisions other than those set out. As to the other commodities mentioned, the Secretary is specifically limited by the legislation as to the nature of the orders which may be made. It is further provided that orders may not be issued except under certain conditions, and in the case of the so-called "imposed orders" the Secretary must find that the orders are approved or favored by at least two-thirds of the producers of the commodity in the area affected. Furthermore, no producer as such can be made subject to an order and no retailer, excepting retailers of milk and its products.

FUNDS FOR ENCOURAGING EXPORTS OF AGRICULTURAL PRODUCTS

Reference has already been made to the provisions contained in the bill setting aside 30 percent of the customs receipts each year to be used among other things to bring about the exportation of agricultural commodities. In this connection there should also be mentioned the provision whereby the proceeds of processing taxes may be used for the same purpose. In addition to encouraging the exporta-

tion of major agricultural commodities, the proceeds of the 30-percent fund may be used to encourage the domestic consumption of such commodities, for the purchase or lease of submarginal and grazing land, and to finance adjustments in the quantity planted or produced for market of agricultural commodities. It is specifically provided, however, that funds shall not be used for the last two purposes unless the Secretary finds that it is not necessary to spend such funds in assisting the exportation of major agricultural commodities or encouraging the domestic consumption of such commodities. It is felt that this provision, together with that which makes it possible to use processing-tax funds for the same purpose, affords ample opportunity to encourage and stimulate exports of agricultural products, so far as the same may be done through removing price differentials.

Under existing conditions, especially with many countries operating under depreciated currencies, it is quite possible for the agricultural program to be seriously affected by imports. For this reason a provision has been placed in the bill by which the President is given power to order an investigation by the Tariff Commission when he has reason to believe that articles are being imported, or are likely to be imported, under such conditions and in quantities to render ineffective or materially interfere with the operation of any program under the Adjustment Act. If, as a result of this investigation, it is found that the importation of the articles in question is having an adverse effect upon an agricultural program, it is within the power of the President to impose compensating taxes or place a quota upon the importation of the articles in question. It is believed that this provision will be very helpful in meeting any emergency which may suddenly arise with respect to imports.

TAX PROVISION

This bill makes some very important changes in the provisions for processing taxes. One of the most important is that which provides in the case of all commodities upon which the tax is now in effect, except rice, the tax in effect on June 1, 1935, shall remain in effect until December 31, 1937, and in the case of rice the June 1 rate shall remain in effect until July 31, 1936. This express fixing of the rates by Congress does away with any objection which might be raised on constitutional grounds as to the right of the Secretary to fix the amount of the tax. In order to further meet any objection which might be raised on that ground, it is set out in the bill that the Secretary must make certain findings before any change can be put into effect increasing, decreasing, or removing the tax. Under certain conditions, upon making these findings, the Secretary may vary the rate of tax fixed by this act prior to December 31, 1937, and on and after that time he is authorized to impose new rates of taxes based upon the findings which he makes under the authority given him by this act.

Another important provision is that which states that in determining the rate of the processing tax the Secretary must take into consideration the fact that a portion of the goods normally subject to tax is tax exempt because they are used for charitable distribution or for State institutions. In determining the rate of tax, therefore, the Secretary is instructed to take this fact into consideration and increase the tax in an amount which will make up this deficiency in revenue, such increase, however, being limited to not more than 20 percent.

In the event that any rate of tax fixed by the Secretary under the provisions of this bill should be held to be invalid, the rates of tax which are specifically fixed in the bill are to become effective at once.

Another important provision is that which prohibits the bringing of suits for refunds or credits of any tax heretofore paid. This provision, however, does not apply to certain classes of refunds set out in the act. What is intended, of course, is to prevent the recovery of any tax paid on the ground that the tax is illegal. In the case of taxes of this kind such a provision is entirely justified, because of the fact that the taxes in question have all been passed on to the consumer and the party who nominally made the payment would not be the party in interest in any action to recover.

The bill also contains a provision prohibiting refunds or credits on taxes accruing in the future unless the claimant is able to prove that he has neither passed the tax on, passed it back to the producer, nor that the person actually bearing it has consented in writing to the refund. This bill is one of the most important measures affecting agriculture ever to come before the House. It has been unanimously reported by the Committee on Agriculture after many weeks of careful study. In its present form it is a product of the deliberations of all of the members of the committee and represents a sincere effort to work out a measure which will meet the agricultural problems of today so far as this can be done by legislation. It contains the fruit of the suggestions made by those in charge of the Agricultural Adjustment Administration after 2 years' experience in administering the Agricultural Adjustment Act. It embodies many suggestions made by farmers and farm organizations. It amends and perfects the Agricultural Adjustment Act in the particulars in which experience has shown it to be deficient, and finally it attempts to meet the constitutional questions raised by recent decisions by the Supreme Court. In its present form it is, in the opinion of the committee, in harmony with those decisions. This bill will not meet with the approval of those who are opposed to Government assistance to agriculture. It will not be favored by those who believe in tariff protection for industry but are opposed to compensating benefits to agriculture. It will be opposed by that class of processors of agricultural commodities who are in favor of buying farm commodities as cheaply as possible and selling them at as high prices as the consumer will pay.

The bill is in entire harmony with the present Agricultural Adjustment Act and represents a logical extension of the act looking toward a more permanent program for agriculture. It is in harmony with the efforts for agricultural equality which have been made in the agricultural sections of the country ever since the World War from the original McNary-Haugen bill to the present time. It is in entire harmony with the resolutions relating to agriculture which were adopted at the recent meeting of middle western Republicans at Springfield, Ill. So far as I know, no national farm organization is opposed to the bill, and almost all of them have affirmatively gone on record as favoring it. In my opinion it comes more nearly having the united support of the agricultural interests of the country than any measure ever before Congress. [Applause.]

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. JONES. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma [Mr. LEE].

Mr. LEE of Oklahoma. Mr. Chairman and members of the Committee, in matters of agriculture if the Republican Members of the House would follow the able leadership of men like the gentleman from Kansas [Mr. HOPE] and the gentleman from Ohio [Mr. MARSHALL], they would have a safe agricultural program.

Likewise, if they would follow the leadership of the distinguished chairman of the committee, the gentleman from Texas, Mr. MARVIN JONES, they would pass legislation that is beneficial to agriculture. Mr. JONES and Mr. HOPE represent agricultural districts containing farms and ranches larger than some of the counties of New England.

I wish now to answer the arguments advanced in yesterday's debate by the gentleman from Illinois [Mr. BEAM].

He used indirection and innuendo. The facts and figures that he submitted no doubt are correct, but the whole effect of his speech was to imply that the farmers had received much greater benefits at the hands of the Government than they have, and not only to imply but to state that the benefits to agriculture have been at the expense of business. Let me give you the gentleman's words as found in the RECORD, on page 9474, of June 17, 1935, where he said:

I sometimes wonder, "Are we saddling upon the business of the Nation too great a load and too heavy an obligation?"

Then he enumerated the different bills that have been proposed for agricultural relief. Now, mark you, these bills have merely been proposed, have not become law, but he

enumerates them, and totals up the amounts in the respective bills, leaving the impression that the farmer is the recipient of this grand total of proposed appropriations.

Then, further, he totals up the bills, including the amounts of money that have been authorized to be appropriated for loans to the farmers on their grain, livestock, and land, as though that, too, would be "saddled upon the business of the Nation."

In other words, the gentleman has said to the House that if the farmer had all the money that has been proposed for farm relief, he would have all the money that has been proposed for farm relief, if all of this proposed legislation were passed.

In other words, if he had some ham, he would have ham and eggs, if he had some eggs.

That is what I mean by the argument of indirection and innuendo. If I ask you how far it is from here to New York City and you tell me that a dog's hind leg is crooked, what you say is absolutely true, but it has nothing to do with the question asked.

What has been proposed for farm relief has very little to do with what the farmer is actually receiving.

The gentleman seems to have stayed within the facts, but he has presented them in such a manner as to give an implied meaning that does not square with the true situation.

For instance, it is like the man who himself would not hurt the dog, but he pushed the dog out of doors and yelled "Mad dog!" The result was the same as though the man himself had killed the dog in the first instance. He placed the dog in such a bad light before the people that they administered the death sentence.

Mr. BEAM would place facts before this House in such a manner as to have you administer a death sentence to the only relief that seems available at the present time for agriculture.

The gentleman has told you how much has been proposed—not appropriated, mark you—for the relief of agriculture, with the intention of leaving you under the impression that the farmer has been amply cared for at the expense of business, and I suppose the gentleman has in mind big business, because the Chicago stockyards are in his district.

The gentleman proceeds on the same line of reasoning that the man would who said one morning when he met his friend, "I have just saved \$50,000."

His friend inquired how, and he said, "General Motors went down \$1 a share on the stock market, and I did not have 50,000 shares."

The gentleman from Illinois has listed the different appropriations for loans to the farmers and in his arguments has asked, "Are we not saddling upon the business of the Nation too great a load and too heavy an obligation?" clearly implying that the money loaned to the farmer will have to be paid back by the business man.

Now let us take up some of these loans and see for ourselves who will pay them, and whether or not they constitute burdens that will be "saddled upon the business of the Nation."

When the corn farmers were selling corn at the ruinous price of 10 cents a bushel, the Government stepped in and loaned these farmers 45 cents a bushel on that corn in sealed cribs. These loans bore interest at the rate of, I believe it was 6 percent.

Corn advanced in price to 90 cents a bushel; it advanced to just twice the amount the Government had loaned on it. When that corn was sold, not only the principal but the interest was paid. The Government actually made money on that loan and saved the farmers of the Corn Belt \$160,000,000 that would otherwise have gone to the grain speculators on the grain exchange.

Now those loans have already been paid back with interest or else are secured by corn that is worth twice the amount of the loan. Therefore, it will not be necessary to "saddle that burden upon the business of the Nation."

Then again, when the livestock industry was flat on its back, the Government came to the rescue. I have some

cattle, I secured a Government loan at a time when it was difficult to get a bid on the cows, and those that sold brought from \$4 to \$12 a head, and had it not been for the Government loans, most of the livestock men would have been forced to throw their livestock upon the market, which would have forced the price still further down the scale.

That Government loan saved me from losing my herd. I have already paid back half the amount of the loan plus the interest due, from the increase of the herd, and the remaining cattle are now worth three to four times more than they were when the loan was made.

Would not you consider that pretty good security? The Government saved the livestock industry and actually made money by these loans. That money will not have to be raised by taxation, and thus "saddle a burden on the business of the Nation."

Then again, our farmers were being foreclosed on their farms when the Government stepped in and made available Government loans secured by the farms. Before a farmer could get one of these loans an appraiser came out and appraised his land. Then a second appraiser came out and checked the first one. The farmer and his wife both signed a first-mortgage lien on that farm to the Government. That loan bears 5-percent interest. Before a clear title can be given to that property it will be necessary to pay not only the principal but the interest.

These loans were all made at about two-thirds of the market value of the farm, which certainly should be a low enough valuation to make them a good loan.

Those loans are well secured. The great loan companies and the life-insurance companies have always considered farm mortgages as the best form of investment. And the money loaned on these farms will not become a "burden saddled upon business."

In other words, my friends, if grain that represents the bread which we eat, if the livestock that represents the meat that we eat, if the fertile farm acres that represent the productive power of the Nation, if the farmer's name on these loans backed by his character, if all of this does not represent good security, then we do not have any in the United States.

Therefore, I submit that Government loans are not Government gifts, and the gentleman has erroneously implied that these constitute a burden that will be saddled upon the business interest in the United States.

Then again, the gentleman from Illinois presented in another argument an unfair comparison. Quoting page 9474 of the RECORD of June 17, 1935, the gentleman said:

Now let us see what agriculture has paid in taxes. For the years 1924 to 1928, mineral producers paid almost six times as much as farmers in Federal taxes. * * *

Now, I believe every Member of this House will recognize the unfairness of that comparison, because farmers pay their taxes on real property located in the local community, and as a matter of fact, the money from their taxes goes to the building of roads, running schools, and operating the local government, and very little of the farmers' tax goes into the Federal Treasury, whereas, because of the very nature of the business itself, the mineral industry naturally pays considerable Federal taxes.

Again may I call your attention to the gentleman's style of argument. It is obviously an injustice to compare the Federal taxes of the farmer to those of the mineral industry, but would the gentleman say that the mineral industry or any other business pays as much tax, State and local, in proportion to its ability to pay as does the farmer?

If the mineral industry and the packing industry and all the other industries paid as much taxes in proportion to the ability to pay as the farmer does, there would be little need to worry about revenue, because we would have an abundance.

I have seen in some of the farm journals the statement that the land in the United States represents only 40 percent of the Nation's wealth, but that it bears 80 percent of the Nation's tax load.

Now, if that statement is true, the farmer, representing only 40 percent of the Nation's wealth, is carrying 80 percent of the tax load, and I have in mind local and State as well as Federal taxes.

Therefore, the gentleman, by arguing to you that the farmer is not bearing his share of the tax load is manifestly unfair.

I can give the gentleman a better comparison than that. Why did he not compare the farmer's income taxes with the income taxes of the business world. Very few, if any, farmers have enough income to pay income tax; therefore the comparison is unfair, because the farmer pays a heavy property tax. All through the gentleman's arguments are those dangerous tricks of illogical comparison. For instance, to show you how unjust such tricks can be, suppose I tell you that the average income of myself and Henry Ford is \$10,000,000, it certainly would be erroneous for you to conclude, therefore, that my income was \$5,000,000.

Mr. Chairman, I now wish to consider the arguments against the processing tax as advanced by the gentleman from Massachusetts: Where did this depression begin? I feel that every Member of Congress is interested in improving conditions in the United States and, as has already been stated in this debate, it is necessary for us to see the picture as a whole and not merely look at one section of the United States, or at one class of people. If the Nation is to be prosperous, then all wholesome business must be guarded.

But I submit that this depression began when the farmer lost his buying power. He stopped buying, the merchant stopped selling, the factory wheels stopped turning, and wage earners started hitch-hiking.

Now, what caused the farmer to lose his buying power? It was because of the great difference between what he had to sell and what he had to buy. He had to sell on a world market and buy on a protected market. The process that bled him white was so gradual that it went unnoticed, but the drain continued. This difference was made possible because of the high protective tariff for the benefit of industry.

When our Nation was young, it was argued then, and with good logic, that if we were to become a great Nation and have our own industries, it would be necessary to protect our young industries from the competition of older countries by a protective tariff, and with the full belief that as soon as these industries were developed, that tariff would be reduced materially, if not removed entirely, but just the contrary happened. The higher the tariff wall, the stronger grew industry. The stronger industry became, the higher went the tariff, and for 150 years an indirect subsidy, in the form of a tariff, has been laid upon all of the consumers for the special benefit of one class, the manufacturing class.

Therefore, it comes with poor grace from the gentleman from New England to oppose this processing tax on the grounds that it is an indirect subsidy laid upon all consumers for the special benefit of the agricultural class. Because this is a farmer's tariff.

In past years the farmer has offset this handicap by frugal living and by extra long hours of labor. It has been somewhat offset, too, because the farmer has found a ready market for most of his products. But as the purchasing power of his products gradually diminished he stretched out his arm and produced more in order to make up the difference in purchasing power. But, finally the tariff handicap overtook him. What he bought cost more, and what he sold brought less. No matter how fast his herds increased, they could not keep pace with the ever-widening gulf between what he had to sell and what he had to buy, until finally his buying power was completely destroyed.

May I give one incident to prove what I say. A farmer in my district took 127 cowhides to Oklahoma City and sold them. He took all the money he got from 127 cowhides and went to buy one set of tug harness. It took all of the money he got from 127 hides and \$9 additional cash to buy the one set of tug harness.

Therefore, when there is that much difference between what the farmer sells and what he buys, his buying power has been destroyed, so the farmer stopped buying. He had to,

We have heard the argument to let the law of supply and demand operate. We are perfectly willing for the law of supply and demand to operate providing it operates on the manufacturer as well as the farmer, but heretofore the law of supply and demand has been artificially controlled as applied to the manufacturer and allowed to operate freely as applied to the farmer. Now we are at the crossroads. We must go one of two ways. We must either let the law of supply and demand operate naturally as applied to both, or artificially control it as applied to both.

I agree with the gentleman from New England that we should have a high standard of living in the United States and that to remove all tariff protection would be a mistake, because it would place our laborers in competition with the cheap labor from foreign countries, but likewise, unless we also give the farmers protection, they are in competition with the Hindus of India, the Chinese of Tibet, the Arabians of Egypt, the Hottentots of Algeria, and the peons of Mexico.

Now, therefore, gentlemen, since this depression began with the break-down of the farmer's purchasing power, I believe we should begin recovery by restoring that purchasing power.

The difference between the farmer's condition before the enactment of the A. A. A. and the present is the difference between 4-cent cotton and 12-cent cotton, the difference between 24-cent wheat—I sold wheat from my ranch at 24 cents—and 90-cent wheat.

The farmer's purchasing power is gradually being restored. When it is sufficiently restored, he will begin buying the things that he needs—farm machinery, paint, lumber, barbed wire, metal roofing, and the long list of things needed on the farm.

When they begin buying again, the merchants will begin selling; when the merchants begin selling, the factory wheels start turning. When the factory wheels start turning, the laborers will be employed. Then we will be on the road to permanent recovery.

Let me say to the gentleman from New England, just as the tariff is here to stay, so also is the processing tax here to stay. I believe it possible for every industry to pay what it costs the producers of raw products a fair price for those raw products, and still sell their finished commodity at a reasonable profit.

If we are to be a great and prosperous Nation, we must bring about conditions where the herdsman's call can be heard as well as the turmoil of the stock exchange, where the whistle of the plowboy can be heard as well as the hum of the factory wheel. [Applause.]

The Clerk read as follows:

Be it enacted, etc., That (a) the first sentence of subsection (1) of section 2 of the Agricultural Adjustment Act, as amended, is amended by striking out the first word and inserting in lieu thereof the following: "Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to", and by inserting before the period at the end thereof a semicolon and the following: "and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during the base period."

(b) Section 2 of the Agricultural Adjustment Act, as amended, is amended by striking out subsections (2) and (3) and inserting in lieu thereof the following:

"(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section."

Mr. TREADWAY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it strikes me that we are following the advice of our good Speaker a little too explicitly. The Speaker asked yesterday in some interesting remarks which he made, that haste should be made in legislation. The majority and the Committee on Agriculture bring in a complicated bill

of over 50 pages one morning, start general debate on it that day and expect to pass it the next day. That is making haste with a vengeance. I, for one, think we should protest against that type of legislation. It is not my opinion that the Speaker expects that sort of haste. There are too many complicated questions in this bill to take it up in such a manner as that.

Among others of the complicated features is the continuation of the processing tax. I introduced, almost at the beginning of this session of Congress, a measure to repeal the processing tax. So far I have been unable to secure even so much as a hearing upon that measure. It is not a tax, as I see it, and as the word is defined, but if there is one iniquitous form of legislation it is the so-called "processing tax", where one group of people is assessed for the benefit of another, but not for the Federal Treasury. In my judgment, it is as iniquitous as anything the Democratic Party has put on the statute books during its power, and absolutely unfair to a large section of this country.

Further than that, it is the first time, to my knowledge, that any definite effort has been made to tax food and clothing. Some years ago we tried to pass the so-called "manufacturers' excise tax", carrying a tax equitably to all classes of people at moderate rates, and instead of accepting such a measure as that, we are today confronted with a continuation of this type of taxation. I am astonished that the majority would offer legislation of this type.

There is included in this bill, I understand, additions to the processing tax. For instance, there are two or three pages which, as I casually glance through the bill, endeavor to legalize what the Supreme Court has declared to be unconstitutional. Now, if the Democratic majority intend to try to get away with that type of legislation, they should let people know about it for more than 24 hours in advance; but it is fair to assume that the gag is again at work.

Another outstanding objection to this measure, in my mind, is the fact that it takes 30 percent, or about \$125,000,000, of revenue collected at the customhouse and pass it out to the so-called "equalization" of agricultural products. I represent, in large measure, an agricultural section, but we do not stand for that kind of legislation.

I simply want to further call attention to the iniquity of the settlement of the processing tax, when one concern in my district last year paid \$1,000,000 in processing taxes and another concern paid \$250,000, without the slightest benefit to anybody, so far as I can learn, and without being able to pass a cent of it on to the consumer.

Now, let us not run away with the idea that legislation for one section of this country as against another is of general benefit. We have heard nothing of late but complaints about New England. For heaven's sake, how is the rest of the country going to live if you cannot earn an honest livelihood in the New England or northeast section of this country? It is ridiculous to say that we have sufficient money in our area to support all the rest of the country under these unfair and iniquitous methods of taxation. Let us get back to the old methods of living under the Constitution, and not try by legislation of this kind to offset legal constitutional decisions.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. TREADWAY] has expired.

Mr. HILL of Alabama. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, the gentleman from Massachusetts [Mr. TREADWAY] says that he protests that we are making too much haste. We have a good and righteous thing to do, and experience teaches us that the sooner we do a good and righteous thing, the better it is.

The gentleman speaks of the processing tax as being iniquitous. If it be iniquitous, we learned our lesson, and we got our example from the high protection tariff interests whom the gentleman so ably speaks for and represents in this House. [Applause.]

Mr. MARTIN of Massachusetts. Will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. MARTIN of Massachusetts. Is not the gentleman aware of the fact that the first protective tariff came from Henry Clay and John Calhoun, one from Kentucky and the other from South Carolina, and at that time New England was the free-trade section of the country?

Mr. HILL of Alabama. That may be true, but I will say to the gentleman that the father of the protective tariff in this country was Alexander Hamilton. We find that Alexander Hamilton said that there should be a protective tariff, but that there should also be a bounty or compensating benefit to the farmer. That has been the fundamental trouble in this country. We have gone on all the while raising higher and higher tariffs for the industries and the manufacturing interests of this country, and at the same time have refused to do one thing for the farmers.

Mr. MARTIN of Massachusetts. Will the gentleman yield for another question?

Mr. HILL of Alabama. Yes, if the gentleman will be brief.

Mr. MARTIN of Massachusetts. The Democratic Party has been in control of this Congress for 5 years. It has been in control of the Nation for 3 years. It is talking constantly of high tariffs, but what have you done about it?

Mr. HILL of Alabama. We are working on the tariff, and we have done this: We have given to the farmers of America the A. A. A. We have given them equality of opportunity in this land. That is what we have done.

The gentleman knows that if the farmers of the country had continued to follow the Republican Party bare feet and shirtheels would be their uniform today. [Laughter.] That has been the trouble through the years, we have not given the farmers that equality of opportunity to which they were justly entitled and which is so necessary for the general welfare and the very life of the country. That is exactly what the A. A. A. Act does and what these amendments propose to do; and in giving to the farmer equality of opportunity we do not rob some other section, we do not rob some other group, or some other class. The records show, Mr. Chairman, that the greatest increase in department store purchases, in general merchandise, in insurance sales, and automobile sales last year was in the sections of the country where the A. A. A. farm program was operating. The goods and articles purchased from the department stores, the general merchandise and the other things, are manufactured by the industries of America, and when you make it possible for our farmers to buy those things, then you make it possible for these industries to prosper. One of the major contributing causes of the depression was the fact that under Republican tariffs the farmers were exploited and robbed to the point that their purchasing power was destroyed.

Mr. RICH. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. I yield.

Mr. RICH. In reference to the statement made by the gentleman that we did not do anything for the farmer, does not the gentleman believe—

Mr. HILL of Alabama. Mr. Chairman, I cannot yield for that. The gentleman knows his party has not done anything for the farmer.

Mr. RICH. I should like to ask the gentleman a question.

Mr. HILL of Alabama. Then, ask the question.

Mr. RICH. Does not the gentleman think we ought to have a tariff on every commodity the farmer grows so that competitive commodities cannot be imported into the country?

Mr. HILL of Alabama. No, of course, I do not think there ought to be a tariff on every commodity the farmer grows. We have got to sell our products in the markets of the world, and to preserve those markets we cannot follow a policy of exclusion. Furthermore, the Republican Party placed a tariff on wheat and it did the farmer no good. It would be absurd to talk about a tariff on cotton where over 50 percent of the crop must be exported.

[Here the gavel fell.]

Mr. HILL of Alabama. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. HILL of Alabama. I feel, Mr. Chairman, that the people of this country, whether they live on farms or in cities, ought to be thankful for this A. A. A. program, because we are taking care of the economic mud sill of the Nation in providing this program.

I join in what has been said in tribute to the Chairman of the Committee on Agriculture and the members of that committee, and I also want to pay my tribute to Henry Wallace, Rex Tugwell, and Chester Davis. They have been the backfield of this program, they have played ball, they have carried the ball to touchdown after touchdown [applause]; and if we will go forward with this program we shall not only bring the American farmer into a happier and better day but we shall lead the entire Nation into a brighter and more abundant day. [Applause.]

Mr. O'MALLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'MALLEY: Strike out the quotation marks and the period in line 18, page 2, and add thereto the following language: "(c) And by setting a maximum consumer price exceeding which certain designated commodities may not be sold."

Mr. O'MALLEY. Mr. Chairman, section 1 as amended—

Mr. JONES. Mr. Chairman, I make the point of order, if I heard the amendment correctly—

Mr. O'MALLEY. Mr. Chairman, I submit the gentleman's point of order comes too late. The Chair had already recognized me, and I was proceeding with my argument.

The CHAIRMAN. The Chair thinks the point of order comes too late. The gentleman had offered his amendment and been recognized and was proceeding with his discussion.

The Chair overrules the point of order.

Mr. O'MALLEY. Mr. Chairman, the purpose of section 2, according to its language, is to protect the interests of the consumer. The authority given the Secretary of Agriculture in section 2 supposedly is authority for the protection of the interests of the consumer, but insofar as section 2 goes it is only a group of nice words; it does not mean anything.

We have delegated enough authority to the Secretary of Agriculture in the past few years to make him rank with the former Czars of the Russias. Why not, then, give him additional authority to protect the interests of the consumer against rising prices; and one of the ways in which we can give the Secretary of Agriculture authority to check prices when they get out of bounds is to add these few words to this section that I propose. My amendment would make the section actually effective by giving the Secretary of Agriculture authority to establish a maximum price which may be charged the consumers upon the commodities designated in the Agricultural Adjustment Act.

The farmers of the country represent 30,000,000 consumers, but the residents of the cities of this country represent equally as many, if not more, consumers, and they ought to have some protection from the costs and from the results of this Agricultural Adjustment Act. While we are giving authority to the Secretary of Agriculture to designate the prices that shall be paid the farmers, let us also give him some authority to control the prices which the consumers of this country have to pay for the necessities of life, the things they eat and wear, which they must buy, whether they are on relief or receiving the average meager income paid to the great mass of workers.

Mr. Chairman, I hope this amendment will be adopted.

Mr. JONES. Mr. Chairman, under the decision of the Supreme Court if an attempt is made to fix prices by legislation a yardstick would have to be laid down, and this is not done by this amendment.

Mr. O'MALLEY. Mr. Chairman, will the gentleman yield?

Mr. JONES. No; I am sorry I cannot yield.

In the second place it is very doubtful, even if you did say that you could fix a particular price, that it would be constitutional, because it is not limited in its application to commodities in interstate commerce.

In the third place, the gentleman said he represents a city district and is not interested in the farmers' prices. There-

fore, for all of the three reasons cited I ask that the amendment be defeated.

Mr. WHITE. Mr. Chairman, I ask unanimous consent that the amendment may be read again.

The CHAIRMAN. Without objection, the Clerk will read the amendment.

There was no objection.

The Clerk read the O'Malley amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. O'MALLEY].

The amendment was rejected.

Mr. MICHENER. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. MICHENER: Page 1, line 3, after the word "that", strike out the remainder of the section and insert in lieu thereof the following: "section 2 of the Agricultural Adjustment Act, as amended, is hereby amended to read as follows:

"Sec. 2. It is hereby declared to be the policy of Congress—

"(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this title, to establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period; and, in the case of all commodities for which the base period is the pre-war period, August 1909 to July 1914, will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments, and tax payments during the base period. The base period in the case of all agricultural commodities except tobacco shall be the pre-war period, August 1909–July 1914. In the case of tobacco, the base period shall be the post-war period, August 1919–July 1929.

"(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish a subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section."

Mr. MICHENER. Mr. Chairman, I do not want to be considered as scolding the members of committees about the form of bills. This amendment in no way changes what the committee seeks to accomplish. Section 1 of the bill furnishes the mechanics and lays down a formula whereby existing law is to be amended. The amendment which I present is the result accomplished if the directions as set forth in section 1 of the bill are carried out. In short, it is the accomplishment, and not the narration, of the operation which the Committee seeks to perform on section 2 of the Agricultural Adjustment Act.

No one will contend that section 1 of this bill as drafted is properly drafted. Such draftsmanship would be unworthy of the crudest State legislature or county board of supervisors in the country. Imagine a court wanting to ascertain what the law was and being confronted with a statute which directed him to strike out a semicolon, insert a comma, strike out certain language and insert other language in lieu thereof; and this in the shape of an amendment to the original statute. It would be necessary for him to call a stenographer and to redraft the statute before he could tell what he was asked to rule upon. If we adopt this bill as drafted, the court will be obliged to do that very thing.

We have a legislative counsel, or drafting service, in which we have taken much pride in the past, and on whom we have been wont to rely. Mr. O'Brien, of that service, is in attendance upon the committee, and I have talked with him about this form of draftsmanship. These men are experts and the committee should yield to their judgment. It does not require an expert to amend by "striking out" and "inserting" only. There is no justification or excuse for such slovenly, loose, vague, and uncertain language as is found in this bill.

No excuse is given or can be given other than that it is not desired to be specific, because there might be some omission, or that the attention of the House might be called to existing

law, which upon consideration might be further objected to, or perchance a properly drafted statute might require a little more printing. Surely we should not economize in printing at the expense of properly worded legislation.

Someone has suggested to me that the compiler of the statutes could figure this out and that the law-book companies will prepare proper compilations by assembling the statutes and working out the formulae given by the Congress. We all know these compilers' editions are not authority in court. The statutes are what count, and each statute must stand on its own bottom. Congress should make the statutes intelligible and not rely upon fallible compilers.

I call your attention to the report of the committee filed in this case with special reference to that part complying with the Ramseyer rule. The Ramseyer rule requires three things: First, the printing in roman type of the existing law sought to be altered; second, the inclusion within brackets of that part of the existing law to be amended; third, the printing in italics of the new matter added to the section. We all realize the value of this printing. Now, if you take section 2 as presented in the committee report under the Ramseyer rule and strike out everything between the brackets, which, as stated above, is the part of the old law eliminated, and reenact the remainder of the section, you will have a complete statement of the section as amended. This is good draftsmanship, is clear, concise, and tells the whole story. This is all that my amendment seeks to accomplish. It in no way changes the intention of the committee in reference to the changes in the section.

I realize that this amendment, regardless of its merit, cannot be adopted without the approval of the chairman of the committee. I am sure that the chairman of the committee will not deny that this amendment is proper. If this amendment is adopted, then I shall offer similar amendments to each succeeding section of this bill, and when the bill leaves the House we will all know just what we have enacted, and those called upon to obey the law will be able to read and to understand without inserting, striking out, and interpreting. Of course, if this amendment is not adopted, I shall not take the time of the House and the space in the CONGRESSIONAL RECORD in presenting the other perfecting amendments.

Under the privilege granted I want to explain the action which I shall take on this bill. I am not in favor of the plowing-under policies of the A. A. A. I realize that something must be done, if possible, to make the tariff effective for agriculture. I think that during my time in Congress I have always voted for every reasonable proposal that might aid the farmer. I voted for the McNary-Haugen bill. I voted for the Farm Board. I voted for the so-called "allotment plan" in the Seventy-second Congress. I have been ready to vote for the debenture plan. This was because no better plan was suggested, and I have felt for many years that the farmers' condition was such that some relief must be given; that nothing was certain and that a trial was necessary.

Before the Schechter decision on the N. R. A. the National Grange, the Farm Bureau, and the Milk Producers' Association from my State called upon the Michigan delegation, urging the enactment of the amendments then proposed to the A. A. A. Since that time the N. R. A. decision has, in my judgment, determined that much of the A. A. A. and the proposed amendments, including the license feature, are unconstitutional. I have not had any endorsement for the pending amendments from anyone, with the exception of the Washington representative of the Milk Producers' Association.

It is true that the existing amendments attempt to circumvent the constitutional objections set forth in the N. R. A. decision, but I do not believe that this has been accomplished. We may change the "licenses" to "orders", but it takes more than a change in name to make the change real and effective.

I realize that there is some logic in the suggestion that this is all an experiment and that the committee has attempted to include within the four corners of the present bill provisions resembling the McNary-Haugen bill and the debenture plan.

Some of the suggestions in this bill are admirable, but, taken as a whole, with the inclusion of the processing taxes and the continued regimentation of agriculture, the bill is unpalatable to one who believes that the farmer should be permitted to go to bed when he gets ready, to arise at his discretion, to plant, to sow, to reap, and to sell as his good judgment dictates. We must have cooperation, but we must not have bureaucratic dictatorship.

A large percentage of my constituents are farmers. Their ancestors have lived on and from the soil. Their children have been educated. Their homes have been improved—and all this without dictation from some agent sent out by the Federal Government to control their everyday going and coming. Our people just cannot get used to this kind of thing, and I am not going to be a party to placing a penalty on initiative, industry, and thrift. There is too much artificiality in everything we do nowadays. Let us get back and be more real.

We all know that it is the surplus crop that is causing the trouble, and I am ready to attempt the principles of the equalization fee, the embargo, or any other sound principle that will make the tariff effective for agriculture. I am not going to add encouragement to legislation and practices that tax the consumer to pay the farmer not to produce, and, at the same time, put the American producer of what is left out of business by permitting foreign importations of agricultural commodities.

A number of the members of the Agriculture Committee will give facts and figures during this debate showing the quantities of farm productions imported since the A. A. A. has been in effect. It is not only interesting but it is depressing. Let us stop this thing, rather than continue the policies of the A. A. A.

I shall vote against these amendments, and in so doing believe that I am voting for the best interests of the real farmers in America. The farmer does not ask for a subsidy, all he wants is the cost of production and a reasonable profit. He must be placed on a parity with other industry. He does not want to destroy the things other people need. Make it possible for him to handle the accumulated indebtedness of the years when he was not given equal opportunity with others and he will ask no more.

[Here the gavel fell.]

Mr. JONES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, according to the gentleman's statement, it makes no difference in legal effect if we adopt the additional language which he suggests, and that would make necessary the recopying of both acts which are referred to in this measure. So far as practical life is concerned, I do not think it would be of any additional help, except it would cost more money for reprinting. If we recopied all of the laws that are amended in this House, there might not be anything for the gentleman's Committee on Revision of the Laws to do, and I do not want to take that job away from him.

May I say that the country lawyer relies on the compilation of the statutes, and that is what is presented in court. Of course, if introduced in evidence, a certified copy of the measure must be produced. We have complied literally with the orders of this House under the Ramseyer rule. In back of the committee report is shown each section amended, with the changes therein. That is the customary procedure which is followed in this House in connection with practically all bills.

This bill has a great many technical provisions in it, but has been carefully drawn and gone over. If we undertook to rewrite each paragraph of the bill here on the floor of the House we would be in utter confusion before we got through. At the appropriate time, if the gentleman wants to redraft this entire bill setting out each provision and have it checked and rechecked, I do not object to his having unanimous consent to suggest the changes and have it printed in that way when we are through, but let that be done as a separate proposition. We have complied with the procedure established by the House, and unless the House sees fit to change the procedure we do not feel at liberty to depart from it.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. JONES. Yes.

Mr. MICHENER. I may say to the gentleman that so far as the procedure of the House is concerned, such procedure has not been followed.

Mr. JONES. It has been followed in most cases.

Mr. MICHENER. Just recently we have been following that procedure, and it seems to me that a statute should be so plain that anyone could read it and know what it means without having to refer to some other statute and then superimpose the amendments on the other statute before anyone can tell just what is the law.

Mr. JONES. I think this is plain.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The amendment was rejected.

The Clerk read as follows:

Sec. 2. Section 8 of the Agricultural Adjustment Act, as amended, is amended by striking out everything preceding subsection (2) and inserting in lieu thereof the following:

"(1) Whenever the Secretary of Agriculture has reason to believe that:

"(a) The current average farm price for any basic agricultural commodity is less than, or is likely during the current or next succeeding marketing year for such commodity to be less than, the fair exchange value thereof; and

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title, and that the exercise of any one or more of such powers would be administratively practicable;

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of such investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

"(2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods—

"(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer; and

"(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.

"(4) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

"(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

"(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

"(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

"(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

"(a) The current average farm price for such commodity is not less than, and is not likely during the current or next succeeding marketing year for such commodity to be less than, the fair exchange value thereof, or

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title or that the exercise thereof would not be administratively practicable, he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such finding is

made and prior to a new finding under subsection (1) of this section.

"(5) In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

"(6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

"(7) In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contract for the 1933-34 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

"(8) In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this title, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

"(9) Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest."

Mr. KVALE. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. KVALE: On page 8, line 8, at the end of the section, add the following subsection:

"(10) No agreement shall be entered into pursuant to the provisions of this section unless such agreement shall contain provisions with respect to agricultural laborers, share tenants, and share croppers employed or engaged in farming upon all land owned or controlled by any party to such agreement:

"(A) Providing for the distribution, directly to and in the name of the particular party in interest, of any payments made pursuant to such agreements upon such basis as the Secretary deems fair and just between owners, landlords, share tenants, and share croppers."

Mr. JONES (interrupting the reading of the amendment). Mr. Chairman, the reading has progressed far enough to show that this amendment is subject to a point of order.

Mr. MARCANTONIO. Mr. Chairman, may we have the full amendment read? I submit the point of order should be made after the amendment has been read.

Mr. JONES. I do not object to having the amendment printed in the RECORD, but I do not see any use in reading a lot of matter here that is clearly not germane, and I make the point of order that the amendment is not germane to the section or to the paragraph.

The CHAIRMAN. The Chair has noted the gentleman's point of order, but would suggest that the reading of the amendment be completed before ruling on the point of order.

The Clerk resumed the reading of the amendment, as follows:

(B) Providing that any adjustment in acreage or production required or effected pursuant to such agreement shall be effected ratably among such persons as continue to be employed or engaged in farming upon the land covered by such agreement, and that the same number of share-tenants, of share-croppers, and of agricultural laborers which was employed or engaged in farming before such agreement was entered into upon the land covered by such agreement shall be employed or engaged in farming upon such land at all times during the period covered by such agreement.

(11) The Secretary of Agriculture, or any person employed or engaged in farming upon the land covered by any agreement entered into pursuant to this section, may bring a bill in equity, regardless of the amount in controversy, in the District Court of the United States for the district in which such land is located to enjoin the breach or compel the observance of any provision required by subsection (10) of this section or section 8g of this title, to be included in the agreement covering the land upon which such person is employed or engaged in farming. Violation of any such provision by any party to any such agreement is hereby declared to be a misdemeanor and shall be punishable by a fine of not less than \$50 and not more than \$100 for each day that such violation continues.

The CHAIRMAN. The gentleman from Texas makes a point of order against the amendment offered by the gentleman from Minnesota. Does the gentleman from Minnesota desire to be heard on the point of order?

Mr. KVALE. I think not, Mr. Chairman. I shall have to abide by the decision of the Chair, and I am hopeful the Chair will give the amendment a liberal construction. The amendment has been rather carefully drawn, and while I have no pride of authorship, I hope the amendment may be considered in order and that we may vote upon it.

Mr. JONES. Mr. Chairman, the generally accepted rule is that if any part of an amendment is subject to a point of order, the entire amendment is subject to the point of order, and this brings in entirely new subject matter not contained in either the section or the paragraph.

The CHAIRMAN. The Chair thinks the amendment does introduce new subject matter not contemplated by the bill, and is clearly subject to a point of order. The Chair therefore sustains the point of order.

Mr. HOEPEL. Mr. Chairman, I move to strike out the last word, and ask unanimous consent to revise my remarks and to extend in the RECORD three telegrams which I have received in opposition to this bill.

The CHAIRMAN. The gentleman from California asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

Mr. HOEPEL. Mr. Chairman, I am in somewhat of a quandary in respect to this bill. I do not know whether I shall support it or not, but I do know that I am unalterably opposed to the inequitable, un-American, and in my opinion, uneconomical method of relief which it embodies.

When I passed through Gillette, Wyo., last year, on my way to California, Government agents were then in Gillette, with automobiles loaded with ammunition and firearms, with instructions to go out on the ranches and kill 200,000 head of sheep. These sheep, after slaughter, were to be left where they fell, the owners, however, to be permitted to take the hides if they wished. I cannot subscribe to such a policy of destruction and artificial stimulus of the price of foodstuffs.

This bill we are now discussing proposes also a curtailment in the production or distribution of oranges. I believe that every child in America should have an orange whenever he wants it and I protest the enactment of legislation which will make the consumption of oranges impossible for our poor and undernourished children.

Instead of limiting our production of oranges and other basic foods, I favor increased production in order that essential foodstuffs for a balanced diet may be available to all our people and through proper nutrition, the health of our Nation may be safeguarded.

I am in favor of assisting the agricultural producer to the fullest possible extent, but not through the means proposed in this bill.

Another feature in this bill to which I am opposed, and it is a very important one—is the processing tax, which is a tax levied upon the consumer.

If we are to have a processing tax, it should come from a general tax levy. This tax should be placed upon the surplus of large corporations, upon the larger incomes of \$50,000 or more, and on gifts and inheritances. There are one hundred-and-forty-odd thousand families in the county of Los Angeles now on relief. Under the provisions of this bill this inequitable, unfair, and un-American processing tax, which each and every individual must pay, increases the cost of living to all our people, but the burden is heaviest on those

whose funds are pitifully inadequate for the barest necessities of life.

By the imposition of these processing taxes the price of lard is raised 2½ cents per pound, flour \$1.38 a barrel, boneless ham 7 cents a pound, sugar one-half cent a pound, bread one-half cent per loaf, salted peanuts 1½ cents per pound, and peanut butter 1¾ cents per pound. Taxes apparently will be continued for 2½ years on the cotton in women's and children's dresses, diapers, shirts, pajamas, overalls, sheets, handkerchiefs, underwear, work gloves, window curtains, thread, and so forth.

Today, in the city of Washington, bacon is 47 cents per pound and steak as high as 65 cents per pound. We should remember that the administration paid millions of dollars for the destruction of pigs and additional millions for the destruction of cattle and other livestock, with the idea of raising prices for the producer of these commodities, while under our ridiculous reciprocal tariff procedure we are importing 10 times more fats, oils, and so forth, than we are exporting, thus apparently curtailing our own production for the benefit and profit of foreign agricultural producers.

The administration, however, appears to be little concerned as to the plight of the consumer. Under the work-relief plans, wages as low as \$19 per month are provided for our unfortunate, worthy unemployed. The maximum for the highest type of professional employee is \$95 per month. With our present prices, how far will \$19 per month go? Some of our workers will not be able to buy a pound of meat with the wages of a day's work! In our efforts to increase prices through unnatural processes, we are increasing the cost of living, lowering the American standard of living, lowering the American wage standard, and reducing the purchasing power of our people! Such short-sighted, inconsistent policies are their own assurance of failure!

Furthermore, I contend that this bill is unconstitutional. It is unfair to the general population to take general revenues to subsidize a distinct class of people as we are proposing to do in this bill, and it is discriminatory indeed to take the revenues from tariff imposts and to apply them in the interest of the farmers for the purpose of developing foreign trade. It is my opinion that the hundreds of millions of dollars of general revenue with which we propose to experiment to develop a foreign market could best be spent here at home for an adequate old-age pension and for pensions to the disabled and to widows with children who are without sufficient means of support. Certainly these American citizens, if they were given these millions of dollars, would spend this money here at home and the farmer would be directly benefited rather than hypothetically benefited through the proposed experiment of spending hundreds of millions of dollars to develop our foreign trade. The American market is one of the most valuable assets of this Nation, and we would do well to protect and maintain it in the interests of our own people, instead of sacrificing it for hoped-for advantages in foreign trade.

There is no individual with common sense who is opposed to giving the farmer an adequate return on his investment and labor, but even the farmer himself, in his heart, must condemn the stupidity of paying for crop destruction or idleness. Instead of trafficking with the public funds and placing an inordinate tax on the consumer, which doubly oppresses the unemployed, we should enact legislation now before us providing for the cost of production, plus a reasonable profit, for the farmer; we should enact the Frazier-Lemke bill to free the farmer from the tentacles of the money-lender and we should refrain from the present tendency of Government to coerce and intimidate one group within an industry at the expense of another. With the myriad of bureaus which have been established in the new deal and the bureaucracy which is being developed we may eventually find ourselves with one-half of our population in Government positions of one sort or another, seeking to tell the other 50 percent of the people how they should conduct their business.

I reiterate that I am somewhat in a quandary as to how to vote on this bill, due to the fact that certain of the larger

cooperative associations favor this bill, while practically all of the smaller or independent associations oppose the bill.

Under leave to insert in the RECORD, I include herewith three of the many telegrams I have received, all of which were opposed to the enactment of this legislation.

LOS ANGELES, CALIF., June 13, 1935.

JOHN H. HOEPEL,

Representative, Washington, D. C.:

Undersigned vigorously oppose amendments Agricultural Adjustment Act. Prorating markets and limiting to specific grades and sizes absolutely unsound and confiscatory to some growers. Delegation authority to State officials by Secretary Agriculture we believe unconstitutional. Fifty percent approval clause absolutely unsound due inability enforce. Control into specific markets most unfair, as undersigned over period years have built up special trade certain markets. All undersigned at meeting June 14 passed following resolution:

"This group independent growers and shippers being of opinion present California-Arizona citrus marketing agreement not legal, and being operated only as gentlemen's agreement, and recognizing necessity orderly marketing method and agreeing continuance pro rate willing carry on provided following amendments to agreement adopted to make present program: Eliminate intrastate shipments from pro rate; eliminate f. o. b. shipping point acceptance orders from pro rate, the same regulations to apply on f. o. b. sales as apply export; that have only one area in pro rate."

Representing over 10,000 cars citrus, we ask your support our contentions. Unless these changes in amendments and new amendments added marketing agreement will foster monopolies and curtail if not completely eliminate smaller individual operators. Reply.

C. B. Moore, 1231 East Seventh Street, Los Angeles, Calif.; American Fruit Growers; Randolph Marketing Co.; Andrews Bros.; Banks Fruit Co.; California Citrus Cash Cooperatives; California Fruit Distributors; Cherokee Citrus Co.; Fusch Fruit Co.; Gentile Bros.; Gold Banner Association; Gold Buckle Association; Gore Packing Co.; Hanson Fruit Co.; Krinard Packing Co.; Theodore Krumm Lyn & Sons; Meffered Bros.; Pico Citrus Association; Placentia Orchards; Quality Fruit Co.; San Antonio Orchards; Speich & Co.; Kenneth Spencer; Emil Steiner; Sunny Hills Ranch; Granada Packing Co.; Engbretson Grupe Angeles Brokerage; Growers Service Co.; Federal Fruit Distributors; Urick Hollis Reedley Grape Growers.

WHITTIER, CALIF., June 15, 1935.

HON. JOHN H. HOEPEL,

House of Representatives, Washington, D. C.:

We oppose proposed amendments to Agricultural Adjustment Act, which permit monopoly under State authority, unfair, impracticable, discriminatory in volume movement to markets of specific grades, sizes, and quality, strangles exports, with like reaction on domestic shipments. Therefore, request California citrus fruits be excluded from amendments.

INDEX MUTUAL ASSOCIATION.

POMONA, CALIF., June 15, 1935.

JOHN H. HOEPEL,

Representative, Washington, D. C.:

We oppose amendments to the Agricultural Adjustment Act and request that California citrus fruits be excluded from them, because—

First, permits prorating of markets, limiting of specific grades, sizes, and qualities.

Second, limits exports when we should stimulate exports in order to relieve domestic markets.

Third, permits Secretary of Agriculture to pass control over to State officials.

Fourth, permits putting orders into effect upon 50-percent approval when experience proves that even with 90-percent approval it is difficult to administer agreements.

Controls volume going into specific markets, which is unfair and impracticable, because certain shippers have special trade in specific markets built up over many years.

Grade, size, and quality control are discriminatory because all do not have same amount of grades, sizes, and quality, which would compel some to ship less than others.

Permitting State officials to administer orders will prove disastrous. We urge you to prevent adoption of such amendments.

LAVERNE COOPERATIVE CITRUS ASSOCIATION.

POTATOES

Mr. BREWSTER. Mr. Chairman and ladies and gentlemen of the Committee, I want to speak of the very serious situation that confronts us in Maine.

Coming down here with our native Yankee caution, exceedingly suspicious of encroachment upon our boasted individualism, we have now come to realize, so far as my part of the country is concerned, that we are confronted by a condition and not a theory. That condition is that potatoes in my district today are selling for 10 cents a barrel.

If some of you gentlemen concerned in cotton can conceive of cotton selling at 1 cent a pound, you can realize what it means to us. Or if corn were selling at 5 cents a bushel or wheat at 10 cents a bushel, you would realize what it means to us to have potatoes selling at 1 cent a peck. In Aroostook County this month 1,000,000 barrels of potatoes are being dumped into the fields to rot without a market of any kind into which they can move.

What is the answer to this question? I will not pretend to say in the brief time allotted to me, but I do wish to say that we are vitally concerned. We are faced with absolute ruin. We are willing and desirous to cooperate in any measure that shall afford to us some measure of relief.

We realize that potatoes may come within the classification in this bill as a vegetable. It is the conviction, however, of those who have given the closest study to the potato problem that under these amendments it will not be possible to assist in any adequate measure the potato producers of this country. We recognize that thus far there are 14 farm crops of the United States given recognition as basic commodities. Potatoes thus far have received no recognition, although they are the fourth food crop of the United States. We must ask of this assemblage before adjournment very serious consideration of the Warren bill that shall accord to potatoes something of the position to which they are entitled in the agricultural program as the fourth food crop of the United States.

We appreciate the consideration given to us by the Chairman of the Committee on Agriculture and his associates. We hope before this session closes that you may give to this commodity, and to 100,000 people in Maine who face ruin at the present time, and to millions of others concerned in the potato crop throughout the country, the same consideration that has been afforded to the 14 basic commodities hitherto extended aid. [Applause.]

The Clerk read as follows:

Sec. 3. The first sentence of subsection (b) of section 12 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "In addition to the foregoing, for the purpose of effectuating the declared policy of this title, a sum equal to the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, payments authorized to be made under section 8, and refunds on taxes."

Mr. JONES. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment by Mr. JONES: Page 8, line 14, strike out the word "are" and insert the word "is."

The amendment was agreed to.

The Clerk read as follows:

Sec. 5. The Agricultural Adjustment Act, as amended, is amended by striking out section 8 (3) thereof and by adding after section 8b, the following new section:

"ORDERS

"Sec. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others, engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as 'handlers.' Such orders shall regulate, in the manner hereinafter in this section provided, the handling of such agricultural commodity, or product thereof, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect, interstate or foreign commerce in such commodity or product thereof.

"COMMODITIES TO WHICH APPLICABLE

"(2) Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores), or to any regional, or market classification of any such commodity or product: Milk, fruits (including pecans and walnuts but not including apples and not including fruits for canning), tobacco, vegetables (not including vegetables for canning), and naval stores as defined in the Naval Stores Act. As used in this section, the term 'vegetables' includes soybeans.

"NOTICE AND HEARING"

"(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

"FINDING AND ISSUANCE OF ORDER"

"(4) After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and set forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this title with respect to such commodity.

"TERMS—MILK AND ITS PRODUCTS"

"(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

"(A) Classifying milk in accordance with the form in which it is ultimately used or consumed, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

"(B) Providing:

"(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

"(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk sold by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

"(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection (5), providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) hereof.

"(D) In order to accomplish the purposes set forth in paragraph (A) of this subsection (5), providing that all handlers shall pay the price specified in such order for milk utilized for manufacturing purposes for all milk delivered to them by producers who were not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, for the period of 90 days from and after the commencement of deliveries by such producers, respectively.

"(E) Providing for the verification of weights, sampling, and testing of, and security for the payment for, milk purchased.

"(F) Nothing contained in this subsection (5) is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the 'Capper-Volstead Act', engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That is shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection (5) for such milk.

"TERMS—OTHER COMMODITIES"

"(6) In the case of fruits (including pecans and walnuts but not including apples and not including fruits for canning) and their products, tobacco and its products, vegetables (not including vegetables for canning) and their products, and naval stores as defined in the Naval Stores Act, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

"(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or

periods, which may be marketed in or transported to any or all markets during any specified period or periods by all handlers thereof.

"(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.

"(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

"(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

"(E) Establishing, or providing for the establishment of, reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

"(F) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product, or any grade, size, or quality thereof, shall be purchased by the first handlers subject to such order: *Provided*, That such first handlers, as a group, purchase or otherwise acquire not less than 50 percent of the total quantity of the commodity or product covered by such order directly from producers or associations of producers.

"TERMS COMMON TO ALL ORDERS"

"(7) In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more terms and conditions:

"(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

"(B) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which, among other things, shall include the powers:

"(i) To administer such order in accordance with its terms and provisions;

"(ii) To make rules and regulations to effectuate the terms and provisions of such order;

"(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

"(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (B) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

"(C) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order.

"ORDERS WITH MARKETING AGREEMENT"

"(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 percent of the volume of the commodity or product thereof covered by such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order.

"ORDERS WITH OR WITHOUT MARKETING AGREEMENT"

"(9) (A) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 percent of the volume of the commodity or product thereof covered by such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

"(1) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 percent of the

volume of the commodity or product thereof specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

"(2) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, or by producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market during such period.

"MANNER OF REGULATION AND APPLICABILITY

"(10) No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

"REGIONAL RULE

"(11) (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

"(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

"(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

"COOPERATIVE ASSOCIATION AMENDMENT

"(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary may consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

"RETAILER AND PRODUCER EXEMPTION

"(13) (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

"(B) No order issued under this title shall be applicable to any producer in his capacity as a producer.

"VIOLATION OF ORDER

"(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That no person shall be convicted under this title because of any violation of any order or of any obligation imposed in connection therewith, if such violation occurs between the date upon which such person files with the Secretary a petition, with respect to such order or obligation, as provided for in subsection (15), and 5 days after the Secretary enters a ruling thereon.

"PETITION BY HANDLER AND REVIEW

"(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

"(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, is hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within 20 days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings

as, in its opinion, the law requires. Nothing contained in this subsection (15) shall be construed to prevent, hinder, or delay the United States or the Secretary of Agriculture from pursuing the remedies provided for in section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

"TERMINATION OF ORDERS AND MARKETING AGREEMENTS

"(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

"(B) The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, as specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, provided that such majority have during such representative period produced for market more than 50 percent of the volume of such commodity produced for market during such period, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

"(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

"PROVISIONS APPLICABLE TO AMENDMENTS

"(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders."

Mr. JONES. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. JONES: Page 9, line 24, after the word "thereof", insert the word "only."

The amendment was agreed to.

Mr. MARTIN of Colorado. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Mr. MARTIN of Colorado offers the following amendment: At the end of line 13, page 10, strike out the period and add the words "and edible dried beans."

Mr. JONES. Mr. Chairman, I suggest to the gentleman from Colorado that edible dried beans are vegetables. The only reason that the soybean is included is that the soybean, as sometimes happens, is not classified as a vegetable horticulturally. I am sure the edible dried bean is a vegetable and unless the gentleman has some reason to show that they are not so classified, I hope the amendment will not be agreed to.

Mr. MARTIN of Colorado. I would like to take up the 5 minutes in order to get the situation before the House. I have not had any time.

Mr. JONES. The soybean is used not only for food but for other purposes. It so happens that some authorities classify the soybean as a vegetable and others do not, horticulturally. Usually it is not classified as a vegetable. The edible dried bean I am sure is a vegetable.

Mr. MARTIN of Colorado. Are edible dried beans included in the word "vegetables" so as to make it unnecessary to specify it?

Mr. JONES. The word includes all these commodities named and the products thereof. Edible dried bean would either be a vegetable or the product of a vegetable.

Mr. MARTIN of Colorado. I want to use my 5 minutes to get the situation before the committee.

Mr. JONES. I hope the gentleman will not insist upon putting this in the bill.

Mr. MARTIN of Colorado. Mr. Chairman, I have not had any time to give any consideration to this amendment. If there is any Member here who knows any way by which a man can get time to consider anything, I wish he would let me in on it. I consider myself fortunate to be permitted to be present while the agricultural amendments are being considered, so that I can find out something about them.

Mr. Chairman, the bean is a very valuable agricultural commodity in the United States. It is a major agricultural

commodity in California. It is a big thing in Idaho, it is a big thing in Wyoming, and Colorado, and New Mexico. It is an important industry in Michigan, and in New York and in other States. I worked for a year to get a marketing agreement. After 8 or 10 drafts, occupying much time in hearings, regional and national, there was worked out what the Department of Agriculture said was the finest marketing agreement that had ever been produced under that Department, but it failed of adoption for two reasons. One was that the dealers held out for fixed margins, and fixed resale prices. And the other was the drought, which came along and killed the bean crop of 1934 and sent beans sky-high in price, so that a lot of the growers said, "We are going to get all we want for beans without any marketing agreement", so they failed to sign up. Mr. Chairman, I am neither a prophet nor the son of a prophet, but I predicted something last year in the national meeting in the city of Denver, which has been verified to me by the Department of Agriculture since the House convened today. I said, "If you fellows don't get together and adopt the marketing agreement to regulate this product, the first good crop year that comes along you will plaster this country with beans from Mexico to Canada and they will not be worth pulling out of the ground, just as they were not worth pulling out of the ground in 1933." My secretary came here a few moments ago to say that he had been called up by someone in the Department of Agriculture, with the information 1935 is going to be that kind of a year on the bean crop, and they will raise so much that they will not be worth pulling out of the ground.

It has been demonstrated in agriculture, and it will be demonstrated in industry with the passing of N. R. A., that the people cannot do what they ought to do or what they really want to do without the guiding and helping hand of the Government.

To meet that situation I introduced a bill making edible dried beans a basic commodity. Senator COUZENS introduced the same bill in the Senate. The truth is that my bill is the Couzens bill with my name on it. I hope somewhere along the line, either here or in the Senate, edible dried beans will be made a basic commodity. Edible dried beans are a really more important agricultural commodity than the name might indicate to gentlemen. I hope they will be taken care of under these amendments, so that in the marketing of the crop prices may be protected to the grower, as was proposed in the marketing agreement.

Mr. HOPE. Has the gentleman inquired of the officials of the Department of Agriculture whether edible dried beans are included in their definition of "vegetables"?

Mr. MARTIN of Colorado. The gentleman from Kansas asks me whether I had inquired of the Department of Agriculture whether edible dried beans were included in the word "vegetables." I have not; but I just stated that my secretary came here a few minutes ago and said he was called up by someone in the Department of Agriculture, where my activities in behalf of this commodity are well known, with the suggestion that I undertake to get this amendment in the bill. So evidently they do not consider it within the word "vegetables" in the bill, and that is why I have proposed the amendment.

The CHAIRMAN. The time of the gentleman from Colorado [Mr. MARTIN] has again expired.

Mr. LEE of Oklahoma. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the soybean is not generally considered an edible vegetable. It is a hay. It is a legume sowed like clover for the purpose of hay. I have a belief that if we include dried beans we would then have to name every possible edible vegetable that is used in a cured form, or else by naming one we would automatically eliminate the others. Therefore I oppose the amendment. I think the gentleman's beans are in no danger whatever. I think they would be classified as a vegetable.

Mr. DOBBINS. Will the gentleman yield?

Mr. LEE of Oklahoma. I yield.

Mr. DOBBINS. I would not like the inference that soybean is a term applying to hay only to remain unchallenged. Soybeans in a great part of the country are not marketed in the form of hay at all, but are marketed in the matured form of the shelled beans. I am sure it is the intention of the committee, in reporting this bill out, to include shelled beans in the scope of the legislation, as well, perhaps, as the green bean plant when cut for hay. It happens that in our own State of Illinois more soybeans are grown for market than in all the other States, and one of the largest processing plants utilizing this crop is located in my own district. In cooperation with my colleagues from six or eight districts in Illinois, where soybeans constitute a money crop of increasing importance, I have devoted considerable effort to impress upon the Committee on Agriculture the necessity of protecting our bean market through the inclusion of this commodity in the terms of this bill. In that effort we had the influential and intelligent support of the president of the Illinois Agricultural Association and of the president of the American Farm Bureau Federation.

I am sure that all of us had in mind primarily the matured beans themselves more than the immature bean plant in the form of hay as the crop that will be in need of protection against price reductions. Therefore I should not like this debate to close without this statement as a precaution against some adventitious court decision in the future that might possibly construe this language in the bill as applying to hay only, on the strength of what the gentleman from Oklahoma has said.

Mr. MARTIN of Colorado. The word "soybeans" certainly would not include the Great Northern, the White Navy, the Pinto, or any of the great bean varieties in this country.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. LEE] has expired.

Mr. JONES. I ask for recognition. I yield to the gentleman from Colorado.

Mr. MARTIN of Colorado. The gentleman said if we put "edible dried beans" in we might as well put everything else in. I am in favor of putting in everything else that we can help in this way. There is a separate potato bill pending; there is a separate rice bill pending. The rice people came to grief just like the bean people did, only they had signed up all but 2 percent of the growers and 7 percent of the producers, but that little 7 percent of chisellers killed the rice marketing agreement in Louisiana. I think it is a matter of extreme importance to a great agricultural industry to include it in this bill. If the bare inclusion is not sufficient, the bill can be perfected later on at the other end of the Capitol.

Mr. JONES. Mr. Chairman, there are several hundred bills pending before the Committee on Agriculture. That committee has worked practically every day hearing different people. It has not been the committee's intention to be discourteous if we have not acted on everything that has come up.

Mr. MARTIN of Colorado. I would not intimate anything of the sort. The gentleman from Texas is the able chairman of a hard-working committee, and we Members representing farm interests all admire and trust him.

Mr. JONES. In my judgment, I have no doubt at all but that the product to which the gentleman referred is included. Of course, marketing agreements may be made without any of these amendments. These orders may be applied where they do not all sign up with respect to these particular commodities. The act says "It shall be applicable only to the agricultural commodities and products thereof", which naturally would include all vegetables in every form. The term "soybeans" sounds like a vegetable, but it has been classified both ways. I have no doubt whatever, if the gentleman finds later that they have made such a ruling, which they have not made heretofore, the matter can be taken care of, and I will be glad to reconsider it.

Mr. MARTIN of Colorado. But that will be too late.

Mr. JONES. I will state to the gentleman that there is no question but that edible beans in any form are included. It might as well be said that if we say "all dogs are included" it would not include a shepherd dog.

Mr. MARTIN of Colorado. Is the gentleman willing to state that the word "vegetable" includes edible dry beans?

Mr. JONES. I am, in my judgment.

Mr. MARTIN of Colorado. I would rather see it voted into the act.

The CHAIRMAN. The time of the gentleman from Texas [Mr. JONES] has expired.

The question is on the amendment offered by the gentleman from Colorado [Mr. MARTIN].

The question was taken; and on a division (demanded by Mr. MARTIN of Colorado) there were ayes 8 and noes 72. So the amendment was rejected.

Mr. ANDRESEN. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. ANDRESEN: On page 14, after line 11, insert a new subsection, as follows:

"(g) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit the marketing in that area of any milk or product thereof produced in any production area in the United States."

Mr. JONES. Mr. Chairman, I will state that I think that is the meaning of the language as we have it now, but I have gone over it with several members of the committee at the gentleman's suggestion. It is simply clarifying and I have no objection to the adoption of the amendment.

Mr. SAUTHOFF. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SAUTHOFF to the amendment offered by Mr. ANDRESEN: Strike out the word "prohibit" and insert in lieu thereof the words "limit or tend to limit."

Mr. SAUTHOFF. Mr. Chairman, the original amendment offered by the gentleman from Minnesota [Mr. ANDRESEN], I think, has considerable merit and it should be adopted, but it uses the word "prohibit." In other words, that there shall be no marketing agreement, order, or regulation which will prohibit. I am satisfied that the Secretary of Agriculture is never going to formulate or promulgate any order or marketing agreement that is going to directly prohibit any dairy product going from my State into any other State.

Wisconsin dairy products have found barriers erected against them by New York, Pennsylvania, and Massachusetts. This barring of Wisconsin dairy products is done under the specious argument that these States are thereby protecting the health of their citizens, but I submit that Wisconsin herds are as free from tuberculosis or Bang's disease as the herds in any of these States or any other State of the Union. Our farmers are being discriminated against unjustly, and I want to place some safeguard in this bill so as to protect them.

That is why I have changed the word "prohibit" to the words "limit or tend to limit." In other words, instead of putting in a direct limitation, I ask that the amendment be so altered that there can be no agreement, order, or regulation set up which would even tend to shut out the products of one State from another State.

I believe, therefore, Mr. Chairman, that the amendment should be amended as indicated.

Mr. JONES. Mr. Chairman, the adoption of the amendment of the gentleman from Wisconsin would absolutely wreck the whole milk program. In order to get away from the terrific conditions that have prevailed in the milk industry there is provided in the bill authority to fix a minimum price to producers. That, at least in a measure, would limit or tend to limit shipment, and yet the gentleman, I am sure, does not want to interfere with the price to producers. Then it is a universal custom in the marketing of milk to classify milk. This, in a way, is a limitation.

I am perfectly willing to adopt the first amendment suggested, because that simply treats all areas alike, for you could not prohibit someone from an outside area coming in so long as he complied with the conditions prescribed for that

area; but if you said that no restrictions or limitations could be required, it would wreck the program, it would destroy every vestige of a program we have for milk.

I ask that the amendment to the amendment be voted down.

Mr. BOILEAU. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I should like to ask the distinguished chairman of the committee if in his opinion there is anything in this bill that gives to the Secretary of Agriculture or to anyone else any power to restrict the free flow of milk or any other commodity between the various States?

Mr. JONES. No; there is nothing in it that will do that. The only tendency is to make all sections comply with the same rules.

Mr. BOILEAU. I have the same understanding of the bill and I agree entirely with the chairman of the committee. I have taken it up with representatives of the Department of Agriculture and they have interpreted the language of the bill the same as has the chairman of the committee and as I have.

I have yet to find anyone who has specifically pointed out wherein this bill gives such power to the Secretary of Agriculture. The bill gives to the Secretary the right to issue these orders and it states that he shall issue orders containing any one or more of the provisions of that particular section and no others. Unless there is something in that particular part of the bill giving the Secretary the right to make such an order, then, of course, he would not have the power to impose such a restriction; and I have been unable to find any such provision in the bill.

Mr. ANDRESEN. Mr. Chairman, will the gentleman yield?

Mr. BOILEAU. I yield.

Mr. ANDRESEN. Fear has been expressed on the part of certain Members that some such power might be found in the bill. I offered my amendment, therefore, which the chairman of the committee consented to.

Mr. BOILEAU. I appreciate the gentleman's attitude.

Mr. ANDRESEN. It will do no harm.

Mr. JONES. I accept the amendment of the gentleman from Minnesota only on condition that the amendment of the gentleman from Wisconsin be rejected.

Mr. BOILEAU. Mr. Chairman, I agree with the gentleman from Minnesota that this can do no harm, but I do not think it is necessary.

Mr. JONES. I do not think it is necessary, either.

Mr. BOILEAU. If any one thinks there is danger in the provisions of this bill, I should be glad to have him point out where the danger lies.

Mr. HULL. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, if there is nothing in this bill which would authorize the Secretary of Agriculture or any subordinate so to limit transportation or shipment of dairy products from one State into another, then the amendment of the gentleman from Minnesota as amended by the amendment of the gentleman from Wisconsin [Mr. SAUTHOFF] can do no harm.

The three States of Minnesota, Iowa, and Wisconsin, produce about 45 percent of the butter made in this country and we are interested in this matter of the shipment of dairy products to other States.

Mr. JONES. Mr. Chairman, will the gentleman yield?

Mr. HULL. I yield.

Mr. JONES. Would the gentleman object to the requirement that Chicago dealers pay the Wisconsin producer a minimum price?

Mr. HULL. Not at all.

Mr. JONES. That certainly would tend to limit.

Mr. HULL. This will not tend to limit, it will merely tend to prevent some man in the Agriculture Department from issuing an order that would stop the shipments of any dairy product from Wisconsin into the New York district, for instance, the Boston district, or the Chicago district, which is now being partially done under so-called "rulings" of boards of health. "

Mr. JONES. The provision with reference to orders plainly states that in the case of milk and its products orders may contain the following conditions and none other. I think that is just as clear as it can be.

Mr. HULL. If that be the case, then there is no harm in this amendment as amended.

Mr. JONES. I have heard the gentleman from Wisconsin make speech after speech urging that a special price be given to producers, and I am surprised to hear him take the position he does here.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment to the amendment.

The amendment to the amendment was rejected.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Minnesota.

The amendment was agreed to.

Mr. MOTT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MOTT: Page 10, line 13, after the word "soybeans", strike out the period and insert "and hops."

Mr. MOTT. Mr. Chairman, I am offering an amendment which in the opinion of the hop growers of the Pacific coast is necessary to the successful continuance of their industry, and which, so far as I have been able to learn, has not been objected to upon its merits. I desire to amend section 8 (c) (2) by adding, after the word "soybeans", in line 13, on page 10, the words "and hops."

The objection to this amendment is the objection of the chairman and the majority members of the committee, and that objection is not to the merit of the proposal. The objection is simply that the chairman does not want to change this section either by adding to or subtracting from any of the commodities named in the bill. I submit that that objection is not valid if the amendment offered is meritorious. The chairman has suggested that all amendments changing this section be offered in the Senate, in order to expedite the bill in the House. That, in my opinion, is not a proper objection, either.

Objection has also been heard that this amendment is not necessary in this bill because a separate bill is now pending to make hops a basic commodity. That is a separate proposal and should stand or fall on its own merits. What we are asking here is simply the right to make marketing agreements which will have the sanction of law.

Ninety percent of the hops grown in the United States are grown upon the Pacific coast. It is an industry which furnishes one of our largest cash-money crops. Thousands of people are employed every year in the harvesting of this crop. In the State of Oregon alone there are 20,000 acres devoted to the growing of hops, and last year there was paid out to common labor alone more than \$2,000,000. Several thousand people are employed every year in connection with the growing and harvesting of hops.

The reason this amendment is necessary is because the hop growers have very little control over their own industry, and they are obliged to sell their product for whatever is offered them. It costs 24 cents a pound to grow hops; yet the few hop buyers of the country, who virtually control the market, have got that industry so completely in their hands that they are paying now about 10 cents a pound for the hops which cost 24 cents a pound to grow. This condition has obtained for the last several years, and unless we can get some remedy whereby the hop growers on the Pacific coast are permitted to make a marketing agreement under which they will have something to say about the price they shall receive that industry is very likely to go out of business.

The immediate reason for the amendment is that hops are neither a vegetable nor a fruit, and Mr. McDrew, the hop specialist of the Agricultural Department, has stated before the subcommittee that on this account, unless hops are specifically named in this bill, no market agreement can be made in regard to that product.

The amendment which I have offered will injure no other industry. It is necessary for the protection of this industry,

and I trust it will be accepted and that the provisions of this bill may be extended to the hop growers of the Pacific coast.

[Here the gavel fell.]

Mr. JONES. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are two or three bills pending before the committee in reference to hops. I think there is a bill pending in both the House and Senate which would make hops a basic commodity. We have included certain products in this bill, outlining what the orders may contain. It is necessary that these be very definite. There is provision for marketing agreements in the present bill and any time the hop growers out there can get a marketing agreement signed they may go forward with the marketing agreement.

I do not want to load this bill down with a great many things, even though there might be some merit in including some of them, until it is determined what course they want to pursue. I think this commodity should be excluded, and I therefore ask Mr. Chairman, that the amendment offered by the gentleman from Oregon be voted down.

Mr. MOTT. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Oregon.

Mr. MOTT. May I ask the gentleman if he is aware of the fact that more than 80 per cent of the hop growers of the Pacific coast have already signed the agreement and have been advised by the Department of Agriculture that unless hops are named in this bill their agreement will be of no avail and the only remedy they can get is to have the word "hops" inserted in this bill?

Mr. JONES. I think we better not include that item at this time.

Mr. MEAD. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from New York.

Mr. MEAD. In view of the fact that by the repeal of the prohibition law we opened up a large market for the hop industry, and also in view of the fact that a number of States which are going back to the production of hops would be excluded from increasing their acreage if the amendment offered by the gentleman from Oregon is adopted, I feel that this particular industry should be given ample time to develop and that there should not be any restrictions placed upon it at this time. Hop growers in my State who produced a very large volume of hops some years ago went out of this business during prohibition. They are returning to the production of hops now, and it would be unfair to put this restriction upon them, which, I understand, would result if the amendment offered by the gentleman from Oregon is adopted.

Mr. KNUTE HILL. In our State the wheat growers and hog growers have voted 12 to 1 for this. If it is good for them, why would it not be good for the hop growers?

Mr. JONES. That is only on the regular processing fee. There is a bill pending to make hops a basic commodity, but it is not involved here. That is a different bill altogether.

Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 11 minutes.

Mr. SNELL. Mr. Chairman, reserving the right to object, I should like to have a couple of minutes to ask the Chairman of the Agricultural Committee a few questions.

Mr. REED of New York. I should also like to have 5 minutes.

Mr. FOCHT. I desire 5 minutes also.

Mr. JONES. Mr. Chairman, I modify my request and ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. JONES. Mr. Chairman, I ask unanimous consent that all speeches under the 20-minute limitation may be limited to 4 minutes, with the exception of the time to be allotted to the gentleman from Pennsylvania, who asked for 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FOCHT. Mr. Chairman, during yesterday and today while this bill has been under consideration, I have followed it with great interest and much concern. Even though many of the Members may not realize it, I represent a great agricultural district in Pennsylvania. Agriculture in Pennsylvania is of predominant interest and concern to the people. When I tell you that Pennsylvania ranks seventh in the list of agricultural States in the Western Hemisphere you may have reason to believe that I am concerned in agriculture, representing, as I do, one of those great districts. Furthermore, for many, many years, the people engaged in the agricultural industry east of the Allegheny Mountains have not been able to raise enough to supply the people of that section of the country with sufficient food. Therefore, we are sincerely concerned about the material welfare of the West and are always ready to help by way of a tariff or otherwise.

The gentleman from Kansas offers a challenge to the Eastern States in regard to the protective tariff not helping the farmers. Every Member from Pennsylvania I have ever known in the past 20 years has willingly and gladly, as I have and always will, voted for a protective tariff for the great agricultural industry of the country, because agriculture is the queen of all occupations. We all know that and admit it. While I regard this bill as almost impotent, in view of the decision of the Supreme Court, certainly my State of Pennsylvania is safe from any oppressive measures which may be adopted against the farmer or against anyone else—by Secretary Wallace or any other contingent part of the oligarchy that offers the most absurd and indefensible object of reducing agricultural acreage, destroying hogs and at the same time, under the flexible tariff, which gives the President full power to the extent of 50 percent, allow the importation of millions of pounds of butter, lard, cattle, and cottonseed meal.

I expect to stand for this bill as long as it contains anything that will benefit the farmer, but when the gentleman talks about the tariff not helping the farmer, I want you to admit the eternal truth which you cannot deny and cannot divide. The industry of agriculture is amply protected by the tariff, and if it is not, just propose one and everybody from the East will be in favor of it. I am hoping one of these days to see just what the 20 Democratic Members from Pennsylvania are going to do about this great protective tariff that made Pennsylvania and the East and the whole country great and rich and strong. The hope in this is that we have individual opinions which make collective opinions, and here comes mine. Will you listen to me a moment when I tell you what I think is wrong about the whole business in endeavoring to restore the country to prosperity? You have begun at the wrong side. You have begun at the side of production, forcing production on people who do not have the money to pay for it. Put the big industries into operation, which a properly applied tariff will do, thus creating consuming power and giving work to everyone. Start at the consuming side of this question and production will take care of itself. [Applause.]

AMERICA FOR AMERICANS

WASHINGTON, June 17.—Criticizing "the substitute offered by the President for the N. R. A.", Representative BENJAMIN K. FOCHT said today, "It may have its uses in covering the retreat before the sweeping decision of the Supreme Court, but the very name is discredited and it can be of little more value than substitutes usually are."

"In some instances," Focht continued, "the N. R. A. was working, but according to Senator BORAH only in cases where monopolies made their own codes which were invariably to the disadvantage of the little fellow or small dealer, while the antitrust laws were being disregarded."

"Mark Twain said of a man that he 'was only half as bad as he would be if there were two of him.' In this case of the N. R. A., if the stronger law failed ignominiously, how could this last and weaker proposal be of any effect or do more than cause controversy, which it might be well to avoid at this time."

FOCHT advised Roosevelt to "accept his failure to substitute dictatorship for representative government, to acknowledge the errors of the socialistic philosophy he has espoused, and to devote the remainder of his term to upholding America for Americans."

Mr. SNELL. Mr. Chairman, I rise in opposition to the pro forma amendment to ask the chairman of the committee a question.

I would like to get an interpretation of the language in lines 13 to 17, on page 12.

For instance, in my home State there are two large buyers of milk—Sheffield Dairies and the Dairymen's League. Does this language mean they must both pay exactly the same price for the milk, regardless of whether the milk is used for manufacturing purposes or for distribution as fluid milk?

Mr. JONES. No; they may have classifications with different prices for the different classifications. This is in accordance with the present custom. Insofar as possible, in handling all these matters, so they have advised us, they will use local committees and local customs and methods of handling. It is necessary to have different classes of milk, according to its use, and there will be a different price for the different uses and the different classifications when the custom or the need requires it.

Mr. SNELL. Then this language does not apply to that part of it?

Mr. JONES. That is correct.

Mr. SNELL. Are both of these companies obliged by this language to pay exactly the same price to the producer for milk?

Mr. JONES. They are, if it is for the same purpose.

Mr. SNELL. I wanted the gentleman to be very definite about that.

Mr. JONES. There may be some production and valuation differential where there is a little difference in shipment or in the freight rate, but that is only to take care of that particular situation; and, practically speaking, it will be the same price for the same quality or the same character of milk intended for the same use.

Mr. SNELL. That is what I had in mind.

Mr. JONES. Yes.

Mr. SNELL. Then, in a town in the northern part of New York, where both of these companies are buying milk, according to this bill they both must pay exactly the same price for the same grade of milk.

Mr. JONES. For the same grade and for the same use—that is correct.

Mr. LEA of California. Mr. Chairman, I rise in support of the amendment of the gentleman from Oregon [Mr. MORT] to include hops among the nonbasic commodities.

A suggestion was made by the gentleman from New York that if hops should be included there would be restrictions on production that would exclude other States from this production. Under this bill there would be regional control. It would apply only to the Pacific coast unless New York wanted in. If it developed that we restricted production on the Pacific coast, or if we increased prices in the national market, this would accrue to the advantage of New York instead of to her disadvantage. She would share the benefits without the sacrifices that the Pacific coast industry would make. The present prices afford no inducement for anybody to plant hops in New York or elsewhere.

Mr. PIERCE. Mr. Chairman, will the gentleman yield?

Mr. LEA of California. Yes; briefly.

Mr. PIERCE. I would like to have a definition of what the gentleman means by a nonbasic commodity. That is the reason I failed to get it included in committee. I made the motion but it was ruled out of order.

Mr. LEA of California. The gentleman from Oregon has proposed this amendment at the appropriate place in the bill. The basic commodities are specified. For them processing taxes may be levied. This amendment does not ask that privilege for hops.

The hops industry is a small one. It includes only 35,000 acres, but the annual labor employment exceeds an average of over \$100 per acre. Hops are one of the most expensive agricultural products from the standpoint of labor employment in the United States. The industry gives direct employment to 40,000 persons a year.

For more than a year the hops industry has been endeavoring to get into a marketing agreement. A referendum was

called recently and 82 percent of the growers in the Pacific Coast States took part in this referendum. It is now reported that in these three States the total vote was nearly 5 to 1 in favor of joining in a marketing agreement. The industry is now demoralized. Prices are only 50 percent of the production costs. Shall we now thwart their efforts to improve the situation?

If this plan is good for some, why is it not good for an industry like hops, where it is regarded of so much importance, and where the growers are so unanimously for it?

My colleague the gentleman from South Carolina [Mr. FULMER] was on the subcommittee of the Committee on Agriculture, which had hearings on the bill, proposing to make hops a basic commodity. This amendment does not propose that. This amendment asks for no processing tax for the benefit of the hop industry. We simply ask that the hop industry be given this opportunity to help itself.

My colleague the gentleman from South Carolina [Mr. FULMER] advises me that after contacting the Department of Agriculture upon the question, it was stated the Department had no objection to the inclusion of hops in this bill. If the policy of this bill is good for any commodity, it ought to be good for hops. I see no justice in excluding them.

So far as I am concerned, I think it regrettable that the committee has seen fit to discriminate between industries regardless of any logical basis of discrimination. Some are put in without much reason, and some of these products, where the industry has been heartily in favor of coming in, have been rejected without any reason. There is no logical basis for discrimination between this and other products included. So far as I am concerned, I believe the growers of every agricultural product ought to have an opportunity, when they show a sufficiently strong favorable sentiment, to be included in this bill and treated on a basis of equality. When they can qualify under equal standards they should be treated equally.

I believe this is a very meritorious amendment proposed by the gentleman from Oregon. The industry strongly wants it, and I hope it will be adopted.

Mr. CITRON. Mr. Chairman, I move to strike out the last word in order to ask the chairman of the committee a question. In view of the fact that this act permits certain farm interests to make voluntary agreements to protect themselves against unfair trade practices, I would like to ask the chairman of the committee to explain why the industry of poultry raising and egg production have not been included?

Mr. JONES. As far as the voluntary agreements are concerned, they can still make the voluntary agreements under the original act, but they cannot have the orders enforced.

Of course, the poultry industry under the decision of the Supreme Court almost immediately becomes local, and so it is not thought practical to include it. A number of other commodities may ask to be included.

The gentleman's question indicates how impossible it is to include every commodity. Wool, mohair, poultry, and different character of nuts have been suggested. Definite plans would be necessary as to each of them. It is not possible to include every commodity.

Mr. Chairman, I ask that the amendment be voted down.

The CHAIRMAN (Mr. CARY). The question is on the amendment offered by the gentleman from Oregon [Mr. MOTT].

The question was taken; and on a division (demanded by Mr. MOTT) there were 28 ayes and 67 noes.

So the amendment was rejected.

The Clerk read as follows:

SEC. 6. The Agricultural Adjustment Act, as amended, is further amended by striking out subsection (4) of section 8 thereof and adding after section 8c thereof the following new sections:

"BOOKS AND RECORDS

"SEC. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemp-

tions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

"(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or to both, and shall be removed from office.

"DETERMINATION OF BASE PERIOD

"SEC. 8e. In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the post-war period, August 1919-July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture."

Mr. REED of New York. Mr. Chairman, I move to strike out the last word, and I ask unanimous consent to extend my remarks and include therein certain excerpts from legal decisions and newspaper articles.

There was no objection.

Mr. REED of New York. Mr. Chairman, the provisions in this bill, H. R. 8492, which attempts to legalize, ratify, and confirm the illegal acts heretofore committed by this administration under the A. A. A., and by the adoption of these amendments to debar the taxpayers from recovering such illegal taxes imposed by the Government under that act is an example of legislative and executive tyranny, the ultimate consequences of which are startling and fearful to contemplate.

There are times when the deadly parallels of history are interesting and instructive. Magna Carta had its birth more than seven centuries ago. It faced many bitter contests for hundreds of years before it was finally accepted by all of the rulers of the English-speaking race. The representatives of a united and outraged citizenry, insistent upon restoring and preserving their ancient rights under the law of the land, forced an arbitrary ruler to recognize those rights by forcing him to affix the royal seal to the great charter.

King John was long on promises and short on fulfillment. What a day for the English-speaking race, when on June 15, 1215, 720 years ago, the army representing the people camped on the meadow of Runnymede, while the chosen delegates met King John on what is now reverently called "Charta Island." The King hesitated, rebelled, and fumed, but he signed and sealed one of the greatest documents in all history. That immortal parchment, after the lapse of more than seven centuries, grips the imagination and stirs the affections of the entire English-speaking race.

What a picture. On one side was the powerful, arrogant King of a great nation, who had trampled under his feet the laws of the land, who had corrupted the courts, who

had taken away the liberties of the people, who had plundered them through taxation, who had broken down every defense which they had against arbitrary rule. On the other side stood the representatives of a brave, self-reliant, and undaunted people demanding from that King the restoration of the laws of their fathers. They did not cringe in the presence of royal power. They risked everything, even life itself, to regain the priceless heritage of liberty.

History records that when King John had reluctantly put his seal to the great charter, he returned to Windsor, and as he reflected upon the incidents of that eventful day and the arbitrary powers he had surrendered, he was seized with a fit of anger, and in his uncontrollable rage he rolled on the floor and chewed straws and sticks. The brain storm passed. The records reveal that he soon resumed his cunning and his craft. The wiley King John, who had entered into a solemn covenant with the people, annulled the great charter in August 1215; then he promptly usurped the rights of the citizenry and reestablished his arbitrary rule.

Throughout the intervening years the everlasting principles protecting life, liberty, and property embodied in that sacred document were often overthrown, only "like truth crushed to earth", to rise again. The survival of the great charter ought to be an inspiration to every liberty-loving person, for it imparts the lesson that a free people, unless bereft of reason and of character, will never permanently surrender nor barter away the priceless heritage of freedom.

The Supreme Court of the United States is the great forum, the Runnymede, the Charta Island, the last refuge of the humblest citizen. While this great institution of impartial justice stands unimpaired the life, the liberty, and the property of every American citizen will be secure from legislative tyranny and arbitrary executive action. The Federal Constitution for 147 years has stood the test of every war and every economic storm. Under its beneficent and wise provisions the Nation has prospered and the people of the United States have enjoyed a measure of prosperity and liberty unknown to the citizens of any other nation.

How prophetic are the words of one of the distinguished fathers of our Federal Constitution, who almost a century and a half ago graphically portrayed that only under "a good constitution can liberty be enjoyed and be secure." Let me quote this man:

The influence of a good or bad constitution is not less powerful on the citizen, considered as individuals, than on the community, considered as a body politic. It is only under a good constitution that liberty—the priceless gift of heaven—can be enjoyed and be secure. This exalting quality comprehends, among other things, the manly and generous exercise of our powers, and includes, as its most delicious ingredient, the happy consciousness of being free.

What energetic, what delightful sensations must this enlivening principle diffuse over the whole man! His mind is roused and elevated, his heart is rectified and enlarged, dignity appears in his countenance, and animation in his every gesture and word. He knows that if he is innocent and upright, the laws and constitution of his country will insure him protection. He trusts that if to innocence and integrity he adds faithful and meritorious services, his country, in addition to protection, will confer upon him honorable testimonies of her esteem. Hence he derives a cheerful and habitual confidence; this pervades and invigorates his conduct and spreads a noble air over every part of his character. Hence, too, he is inspired with ardent affection for the public; this stimulates and refines his strongest patriotic exertions. His heart, his head, his hands, his tongue, his pen, his fortune, all he is and all he has, are devoted to his country's cause and to his country's call.

The distinguished jurist then paints a word picture of a person consigned to live under a constitution that suffers and permits tyranny and arbitrary rule. Again I quote:

A person of a very different description appears in view—pale, trembling, emasculated, faltering in his steps, not daring to look upwards, but, with marked anxiety, rolling his eager eyes on every side. Who is he? He is the slave of a bad constitution and a tyrannical government. He is afraid to act, or speak, or look. He knows that his actions and his words, however guarded, may be construed to be criminal; he knows that even his looks and countenance may be considered as the signs and evidences of treacherous thoughts and treasonable conspiracies; and he knows that the suspicion of his masters, upon any of these points, may be fatal; for he knows, that he is at the mercy of those, who, upon the slightest suspicion, may seize and hang him, who

may do whatever they please with him, and with all those who are dear to him.

What effects must this man's situation produce upon his mind and temper? Can his views be great and exalted? No. Such views, instead of being encouraged, would give offense; and he is well aware of what would follow. Can openness and candor beam from his soul? No. Such lights would be hateful to his masters; it must be extinguished. Can he feel affection for his country, its constitution, or its government? No. His country is his prison; its constitution is his curse; and its government is a rod of oppression, held continually over his head.

What must this man be? He must be abject, fawning, dastardly, selfish, disingenuous, deceitful, cunning, base—but why proceed in the disgusting detail? He must receive the stamp of servility fully impressed upon his person, on his mind, and on his manners.

Mr. Chairman, is it not evident that the great and good men who framed the Federal Constitution were well aware of the benefits to be derived under a good constitution? Is it not evident that they sought to anticipate and guard against tyranny, whether legislative or executive? Did it ever occur to the fathers of the Federal Constitution that a time might come when the legislative and the executive departments of the Government would join forces in establishing an executive dictatorship? They had sufficient penetration and vision to realize that without the violent overthrow of the Government by revolutionary forces, the liberties of the people guaranteed to them under the Constitution could not be taken from them by Executive usurpation unless surrendered to the Executive by an abject or by a venal Congress.

Those who are now active in attempting to set up a new form of government in place of our constitutional form have been brought to an abrupt halt in their efforts to do so by the Supreme Court. The recent decisions of this great tribunal have temporarily balked the plan, and these decisions have restored to the citizens of the United States some of their former constitutional liberties.

Figuratively speaking, if the report of the press conference at the White House following the Supreme Court decision was authentic, the ancient episode of rolling on the floor and chewing straws and sticks was most dramatically reenacted.

Mr. Chairman, I turn to another point. "New dealers" now raise their voice in opposition to the right of the Supreme Court to question the validity of an act of Congress, asserting that such a power was not contemplated by those who framed the Federal Constitution.

The views of Judge James Wilson with reference to the reasons why the Supreme Court of the United States should have the right and the power to declare an act of Congress unconstitutional is of interest, especially at this time, when, as I have said, men connected with this administration would have the people believe that the men who framed the Federal Constitution had not considered the question and did not contemplate granting any such power. This eminent jurist, whom I have had the honor to quote, delivered a series of lectures on law in the College of Philadelphia during the winter of 1790 and 1791. In one of these lectures he discussed the specific questions as to the power of the Supreme Court to declare unconstitutional a law enacted by Congress. At the time he delivered his views on the subject, the Supreme Court had not been called upon to consider the question. May I add that Judge Wilson was a member of the convention that framed the Federal Constitution, and he was chairman of the committee which reported the document. Here is what he had to say on the point:

From the Constitution, the legislative department, as well as every other part of government, derives its power; by the Constitution, the legislative, as well as every other department, must be directed; of the Constitution, no alteration by the Legislature can be made or authorized.

"In our system of jurisprudence, these positions appear to be incontrovertible. The Constitution is the supreme law of the land; to that supreme law every other power must be inferior and subordinate.

"Now, let us suppose that the Legislature should pass an act manifestly repugnant to some part of the Constitution, and that the operation and validity of both should come regularly in question before the Court, forming a portion of the judicial depart-

ment. In that department the 'judicial power of the United States' is vested 'by the people', who 'ordained and established' the Constitution. The business and the design of the judicial power is to administer justice according to the law of the land. According to two contradictory rules, justice, in the nature of things, cannot be administered. One of them must of necessity give place to the other. Both, according to our supposition, come regularly before the Court for its decision on their operation and validity. It is the right and it is the duty of the Court to decide upon them; its decision must be made, for justice must be administered according to the law of the land. When the question occurs: What is the law of the land? it must also decide this question. In what manner is this question to be decided? The answer seems to be a very easy one. The supreme power of the United States has given one rule; a subordinate power in the United States has given a contradictory rule; the former is the law of the land; as a necessary consequence, the latter is void, and has no operation. In this manner it is the right and it is the duty of a court of justice under the Constitution of the United States to decide.

"This is the necessary result of the distribution of power, made by the Constitution, between the legislative and the judicial departments. The same Constitution is the supreme law of both. If that Constitution be infringed by one, it is no reason that the infringement should be abetted, though it is a strong reason that it should be discountenanced and declared void by the other.

"The effects of this salutary regulation, necessarily resulting from the Constitution, are great and illustrious. In consequence of it the bounds of the legislative power are not only distinctly marked in the system itself, but effectual and permanent provision is made that every transgression of those bounds shall be adjudged and rendered vain and fruitless. What a noble guard against legislative despotism.

"This regulation is far from throwing any disparagement upon the legislative authority of the United States. It does not confer upon the judicial department a power superior, in its general nature, to that of the legislature; but it confers upon it, in particular instances, and for particular purposes, the power of declaring and enforcing the superior power of the Constitution—the supreme law of the land.

"This regulation, when considered properly, is viewed in a favorable light by the Legislature itself. 'It has been objected,' said a learned Member of the House of Representatives, in a late debate, 'that by adopting the bill before us, we expose the measure to be considered and defeated by the judiciary of the United States, who may adjudge it to be contrary to the Constitution, and therefore void, and not lend their aid to carry it into execution. This gives me no uneasiness. I am so far from controverting this right in the judiciary that it is my boast and my confidence. It leads me to greater decision on all subjects of a constitutional nature, when I reflect, that, if from inattention, want of precision, or any other defect, I should be wrong, there is a power in the Government, which can constitutionally prevent the operation of a wrong measure from affecting my constituents. I am legislating for a nation, and for thousands yet unborn; and it is the glory of the Constitution, that there is a remedy for the failures even of the Legislature itself.'"

Mr. Chairman, may I call attention to the fact that the learned Member of the House of Representatives to whom Judge Wilson refers was Hon. Elias Boudinot, of New Jersey, a distinguished member of the bar. He was a Member of the Continental Congress 1777, 1778, and 1781-84; was President of the Congress 1782-83 and signed the treaty of peace with England. He was elected to the First, Second, and Third Congresses (Mar. 4, 1789-Mar. 3, 1795).

It is apparent from the lecture delivered by Judge Wilson, who sat in the Convention that framed the Federal Constitution, that under that Constitution the Supreme Court and all Federal courts are bound to measure the constitutionality of every legislative act by the supreme law of the land. I repeat that these views were expressed by this distinguished jurist before the Supreme Court had been called upon to pass upon the question. It is apparent from the statement made by Hon. Elias Boudinot, a Member of the House of Representatives, that as a legislator he did not question the doctrine.

The Chief Executive and his more vocal mouthpieces seem to resent the recent action of the Supreme Court in performing its duty under the Constitution. The President grows bitter when prevented from riding rough-shod over the supreme law of the land. The Chief Executive, now that his dictatorial powers have been partially curtailed and brought within constitutional limits, has displayed the temper of King John. Does he plan to further emulate that unfortunate ruler, ignore the people's rights and trample upon their liberties, should the opportunity present itself?

I have read with deep concern press reports as to the hostile attitude of President Roosevelt toward the Supreme Court of the United States. There was an article written

by Mark Sullivan, published in the New York Herald Tribune, June 14, 1935, in which the author points out that had the Supreme Court by its decision in the gold case have required the Government to pay in gold according to the terms of the bonds under the old standard of value, the President was all ready to resist the decision. I quote from Mr. Sullivan's article:

[From the New York Herald Tribune]

SPEECH SAID TO BE PREPARED

In anticipation of the possibility that the Court might call on the Government to pay, Mr. Roosevelt had prepared a plan. The plan contemplated direct refusal to obey the Court's possible order. The plan further contemplated a radio appeal to the country, asking for public endorsement of the President's refusal to obey.

The plan was revealed in a dispatch by Mr. Arthur Krock in the New York Times on February 21. The pertinent parts of Mr. Krock's dispatch read as follows:

"If the Supreme Court had ruled that the Government must pay * * * the President would have addressed the people that night. * * * Had this address * * * been delivered, it would have marked the most sensational and historic episode in the constitutional history of the United States since Andrew Jackson said of a Supreme Court ruling: 'John Marshall has made this decision; now let him enforce it' * * *. The writer tonight learned that a draft of the speech was prepared * * *. Had the President delivered it the clearest issue yet presented by the new deal would have been made. * * * The helmsmen of the new deal do not question that the people would have rallied behind the President. * * * Delivery of the speech that was prepared would have opened a new and remarkable chapter in American history. * * * The speech, this writer learns, is still in the President's possession. Circumstances may arise which will require its delivery."

ROOSEVELT NOT BACKING DOWN

It may be asked now why the President did not deliver this speech to the country after the Supreme Court decision invalidating the N. R. A. 2 weeks ago. It would be a mistake to infer that the President backed away from his earlier position. On the contrary, as the public partly knows, the President's dissent from the Supreme Court's decision in the N. R. A. case was very strong and was accompanied by strong feeling.

The reason the President's speech prepared in anticipation of the Liberty bond decision could not be delivered after the N. R. A. decision lies in an essential difference between the two cases. The Supreme Court's decision in the Liberty bond case, had it been adverse to the Government, would have been an order to the administration to do something, to take an affirmative step, to pay money. This the administration could and would have simply refused to do. Thereafter nothing would have happened. The administration would have defied an order of the court, would have "defeated judgment", as lawyers say—and that would have been that.

In the N. R. A. case, however, the Court's decision against the administration was of a different nature. In the N. R. A. case the Court did not order the administration to do anything, hence there was nothing the administration could refuse to do. In the N. R. A. case the court merely decided that the citizens who were defendants—the Schechter brothers—need not pay the fines or incur the penalties which the N. R. A. statute said they must suffer. There was in the N. R. A. case no opportunity for Mr. Roosevelt to defy the Court in the sense of refusing to do something the Court ordered. Mr. Roosevelt's feeling could only be expressed as he did express it, in public expression of his hostile opinion of the decision.

A. A. A. CASE MAY BRING DEFIANCE

There is ahead another kind of case which, if the Court decides against the administration, may give the President the opportunity to refuse to obey an order of the Court. This will be one of the A. A. A. cases. Under the A. A. A. the administration collects what the administration calls a "processing tax" from manufacturers of cotton and other farm products. Some manufacturers have paid this tax under protest and are now suing the Government to get it back. If one of these cases should be decided by the Supreme Court against the Government the decision would call on the administration to take an affirmative step to return the money. This the administration could refuse to do.

In short, a triple-A case, if the Supreme Court decides it against the Government, may provide Mr. Roosevelt the opportunity for the kind of direct defiance of a Supreme Court order which Mr. Krock says President Roosevelt anticipated and prepared for in the Liberty bond case.

It is already clear that Mr. Roosevelt is willing and eager that challenge to the Supreme Court by words, such as he has already spoken, should be an issue before the country. It remains to be seen whether he is willing to make the issue one of defiance by deed. It is possible the issue in the latter form may be postponed until after next year's election. It is also possible Mr. Roosevelt may avoid defying any decision of the Court that is unanimous and may wait for one in which the Court divides.

I hope this press report does not register the attitude of the President toward the Supreme Court, nor accurately

reflect his intention to defy the Court in the event of future decisions by this great tribunal adverse to new-deal legislation.

If this press report be true, what an example of Executive contempt for the law of the land and for an independent judiciary, in duty bound to defend and protect the Constitution!

How different the calm and judicial admonition of Washington to his fellow countrymen to observe and obey in letter and in spirit the supreme law of the land; and especially to avoid transgressing the bounds by any act of usurpation. In his Farewell Address he said:

It is important likewise that the habits of thinking in a free country should inspire caution in those intrusted with its administration, to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Mr. JONES. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 6 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. SAUTHOFF. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 26, line 6, after the comma and the word "accounts", add the following: "Federal income-tax reports."

Mr. JONES. I reserve the point of order, Mr. Chairman, that the amendment is not germane.

Mr. SAUTHOFF. Mr. Chairman, my point is this. My purpose is to give the Secretary of Agriculture power to examine the records, books, documents, papers, and so forth of processors and handlers in order to help him to make his orders. In order to help him I have added, in addition to the books, documents, papers, and so forth, "Federal income-tax reports", one of the best sources of information the Secretary could possibly have in order to get information upon which to base his orders and rulings.

Of course, I know that the original income-tax report will be filed with the Government, but there must be a copy of such report kept by the processor, or handler, for a period of 1 year and we can get at that and then the Department of Justice can compare that report with the original and also the books of the company and ascertain what the true facts really are.

Mr. JONES. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. Yes.

Mr. JONES. I think the gentleman could get that under the present amendment. After I see his amendment I think it is germane, but I think it is wholly unnecessary, for this reason. You have under this provision access to the records from which the income taxes are made up which, of course, goes behind them. What I fear is that if we adopt this, we might not be able to have access by implication to the State income-tax records.

Mr. SAUTHOFF. The difficulties we have always had in an attempt to examine the Federal income taxes were injunctive proceedings in the Federal court.

Mr. JONES. I want them examined, and they have authority not only to examine under the present language—

Mr. SAUTHOFF. No; there is no authority under this act. All the authority you have under this act is to go into the office of the processor and examine his books, but you cannot go into the income-tax department of the Treasury Department and examine their books. That is sound law. I do not have to refer to any of the attorneys of the Department, because we have had that question up in years gone by. It has been decided against the Government. Let us give the Government power and not hamstring it, and deprive it of opportunity to go in and examine income-tax reports. The processor's office is not the place where the income-tax reports are filed. They are filed either in Washington or in the regional office, and you have to be able not only to show the law on which you can stand to go in there and get it, but many times you have to go to court to get an order before you can look at income-tax reports. In the case of milk, in the last few years we had in the State of Wisconsin one dairy company, the president of which received a salary in a depression year, when the farmer could not even get cost of production, of \$206,000 a year, and in addition to that his wife drew down \$57,000 as an additional salary as vice president. Let us get at those records. That is the thing that I am after, and I hope that the Committee will vote in favor of this amendment. It is to be regretted that every time we of Wisconsin have made an effort to examine income-tax reports, whether State or Federal, every conceivable argument is brought forward to defeat such a proposal. Let us not handicap the Government in its effort to do something constructive. Let us give our departments every possible assistance.

Mr. JONES. Mr. Chairman, the gentleman evidently has drawn his amendment without thinking what it will do. The measure as written provides access to all the books, papers, records, accounts, correspondence, contracts, documents, or memoranda that he deems relevant and which are within the control of any such party. That is all he can get. If the gentleman would say copies of income-tax returns, then I am willing to accept the amendment, because even under the present language he can get facts from which those reports are made, but certainly the income-tax report itself is not in the control of the party whose books are made subject to examination. I shall not have any objection if the gentleman will say copies of income-tax reports.

Mr. SAUTHOFF. That will not do us any good.

Mr. JONES. He has to withhold copy for a year under the income-tax law. A man must keep his own records and a copy of the record from which they are made up. If the gentleman will look at the language of this measure he will see that the income-tax report itself goes to the Department and it is not any longer within his control. The subsequent language would nullify the effect of the gentleman's language. I withdraw any point of order on it, because I want them to have access to all of this. I reserved the point of order because my attention was distracted at the moment and I wanted to know what was in the amendment before I agreed to let it come in. If the language is properly drawn, I have no objection to his having this information. The gentleman says they are going into the books of these processors to see whether they are complying with the law. If he will say copies of income-tax reports which he has on file there—and that is all he could have—I will accept the amendment.

Mr. SAUTHOFF. I agree to that.

Mr. O'MALLEY. Might I suggest that we put in the language "certified copies of their income-tax reports."

Mr. JONES. They could require it in any form they want. I would not want to say sworn and certified copies, because I do not know what form of copies they keep. The originals are sworn to. Make it copies, and I shall agree to it.

Mr. SAUTHOFF. Very well.

Mr. JONES. Mr. Chairman, I ask unanimous consent that the amendment be changed to make it "copies of income-tax returns."

The CHAIRMAN. Without objection, the amendment will be so modified.

There was no objection.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Modified amendment offered by Mr. SAUTHOFF: Page 26, line 6, after the comma following the word "records", insert "copies of Federal income-tax reports."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

Mr. JONES. Mr. Chairman, why have the word "Federal"? Let us give them access to copies of both the Federal and State returns.

I ask unanimous consent that the word "Federal" be stricken from the amendment, so that they may have access to copies of both Federal and State income-tax reports.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The Clerk read the modified amendment, as follows:

Modified amendment offered by Mr. SAUTHOFF: On page 26, line 6, after the comma following the word "records", insert "copies of income-tax reports."

The modified amendment was agreed to.

Mr. JONES. Mr. Chairman, I ask unanimous consent that the word "agreements" on page 27, line 3, be changed to "agreement." It is a typographical error.

The CHAIRMAN. Without objection, the change will be made.

There was no objection.

The Clerk read as follows:

Sec. 7. Subsection (5) of section 8 of the Agricultural Adjustment Act, as amended, is further amended by designating said subsection as section 8f, by inserting said section at the end of section 8e, and by striking out the last sentence thereof.

Mr. KVALE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KVALE: On page 28, line 17, at the end of the section, add the following new section to be entitled "section 7 (a)":

"Sec. 7. (a) The Agricultural Adjustment Administration, as amended, is amended by adding after section 8 (f) the following new section:

"Sec. 8. (g) No agreement, marketing agreement, or order shall be executed or issued pursuant to the provisions of section 8, 8 (b), or 8 (c) of this title, unless such agreement, marketing agreement, or order shall contain provisions with respect to agricultural laborers, share tenants, and share croppers employed by any person who is a party to, or beneficiary of any such agreement or marketing agreement, or by any person who is subject to any such order:

"(A) Prohibiting the employment of children under the age of 16 years, and limiting the hours of labor during any 1 day for children between the ages of 16 and 18 years to 8 hours;

"(B) fixing minimum wages, maximum hours, and terms and conditions of employment or tenure which shall give such agricultural laborers, share tenants, and share croppers a fair and decent standard of living;

"(C) giving the right to such agricultural laborers, share tenants, and share croppers to organize and bargain collectively through representatives of their own choosing, and to be free from interference, restraint, or coercion of their employers or landlords, in the designation of such representatives, or in self-organization, or in any other concerted activities for the purpose of collective bargaining or any other mutual aid or protection; and

"(D) directing that no such agricultural laborer, share tenant, or share cropper, and no one seeking employment or tenure with any such producer, processor, or landlord shall be required, as a condition of employment or tenancy to join any company union, or to refrain or agree to refrain from joining or from assisting a labor organization of his own choosing."

Mr. JONES. Mr. Chairman, I make a point of order against the amendment.

Mr. ANDRESEN. Will the gentleman yield before he makes the point of order?

Mr. JONES. I yield.

Mr. ANDRESEN. Does the gentleman mean that a farm lad under 16 years of age shall not perform labor on his father's farm?

Mr. KVALE. Not at all. That is not in anywise the purport or intent of this amendment.

Mr. ANDRESEN. The gentleman has a provision there that no one under 16 years of age can work on a farm.

Mr. KVALE. That is under employment conditions. That does not apply. The gentleman is facetious, I am sure.

The CHAIRMAN. Does the gentleman desire to be heard on the point of order?

Mr. JONES. No, Mr. Chairman.

The CHAIRMAN (Mr. Cox). The amendment is subject to a point of order. The point of order is sustained.

The Clerk read as follows:

Sec. 11. (a) Subsection (a) of section 9 of the Agricultural Adjustment Act, as amended, is amended by striking out all of the second sentence preceding the semicolon and inserting in lieu thereof the following: "When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 8 are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation."

(b) The eighth sentence of such subsection (a) is amended by striking out "rental or benefit payments" and inserting in lieu thereof: "all payments authorized under section 8 which are in effect."

Mr. WIGGLESWORTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGLESWORTH: On page 29, line 21, after the word "proclamation", strike out the period, insert a colon and the words "Provided, That in lieu of any processing tax in respect to cotton there is hereby authorized to be appropriated out of money in the Treasury not otherwise appropriated such sums as may be required for the payment of such a tax."

Mr. JONES. Mr. Chairman, I make the point of order that that is not germane. This is a tax section, and an appropriation in lieu thereof would not be germane.

Mr. MARTIN of Massachusetts. Mr. Chairman, this is not an appropriation. This is an authorization.

Mr. JONES. But it is subject to the same point of order, Mr. Chairman. It is not germane to the text.

Mr. MARTIN of Massachusetts. Mr. Chairman, I believe it is clearly in order, because we are treating of processing taxes, and this simply provides how that payment shall be made. I think it is clearly within the subject under consideration.

Mr. WIGGLESWORTH. There are other exceptions made in the same paragraph of the original act.

The CHAIRMAN. Does the gentleman from Texas [Mr. JONES] wish to be heard further?

Mr. JONES. This is a tax provision authorizing taxes to be made under certain circumstances. An authorization for an appropriation is an entirely different subject matter from a tax for a particular purpose.

Mr. MARTIN of Massachusetts. Mr. Chairman, all these processing taxes go into the Federal Treasury, and are therefore a matter of authorization eventually.

Mr. JONES. That is right; but one is a tax measure and the other is an appropriation.

I think we would save time if I withdrew the point of order, Mr. Chairman. In order to save time I will withdraw the point of order, and we can vote on the amendment.

I ask unanimous consent, Mr. Chairman, that all debate on this section and all amendments thereto close in 11 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WIGGLESWORTH. Mr. Chairman, this amendment speaks for itself, I think. It is offered with a view to removing the burden imposed on a single industry by the proposed processing tax on cotton and to obtaining the desired funds out of the general revenues of the Treasury. It is offered with a view to removing the burden of the tax from the shoulders of an industry which finds it extremely difficult at this time to meet that burden and which by its nature would seem to me to make the imposition of a processing tax contrary to the best interests of the Nation as a whole.

If the Members of the House could see at close range the conditions by which this industry represented by hundreds of organizations and hundreds of thousands of workers and their families in both the North and the South is confronted at this time, I am sure they would be sympathetic with the purpose of this amendment.

The cotton-goods industry, one of the oldest and largest industries in the Nation, has been fighting for self-preservation. The foreign market for cotton goods measured in

exports has been radically curtailed. Other nations are planning to take our place. The domestic market has been subjected to foreign importations which have been rapidly increasing. Plant after plant has closed. Hundreds of thousands of spindles have ceased operation. Thousands of workers of the textile industry have been added to the rolls of the unemployed since the first of the year.

The situation is, of course, the result of various factors. One of these factors, and a material factor in the overwhelming opinion of those primarily concerned, has been the processing tax imposed 2 years ago under the present administration.

The tax, insofar as this industry is concerned, has meant an added burden on the industry amounting to some \$200,000,000. With certain exceptions, it appears to have been out of the question to pass this burden on to the consumer. Those qualified to speak from actual experience advise me that the people of the country have not been given a fair picture in statements emanating from the Department of Agriculture. They advise me that the processing tax has amounted to from 8½ to 17½ percent of the total cost of various classes of finished goods based on N. R. A. prices. These figures are in respect to articles used by the great bulk of the population.

We should not lose sight of the nature of the cotton industry. In normal times no less than 50 percent of the cotton produced in America is placed in a foreign market. The inevitable tendency of the processing tax, as I see it, is to destroy that market by making it available to producers in other countries to the permanent detriment of hundreds of thousands of American workers and their families.

The road to reemployment is the road that leads through the preservation and encouragement of legitimate enterprise throughout the Nation. The adoption of this amendment would be a step in that direction. It would remove a burden from the shoulders of a single industry and its workers, suffering severely at this time. It would place it insofar as it is justified in the interest of the producers of the country squarely on the general revenues of the Treasury. This is where it belongs in all fairness.

I urge the adoption of the amendment.

[Here the gavel fell.]

Mr. GIFFORD. Mr. Chairman, I think the House will recognize that the amendment just offered has been the burden of my argument for some time, and I trust that it will be considered seriously. It is quite evident that the chairman of the committee seems to think that 11 minutes was sufficient for the consideration of this amendment, 10 minutes to the proponents and but 1 minute necessary to defeat it. In this act you have taken \$100,000 from the Treasury to pay administration expenses and benefit payments, and you change it now to make the \$100,000 available for any part of section 8. Two hundred thousand dollars is provided for the dairy and beef-cattle industry. They could not seem to bear the processing tax and you take the money from the General Treasury.

We have been unable to bear this tax in the cotton industry. We come to you with all the evidence of the last few weeks that has been presented and ask that an appropriation of less than \$200,000,000 be made and take the processing tax off cotton.

The processing tax largely caused our recent troubles. It was piled on the already added burden of N. R. A. and its codes. It was the last weight and is responsible for this situation in the cotton industry. The manufacturers have proven their case. It is a proper request that you help cotton just as you help the beef industry and the dairy industry. I think it is a perfectly fair request and ought to be more seriously considered than apparently is intended.

[Here the gavel fell.]

Mr. MARTIN of Massachusetts. Mr. Chairman, I should like to be heard.

Mr. JONES. Mr. Chairman, how much time remains?

The CHAIRMAN. There is 1 minute remaining.

Mr. JONES. Mr. Chairman, how much time does the gentleman from Massachusetts desire?

Mr. MARTIN of Massachusetts. Under the circumstances I shall ask for but 2 minutes.

Mr. JONES. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts may proceed for 2 minutes and that I, following him, may proceed for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MARTIN of Massachusetts. Mr. Chairman, I spoke yesterday at length upon this subject and consequently will be brief at this time. There are very good reasons why we should treat cotton in accordance with the amendment offered by the gentleman from Massachusetts [Mr. WIGGLESWORTH]. At the present time a commission appointed by the President is investigating the entire cotton situation, but its report is not available. In order that President Roosevelt and Secretary Wallace may keep faith with the cotton industry we should delay action on the extension of the cotton processing tax. Why pronounce judgment before the jury gives the report? It is preposterous and decidedly unfair.

Mr. ANDRESEN. Mr. Chairman, will the gentleman yield?

Mr. MARTIN of Massachusetts. I yield.

Mr. ANDRESEN. Are the cotton processors unable to pass the processing tax on to the consuming public?

Mr. MARTIN of Massachusetts. That is the point; that is where cotton is different from other commodities.

Mr. ANDRESEN. They are not able to pass the processing tax on?

Mr. MARTIN of Massachusetts. Not in most instances. There are times when the manufacturer of novelties or specialties can control the selling price and thus be able to pass the tax on. In a majority of instances the manufacturers of cotton goods in the South and New England cannot pass it along. The competition both at home and abroad is too keen. The burden, therefore, falls heavily upon the cotton spinning industry. If this tax continues as at present only drab days are ahead for the people who find employment in this industry.

Give the cotton grower his aid, but do not destroy an industry in giving that aid. I hope the amendment will be adopted.

Mr. JONES. Mr. Chairman, this amendment to strike out the processing tax on cotton and authorize an appropriation from the Treasury is not feasible and should be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The question was taken; and on a division (demanded by Mr. MARTIN of Massachusetts) there were—ayes 19, noes 87.

So the amendment was rejected.

The Clerk read as follows:

SEC. 12. Subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

“TAX RATE GENERALLY

“(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 percent, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and oppor-

tunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

"SPECIFIC TAX RATES

"(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and lute, and (except as provided in paragraph (6) of this subsection) in the case of sugar cane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on June 1, 1935, during the period from the date of the adoption of this amendment to December 31, 1937, both dates inclusive.

"SPECIFIC TAX RATE—RICE

"(3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

"ADJUSTMENT OF RATE

"(4) In accordance with the formulae and standards prescribed in this title, (A) any rate of tax prescribed in paragraphs (2) and (3) of this subsection may be decreased (including a decrease to zero), to prevent an accumulation of surplus stocks of the commodity or the products thereof, to prevent such reduction in the quantity of the commodity or products thereof domestically consumed as will result in the accumulation of surplus stocks of the commodity or products thereof, or to prevent depression in the farm price of the commodity, or may be increased, or shall terminate pursuant to proclamation as provided in section 9 (a) or pursuant to section 13, and (B) after December 31, 1937 (in the case of the commodities specified in paragraph (2) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture and shall thereafter be effective. If the applicability to any person or circumstances of any tax under this title the rate of which is fixed in pursuance of this paragraph is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph, respectively) rates of tax fixed under paragraph (2) or (3) and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation as provided in section 9 (a) or pursuant to section 13) until altered by act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between tax and the rate fixed in pursuance of this paragraph and tax at the rate fixed under paragraph (2) or (3) shall not be levied, assessed, collected, or paid.

"RICE—SPECIAL RULE

"(5) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

"SUGAR—SPECIAL RULE

"(6) In the case of sugar beets or sugar cane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (4) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (4) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity con-

cluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the act of December 17, 1903, chapter 1.

"WHEAT PREMIUMS

"(7) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account."

Mr. O'MALLEY. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. O'MALLEY: Under subsection (b) of section 12, on page 32, following the word "paragraph", in line 3, insert the following language:

"In all cases where the commodity subjected to a processing tax is offered for sale there shall be clearly set forth, in whatever manner the Secretary of Agriculture may designate, that proportion of the selling price which constitutes the processing tax on said commodity or commodities under this act. In the case of retail goods this information shall be clearly set forth on a label, tag, stamp, or other suitable indicia accompanying said goods for the protection of the consumer."

Mr. JONES. Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Wisconsin is not germane to this particular section, which has to do with a processing tax. The amendment has to do with the sale of an article and the labels that are to be put on the article sold. The sale of an article is not involved in this particular section.

Mr. O'MALLEY. Mr. Chairman, this section deals with the levying of a tax and my amendment provides that the proportion of the selling price of the commodities taxed shall be displayed in some way so that the consumer may know how much of the processing tax he is paying and how much of the processing tax is being used as an argument to increase prices. I know that when the processing tax was attached to one food product in my State it amounted to about 2 cents to the consumer, but the producers of that product immediately raised their price 10 cents, so they not only got the processing tax but 8 cents in additional profits.

Mr. Chairman, if the processing tax is a good thing, all the Members who are in favor of it ought to be willing to let the consumer know how much he is paying toward the processing tax. If the processors are taking it out of their profits and the consumers are not paying the processing tax, they do not have to comply with this amendment. Why are we afraid to have the consumer know how much this processing tax is costing him, if it is costing him anything? Why can we not give the consumers some protection, so that the processors are not able to get not only the processing tax but use the processing tax in order to get additional profits? Why cannot the consumer be shown what proportion of the cost of the goods the processing tax involves?

Mr. Chairman, I submit the amendment is clearly in order, because it deals with the method of indicating what the tax is. It is a germane amendment.

Mr. JONES. Mr. Chairman, subsection 9 (a) has to do with the levying of the tax. This section simply has to do with the rate of tax. The question of what shall be done in connection with the sale of a commodity is not involved in the particular section now before us, which is section 12 (b).

Mr. O'MALLEY. My amendment only provides for disclosure of the amount of tax to the people who foot the bills.

Mr. JONES. I may say to the gentleman, to put a conversion factor on every one of the infinite variety of commodities that are made from a basic commodity would be practically impossible, because one basic commodity may go into a hundred different finished items. I may say further that the present bill provides that if a false statement is made by a processor as to the amount of the tax in connection with the sale of an article he may be fined, because it then becomes an offense.

Mr. O'MALLEY. A merchant can raise the price and use the processing tax as the basis for the increase. The consumer has no protection. He does not know what percentage the tax is, and he ought to have this information. If the tax is a good thing, we ought to have frankness and decency enough to allow the consumer to know what it is.

Mr. Chairman, this section amends section 9 (a); therefore my amendment is in order.

The CHAIRMAN. The portion of the bill just read mentions section 9 (a).

Mr. JONES. Section 9 (a) is treated in this bill on page 29, which we have already considered.

Mr. O'MALLEY. This deals with section 9 (a).

The CHAIRMAN. The Chair is ready to rule.

The Chair is impressed with the view that the point of order made to the amendment offered to this section of the bill is good, and therefore sustains the point of order.

Mr. O'MALLEY. Mr. Chairman, my amendment does not provide a means for the collection of the tax or regulate the collection in any way.

The CHAIRMAN. The amendment offered by the gentleman goes to the collection of the tax. The amendment specifically provides for the use of stamps which, of course, under the amendment is in the discretion of the Secretary of Agriculture.

Mr. O'MALLEY. Mr. Chairman, the method provided is that the Secretary may designate the method, and I only suggested a stamp or a tag as one of the many ways the Secretary might protect the consumer from being gypped.

The CHAIRMAN. The Chair has ruled. The Chair thinks the point of order is well taken and sustains the point of order.

Mr. JONES. Mr. Chairman, I ask unanimous consent that all debate on this section close in 6 minutes.

Mr. GIFFORD. Mr. Chairman, reserving the right to object, this is a very important section indeed and bears similarity to other sections in the bill.

It is inconceivable that they would not want more time, but I am willing to confine my remarks now to 5 minutes and take more time on section 21.

I withdraw my reservation of objection, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GIFFORD. Mr. Chairman, after setting forth the contents of this section in 5 minutes, I will agree that 1 minute may be enough for the chairman of the committee to apologize for it. [Laughter.]

Section 12, paragraph 1, taxes generally; and then it states that we will really use the taxes until they are found unconstitutional.

Paragraph 2, with respect to specific tax rates, they contend is so narrow that it will be held constitutional even if the rates are not fair or unnecessary.

On the next page it is provided that if these general rates are held unconstitutional, then they will go back to the special or the specific rates. How hard we are trying to make past legislation constitutional. We are here serving notice that we are to try by every conceivable means to carry out our theories at the risk and apparent expectation of its being held unconstitutional.

This may be the only refuge that the committee could find and, evidently, 1 minute will be all that is required to acknowledge that this is true, but I want to remind you of the situation and compare this section with section 21, a part of which at least ought to be removed from the bill.

Look at section 21, on page 46, and notice the recitation there. It is provided that all the taxes heretofore paid prior to the date of the adoption of this amendment are hereby declared to be legalized, ratified, and confirmed to all intents and purposes as if we had passed the proper legislation in 1933. This is a bold statement to make, but the Supreme Court will regard it of but little value. However, the statement I am interested in, Mr. Chairman, is the one that provides that even though taxes may have been illegally imposed, we will freeze such taxes and we will commit an immoral act, because although it may be proven to be unconstitutional we go still further and say that even if proven unconstitutional we attempt to state that the aggrieved taxpayer may not press his claim in court. They may not even present their case and attempt to recover taxes illegally paid.

Will you not kindly give some consideration to section 21 and help us remove this particular vicious section and let our citizens have their day in court. This is the burden of my argument at the present moment.

[Here the gavel fell.]

Mr. JONES. Mr. Chairman, under the section referred to the Congress simply enacts the processing fees that are already in effect and makes them the act of Congress in order to avoid any question of delegation. The change the gentleman refers to is an effort to adjust the program to suit a situation that might arise. If the additional flexible power is legal, well and good; but, if not, we certainly cannot afford to wreck the whole farm program, which has meant so much to this country.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Sec. 13. Subsection (c) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and, in the case of all commodities where the base period is the pre-war period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title."

Mr. CARPENTER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, if there was no other good that was to come out of the Agricultural Adjustment Act, the fact that it has set up for the first time in the history of agriculture a method of cooperation and organization among the farmers such as every other business and industry has in this country that would be justification enough for the act.

Three years ago when the Roosevelt administration came into power agriculture was prostrate. Farm prices and conditions had been going from bad to worse.

For instance, in 1919 there was produced in the State of Kansas 146,109,192 bushels of wheat, which at an average price during that year of \$1.99 per bushel resulted in the farmers of the State of Kansas receiving \$289,886,360; by 1931 the price had dropped to 34 cents per bushel as an average for the year, and whereas there was 239,907,709 bushels of wheat produced in Kansas that year almost 100,000,000 bushels more than was produced in 1919, yet the farmers of the State of Kansas only received \$81,416,717, or more than \$200,000,000 less than they received in 1919. The following year, 1932, the average price was 29 cents per bushel, and the farmers of the State of Kansas only received \$30,975,830 for their wheat, or approximately one-tenth of what they received in 1919, yet their indebtedness had been increased and their rates of interest had not been lowered.

Take the case of corn in 1917. Kansas produced 106,166,517 bushels of corn, and at a price of \$1.14 per bushel received \$121,540,410, whereas in 1931 they produced 8,000,000 more bushels of corn than was produced in 1917 and received approximately \$90,000,000 less than they received in 1917, or a total of \$32,666,554. The prices the farmer received for wheat and corn in 1932 were lower per bushel than any other year before or since 1889, as illustrated by a table compiled from the twenty-seventh biennial report, Kansas State Board of Agriculture, page 538, and data of subsequent years obtained from the board.

Mr. Chairman, I ask unanimous consent to insert this table of prices of wheat and corn as a part of my remarks.

The CHAIRMAN. Without objection, it is so ordered.

The table follows:

Some interesting Kansas figures

Year	Total rainfall, Wichita	Total rainfall, Dodge City	Total production of wheat, in bushels	Number of acres sown to wheat	Average yield of wheat per acre	Average value per bushel of wheat	Total value of wheat crop for year	Total production of corn, in bushels	Number of acres of corn planted	Average yield of corn per acre in bushels	Average value of corn per bushel	Total value of corn crop
1889	34.67	19.17	35,319,851	1,594,285	22.15	\$0.57	\$19,917,401	273,888,321	6,820,693	40.15	\$0.18	\$51,649,876
1890	24.7	11.72	28,801,214	2,321,113	12.40	.81	23,410,548	51,090,229	5,775,691	8.84	.42	21,491,916
1891	34.53	32.34	58,550,653	3,733,910	15.68	.72	42,595,759	139,363,991	5,209,234	26.75	.34	48,057,973
1892	29.94	19.66	74,538,905	4,129,829	18.05	.55	40,691,762	138,658,621	5,603,588	24.74	.30	42,089,849
1893	18.19	10.12	24,827,523	5,110,873	4.85	.44	11,032,932	118,624,339	6,172,462	19.20	.28	32,621,762
1894	32.44	12.60	28,205,700	4,840,892	5.82	.40	11,297,979	66,952,833	6,404,705	10.45	.38	25,354,190
1895	26.46	20.31	16,001,060	4,171,971	3.84	.47	7,463,118	201,457,396	8,394,871	24.00	.22	46,189,772
1896	27.6	19.87	27,754,885	3,357,727	8.27	.44	13,287,193	221,419,414	7,897,575	28.03	.17	35,633,013
1897	26.1	21.58	51,026,604	3,444,364	14.81	.68	34,385,304	152,140,693	8,293,819	18.34	.19	25,555,293
1898	39.46	31.46	60,790,661	4,624,731	13.14	.54	32,937,042	126,989,132	7,237,601	17.54	.23	30,298,097
1899	33.49	23.45	43,637,013	4,938,952	8.76	.51	22,406,410	225,163,432	8,194,561	27.48	.24	53,530,576
1900	31.85	20.78	77,359,091	4,378,533	17.66	.54	41,974,145	134,523,677	7,369,020	18.25	.29	39,551,835
1901	27.47	16.06	90,333,095	5,316,482	16.99	.56	50,610,505	42,605,672	6,732,973	6.33	.51	21,731,215
1902	38.73	17.70	64,499,236	6,301,040	8.67	.58	29,139,490	201,367,102	6,930,764	28.50	.59	78,321,653
1903	31.80	15.27	94,041,992	5,964,866	15.76	.56	52,426,355	163,359,769	6,525,777	25.95	.34	57,078,141
1904	31.11	17.19	65,148,629	6,861,712	11.11	.79	51,409,255	132,021,774	6,494,158	20.33	.38	50,713,955
1905	34.63	25.96	77,178,177	5,925,338	13.02	.70	63,889,365	190,519,593	6,799,755	28.01	.36	68,718,583
1906	31.00	32.54	93,292,980	6,436,085	14.49	.59	55,178,711	187,021,214	6,584,535	28.40	.35	65,115,203
1907	31.51	18.26	74,155,695	7,235,283	10.24	.77	66,787,511	145,288,326	6,809,012	21.33	.43	63,040,743
1908	37.71	19.61	76,808,922	6,939,351	11.06	.83	63,885,145	150,640,516	7,057,535	21.34	.55	82,642,461
1909	30.56	20.55	80,958,740	6,450,734	12.55	.93	75,941,189	147,005,120	7,711,879	19.60	.57	83,066,905
1910	17.33	10.12	61,017,339	4,870,442	12.53	.87	52,785,955	152,810,884	8,589,682	17.79	.50	76,402,327
1911	36.89	22.27	80,809,436	4,643,398	10.94	.86	43,840,589	105,047,068	7,760,087	13.54	.57	59,599,043
1912	29.14	24.40	88,889,128	6,242,855	14.24	.80	71,227,437	156,499,352	6,884,044	22.73	.53	83,483,681
1913	21.94	17.28	72,458,051	6,062,066	11.95	.78	66,375,409	18,420,020	6,655,023	2.77	.73	13,378,475
1914	23.32	12.32	180,924,885	9,116,183	19.85	.84	151,583,031	87,338,272	5,279,552	16.54	.68	59,320,146
1915	41.23	28.85	95,768,176	7,630,810	12.55	.90	85,681,786	142,653,140	4,537,238	31.44	.53	73,547,443
1916	29.62	14.35	99,384,760	7,819,627	12.71	1.35	134,615,306	62,127,191	6,964,724	8.92	.84	51,886,271
1917	16.11	13.06	41,563,387	3,546,433	11.72	2.06	85,679,211	106,166,517	9,162,232	11.59	1.14	121,540,410
1918	38.56	19.58	93,195,332	6,800,059	13.70	1.99	186,332,974	44,539,488	6,195,624	7.20	1.44	64,081,655
1919	22.98	13.70	146,109,192	11,640,873	12.56	1.99	289,886,360	63,083,497	4,188,045	15.06	1.31	82,845,451
1920	29.95	22.97	140,842,516	8,982,743	15.68	1.87	262,110,065	132,786,130	5,137,238	25.85	.69	92,036,455
1921	23.37	17.51	128,220,148	10,345,651	12.39	.97	123,876,118	96,484,070	4,421,669	21.82	.29	27,760,924
1922	41.94	23.61	116,864,983	9,602,955	12.17	.90	105,489,103	95,311,582	5,055,989	18.55	.54	51,648,465
1923	35.28	24.34	76,172,274	7,835,853	9.72	.87	66,341,972	125,680,766	6,014,323	20.89	.62	77,588,715
1924	22.73	19.49	153,627,658	9,435,672	16.28	1.07	163,809,506	131,007,817	5,818,153	22.52	.81	106,313,292
1925	23.95	27.21	74,264,926	8,530,564	8.71	1.41	103,888,770	104,860,915	5,546,349	16.02	.71	74,065,081
1926	30.18	19.99	149,983,056	10,083,428	14.87	1.20	179,995,914	58,380,892	5,656,361	10.32	.70	41,010,514
1927	35.85	25.10	111,406,440	9,945,955	11.20	1.17	130,294,960	176,712,332	5,896,661	29.96	.65	113,924,418
1928	37.53	27.77	177,860,700	14,474,680	16.98	.94	167,324,843	179,116,320	6,634,096	27.00	.66	117,760,980
1929	34.84	21.90	137,995,088	11,515,809	11.98	1.00	138,428,561	106,804,968	6,324,219	16.89	.77	82,638,728
1930	26.01	19.14	158,862,287	11,773,015	13.49	.63	99,651,395	76,162,845	6,544,478	11.64	.64	48,596,573
1931	29.36	15.75	239,907,709	12,345,596	19.43	.34	81,416,717	114,177,015	6,376,692	17.60	.28	32,666,554
1932	26.69	17.71	106,538,659	8,933,273	11.92	.29	30,975,880	141,049,455	7,337,522	19.22	.15	21,631,891
1933	21.81	18.66	57,452,000	6,759,000	8.50	.70	40,216,000	80,431,000	6,994,000	11.50	.35	28,151,000
1934	24.17	11.50	79,700,000	8,659,000	10.80	.85	67,744,000	10,526,000	3,777,000	2.78	.68	9,307,000
Average, 46 years....	29.86	19.99	88,570,058	6,885,304	12.74	.86	80,656,737	105,919,827	6,531,687	19.22	.52	57,318,338

Mr. CARPENTER. Three years ago when the Roosevelt administration came into power agriculture was prostrate. Farm prices and conditions had been going from bad to worse. Many tears had been shed over the farmer and many promises made to him, but the passage of the Agricultural Adjustment Act was the first time anything had been definitely done for agriculture. To use the expression of the street, and one which is generally understood, it was the Roosevelt administration that brought home the bacon to the farmer. Those who come from agriculture districts are quite well satisfied with the success of the operation of this act. They know what it has meant to agriculture the past 2 years, but as further proof of the success, satisfaction, and appreciation of the farmer was the great spontaneous meeting of over 5,000 farmers from the length and breadth of this land recently held here in Washington. It is generally thought that the farmer never could be satisfied, that he was divided in his own ranks as to what plan should be followed. Never before had such a gathering as was held here in Washington by the actual dirt farmers been dreamed of. They did not come with any demand or complaint, merely to express to this Congress, this administration, and their President their thanks and appreciation of what has been done for them. We can gather from this meeting that they desire the continuation of this act and its strengthening by such amendments as were deemed necessary. Not only did this meeting impress Washington and give the newspapers and other news agencies, who are so prone to picture the farmer under unfavorable circumstances, an idea of what a real farmer looks like, but it had a far greater effect in this country, for there had been conceived by certain persons, whom were those who had promised the farmer much when they were in power, but had failed to keep their promises, a meeting which they dubbed the "grass-roots convention", which was designed and conceived among other things to knock the stuffing out of the A. A. A. To them it was a proposition of "root hog

or die", but in the face of this meeting here at Washington and the referendum vote of the farmers throughout the country upon the proposition of continuing this act, those from the short-grass country did not dare carry out the purposes of this meeting. What is the position of the farmer? He has always been one of the most independent individuals in the country. Every other business and industry was seeking special privileges from the Government, but the farmer never asked for any special favor. He was willing to produce by the sweat of his brow and he could export his surpluses abroad and therefore receive a reasonable price for his products.

All he asked was that nothing be done to him, but governments began to increase his taxes. He found himself the victim of the Government's high-tariff program, which resulted in the loss of his markets, and his surpluses were thrown back on him; the Government having done all this to him, it was then up to the Government to do something for him. One thing the farmer desired more than any other class is to remain free and independent. As I have stated, he is for the present Agricultural Adjustment Act, so long as it remains a free and independent plan, but he is opposed to any compulsory plan. He does not desire that the Federal Government, through the Department of Agriculture or any other department, tell him what he can produce or what he cannot produce, and tell him how much he can produce and how much he cannot produce, and I have assurance from the Secretary of Agriculture that there is no such desire on his part.

As I view it, one of the reasons for supporting the present bill containing the A. A. A. amendments, if there was such power of compulsory control in the hands of the Secretary of Agriculture, as I understand it, it is stricken out under these amendments. Furthermore, under the recent Supreme Court decision any such provision would be void. I believe that the Agriculture Committee is in such close touch with

the farmers of this country that they have done a great work in this legislation in protecting agriculture and changing and amending this bill to safeguard the farmer and protect his interests.

Mr. LUCKEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman and my colleagues of the House, yesterday I heard a very able speech by the gentleman from New York [Mr. FISH] attacking the Agricultural Adjustment Act amendments, and I happened later in the day to hear the same gentleman in another address on the same subject over the air. The man running the radio tired of the latter speech and turned it off, therefore robbing me of the opportunity to hear the complete speech. Both speeches were along the same line—a wailing lament over the vanishing American foreign markets and a bitter protest against the present agricultural program as being responsible for that waning market.

Some time ago I submitted part of my studies on this situation to the Members of the House. Today in a few brief words I want to add some further comments on the export-import situation. I believe that the gentleman from New York was barking up the wrong tree when he charged that the loss of our foreign markets was the work of the present administration. It is perhaps due to the fact that the charts and figures that I use are not the same as those used by the

gentleman from New York that causes my conclusion to be that the agricultural export losses were sustained, to a very large degree, prior to the advent of the present administration. How could we lose what we had already lost?

Without boring you with long tables and charts to show the decline of American agricultural export trade, I am going to present only two or three items of that trade which conclusively show the decline in the pre-Roosevelt era. Take the case of cotton, one of the focal points of attack by the opposition, where the period of 1925 to 1933 shows the trend. In the case of cotton in its unmanufactured state, the values of exports in each of the years from 1925 to 1933 were as follows:

1925-----	\$1,059,751,000
1926-----	814,429,000
1927-----	826,306,000
1928-----	920,008,000
1929-----	770,830,000
1930-----	496,798,000
1931-----	325,667,000
1932-----	345,164,000
1933-----	398,212,000

During this same period, unmanufactured cotton exports declined from \$1,059,751,000 in 1925 to \$455,240,000 in 1932. In simple words, our export values in both of these fields had fallen off to the point where the 1932 valuation was only about one-third of that of 1925. Surely this is a falling export market.

[Figures from the Bureau of Foreign and Domestic Commerce, Department of Commerce]

Yearly average or year (calendar)	Total agricultural exports	Animals and products edible	Dairy products and eggs	Grains and preparations	Vegetables, fruits, and nuts	Miscellaneous animal and vegetable products	Cotton	Tobacco
1925-----	\$2,136,200,000	\$269,300,000	\$31,100,000	\$351,800,000	\$121,100,000	\$149,400,000	\$1,059,800,000	\$153,800,000
1926-----	1,816,700,000	236,700,000	26,800,000	355,700,000	132,600,000	113,600,000	814,400,000	136,900,000
1927-----	1,884,600,000	181,600,000	25,300,000	443,800,000	143,600,000	124,500,000	826,300,000	139,700,000
1928-----	1,863,100,000	182,300,000	24,700,000	315,700,000	152,000,000	113,900,000	920,000,000	154,500,000
1929-----	1,692,900,000	198,200,000	22,100,000	286,400,000	162,800,000	106,600,000	770,800,000	146,100,000
1930-----	1,200,700,000	149,900,000	19,500,000	191,300,000	130,400,000	67,100,000	496,800,000	145,600,000
1931-----	821,400,000	93,200,000	12,800,000	106,000,000	122,000,000	50,900,000	325,700,000	110,800,000
1932-----	662,400,000	55,200,000	6,600,000	66,900,000	84,900,000	37,700,000	345,200,000	65,900,000
1933-----	694,400,000	63,600,000	4,400,000	31,500,000	77,100,000	36,600,000	398,200,000	82,900,000

In the year 1925, the total value of all agricultural exports was \$2,136,200,000, while in 1932, the total was \$662,400,000, a net decrease of \$1,473,800,000. Here, too, we see that the American export trade in agricultural products had suffered a tremendous shrinkage. At this point, I wish to insert a table covering the export statistics of all agricultural products by classified groups.

In all of the items in this table, it is seen that the same downward trend is followed as that shown for cotton.

Is it not strange, then, how by some peculiar reasoning so common today, that anyone could reach the conclusion that our agricultural export market has fallen off due to the agricultural program of the present administration.

I am a strong believer in the doctrine of recapturing every possible bit of the foreign market that we can possibly capture. In this present bill, I believe that we have the essential principles necessary for the recovery of the American position in the world market. The fundamentals of the McNary-Haugen measure have been incorporated in these amendments, and they have been harmonized with the whole program.

It is vital to the recovery program that the American farmers reach parity. The man who feeds the country has every right to expect that he will receive for his farm products a price that will justify his continuance as a farmer. The amendments now before us greatly perfect the agricultural program, and they will materially aid the farmers of this country. Our farmers believe in the present program and in the amendments now before us. The interjection of partisan political arguments into this discussion serves only to becloud the real issues. The distortion of facts, facts which in themselves may be quite true, to make them appear as an indictment of the farm program and the amendments, surely cannot be regarded as a legitimate or weighty attack.

There are a great many gentleman in this House who are in the same position as I find myself. They are wholeheartedly in support of the amendments, and none of the blinding figures or false facts which have been set forth thus far can change that belief. Our farmers are in support of these amendments, and the American farmer shall be and will be benefited by this administration and by these amendments.

The Clerk read as follows:

Sec. 15. Subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

"(2) Each order issued by the Secretary under this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency during any period specified by him for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses.

The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy."

Mr. CHANDLER. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment by Mr. CHANDLER: Amend section 15 by inserting the following sentence at the end of paragraph (b) (1), line 14, page 37: "Such recognition and encouragement under this title shall be limited to associations which deal in the products of nonmembers to an amount not greater in value than such as are handled for their bona fide producer members; and there shall be included in nonmember business all commodities not delivered by persons having a legal or equitable right in the production thereof; all commodities received under any contract which does not give the delivering producer credit for and the right to receive within a reasonable period his pro rata share of profits after deduction of costs and permissible dividends; and all commodities upon which more than 90 percent of the market value is advanced without recourse prior to disposition thereof by the association unless the delivering producer has to his credit with such association reserves sufficient to cover, and liable for any loss incurred in the handling and ultimate disposition of such commodities delivered by him if handled separately, or his pro rata share of any loss incurred in the handling and ultimate disposition of commodities delivered to any pool."

Mr. CHANDLER. Mr. Chairman, when H. R. 8052, the immediate predecessor of H. R. 8492, now under consideration, was introduced, I prepared an amendment along the lines of the one just offered and sent it to the very able and indefatigable Chairman of the Committee on Agriculture [Mr. JONES]. He informed me, and I think correctly so, that that amendment involved a change in the Capper-Volstead Act. I have redrawn the amendment so as to avoid that criticism and now ask its adoption.

That part of section 15 of the bill, to which this amendment would be added, requires the Secretary of Agriculture to "accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing acts of Congress."

The Capper-Volstead law, which authorizes producers of farm products to form cooperative associations, free from the Antitrust Act, provides that such an association "shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members", but, unfortunately, the act does not define nonmember business; and the pending amendment is to make that definition to some small extent for the purposes of the Agricultural Adjustment Act, at least. While the amendment necessarily would have general application, its practical operation would be confined to the cotton trade.

Firstly, it is provided that there shall be included in nonmember business commodities delivered by persons not having any legal or equitable interest in the production of the commodity. This test of producer qualification is the same as that applied in section 3 of the Bankhead Act in permitting votes to determine whether that act should be continued for this season. It permits cotton delivered by landowners, tenants, sharecroppers, and other persons having an actual interest in producing the cotton to be counted as member business, but would not permit ginners and other cotton buyers to sell cotton outright to the cooperatives, and have it called "member cotton." Yet, this is a common practice at the present time.

Secondly, it would class as nonmember business all commodities delivered under any contract which does not give the producer the rights of an actual partner in the profits of the business. This expressly permits, of course, deductions of costs and dividends permitted on capital stock or capital in any other form, but will require any cooperative demanding recognition by the triple A to credit to the farmer his share of the profits, and, if he desires to do so, to permit him to withdraw his profits within some reasonable period. In other words, it will make it impossible for cooperative managers to compel producers against their wishes to invest capital in the cooperative, and yet call their deliveries member business. It will place membership on a voluntary basis, where it certainly ought to be.

Thirdly, this amendment will require cooperatives seeking recognition and encouragement to limit any advances they make on commodities to a reasonable figure, or call such transaction what it actually is, a purchase, and therefore nonmember business. No cooperative asking special favors here ought to be permitted to risk the reserves belonging to its bona fide members, and the funds loaned to it by this Government, in speculating in commodities. Advances of 90 percent of the market value are the maximum which can be made with any degree of safety even on a commodity which can be hedged in the future market such as cotton. All that this clause will require is that the risk of loss on a commodity delivered be borne by the delivering producer if he is to be called a member. It prevents cooperative managers from risking reserves of bona fide members and funds borrowed from the Government in what in effect are outright purchases from persons having no interest whatsoever in the continued operations of the cooperative.

This is an amendment in the interest of the farmer, sound cooperative marketing associations, and the independent cotton dealers. For 75 years the independent cotton merchants, whom we may now call "the little fellows", found the outlets at home and abroad for the farmer's cotton, and these people have furnished the competition by which the farmer received the best price obtainable for his product. Now these private business concerns cannot meet the open-market competition of cooperative associations which have become not cooperative organizations but huge merchandising units operating with Federal funds and paying almost no taxes. Soon the farmer will have to put all of his eggs in one basket, and that will be another sad day for him.

The small cotton dealers and their employees, and there are thousands of them in every cotton-growing State, are in a desperate condition because they cannot compete in the open market with the so-called "cooperatives", which have no definite limits on their operations, receive liberal Government credit, and will claim further preferential treatment under this section of the bill. I have been implored by scores of men formerly in the cotton business in my district to help them get other work because their life's occupation is gone. So, we may classify this amendment also as an employment measure.

I do not see how anyone can fairly object to this amendment since all that it does is define in some small degree for the purposes of this act what constitutes membership in a cooperative. The legally operated producer-cooperatives should welcome it, and certainly, Congress is justified in requiring the simplest attributes of membership here laid down, both in protecting producer-cooperatives and public funds, as well as in preventing unfair and destructive competition by Government-financed merchandising organizations which have no real attributes of producer-cooperatives. Surely, membership should entail some right to profits and some burden for losses, or it means nothing more than membership in a night club during the prohibition era.

I sincerely urge adoption of the amendment.

Mr. JONES. Mr. Chairman, there is no reason why a bona fide cooperative should not be permitted to perform any of these functions for its members. Everyone recognizes that if all the farmers were 100 percent organized on any commodity, they could handle the marketing of that commodity without any legislation. I do not think we should do anything that would prevent cooperatives handling any part of the program they are in a position to handle. That has been the philosophy that has been pursued for some time.

I ask that the amendment be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. CHANDLER].

The amendment was rejected.

Mr. CHANDLER. Mr. Chairman, I offer a further amendment.

The Clerk read as follows:

Amendment offered by Mr. CHANDLER: Amend section 15 (b) (1), on page 37, in line 14, by changing the period to a comma and

adding thereafter the following: "but without discrimination against other producers, processors, and handlers."

Mr. JONES. Mr. Chairman, I have no objection to that amendment. It simply clarifies the matter.

The amendment was agreed to.

The Clerk read as follows:

SEC. 29. The Agricultural Adjustment Act, as amended, is amended by adding after section 20 the following new section:

"SEC. 21. (a) No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed. The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15 or under section 17.

"(b) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the provisions of law made applicable by section 19 may be reserved in the court's order.

"(c) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture and/or of the President by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically on May 12, 1933, by act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

"(d) No refund or credit shall be made or allowed of any amount of any tax which accrued on or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless (1) the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, (A) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, and that he has not collected from the vendee any part of such amount, or (B) that he has repaid such amount to the producer or the ultimate purchaser of the article, and (C) in the case of hogs that such amount has not been deducted from the price paid to the producer, or (2) the claimant files with the Commissioner of Internal Revenue the written consent of such producer and ultimate purchaser to the allowance of the credit or refund. The provisions of this subsection shall not apply to any refund under section 15 (a), section 16, or section 17.

"(e) No refund or credit shall be made or allowed of the amount of any tax, under section 15, section 16, or section 17, unless, within 1 year after the right to such refund or credit has accrued, a claim for such refund or credit (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund or credit, except that if the right to any such refund or credit accrued prior to the date of the adoption of this amendment, then such 1-year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

"(f) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax which accrued, on or after the date of the adoption of this amendment, under this title, and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax.

"(g) Whenever in this title a refund of any tax is authorized to be made to any person other than the person required to pay the tax with respect to which an application for refund is made,

upon statement under oath by the applicant for refund that he has no knowledge, information, or belief that such tax has not in fact been paid, then for the purpose of such refund to said applicant such tax shall be deemed to have been due from and paid by the person liable therefor. Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of the tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue. Whoever makes any false statement under oath in connection with applying for or securing such refund of any tax shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 6 months, or both."

Mr. GIFFORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIFFORD: Page 44, line 20, strike out Sec. 21 (a).

Mr. GIFFORD. Mr. Chairman, this is the amendment to which I have heretofore referred, wherein any tax that may have been illegally collected prior to the adoption of this act will be frozen, so that a citizen will not be able to go into court and collect it. It may be possible that this act itself is unconstitutional. In fact, the writers of the act, on page 46, section (c), which I will not ask to have stricken out, would seem to think so. There they make another recitation saying, in effect, that all these acts to all intents and purposes shall be just as effective as if we had done it constitutionally in 1933. I do not believe the recitation will amount to much when the Supreme Court looks it over, but you have emphasized it and you also practically say that the Supreme Court must not think, because of the recitation made, that it may carry the import that it might be unconstitutional. That will be found at the bottom of the page:

Nothing here would import or suggest that it would be unconstitutional.

However, I am approaching this from a little different angle. Because you may be wearied of my own arguments, a prominent editorial writer has furnished me with something better than I perhaps could present here as my own statement, to the effect that every other citizen in every other kind of business in the country always adds to his costs, and even though he passes it on—which in this case he has not been able to do—he has had his right to recover. However, even though he has handed it on and afterward it was found that the taxes were illegally collected, certainly it is the right of a citizen to go into court and recover. According to this editorial the processing tax idea is a "fanaticism" in the minds of its proponents, and reason does not prevail. These editorial writers regard this as a most serious matter. Prominent writers are bringing to the attention of the country the fact that this is probably the first time any such attempt has actually been made to retain taxes illegally collected and where a citizen has been deprived of the right even to attempt to recover them.

I hope this amendment will have some serious attention.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. GIFFORD] has expired.

Mr. JONES. Mr. Chairman, of course, this is a question that involves processing fees that have been heretofore collected, practically none of which has actually been absorbed by the processor. A serious situation arises with reference to these processing fees. The argument has been made repeatedly by those who have opposed processing fees, that they are either passed back to the farmer in the way of reduced prices or passed on to the consumer in the way of increased prices. Now the argument is made by some gentlemen who oppose them that the price to the consumer is increased so greatly that we cannot afford to have a farm program. If that be true, what excuse could there be for permitting the processor who had not actually absorbed the taxes to recover these great sums?

The CHAIRMAN. The time of the gentleman from Texas [Mr. JONES] has expired.

Mr. HOPE. Mr. Chairman, I move to strike out the last word.

The statement has been made on the floor several times in the course of this debate, and so far as I know it has not

been challenged, that the cotton processing tax is not being passed on to the consumer. I do want to challenge that statement. There has been no proof offered here that it is not being passed on to the consumer.

Mr. GILCHRIST. Will the gentleman yield?

Mr. HOPE. I yield.

Mr. GILCHRIST. Is it not true that the statement has always been made that this has been a tax upon clothing? Is that not the statement that has been made?

Mr. HOPE. The opponents of this legislation have urged various reasons in opposition to it. Some of them say it has been a tax on clothing. Now, the gentlemen representing the textile interests say that they cannot pass it on, but I want to call attention to some figures which are contained in the report of the Administrator of the Agricultural Adjustment Act just issued.

These figures show the increase in the price of cotton goods since the processing tax went into effect. It is not pretended, of course, that all of this increase is due to the processing tax, because it includes additional costs due to labor. It includes a higher base price for cotton, but these figures show that a pair of overalls at retail sold on an average at \$1.09 on July 27, 1933, before the processing tax went into effect; whereas the average price for the period from November 1933 to November 1934, was \$1.56, or an increase of 47 cents. These figures show that sheets 81 by 99 inches in size increased in price from 99 cents to \$1.31; that work shirts increased in price from 73 cents to 91 cents; that unbleached muslin per yard increased in price from 10 cents to 14 cents during this period.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HOPE. I yield.

Mr. DONDERO. Can the gentleman inform the House what percentage of the processing tax collected has gone to the producer?

Mr. HOPE. Of the processing tax collected I would say 95 percent has gone back to the producer—all of it except the cost of administration which, to my best recollection, has not exceeded 5 percent.

[Here the gavel fell.]

Mr. JONES. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto do close in 16 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WEARIN. Mr. Chairman, I was very glad to see the Committee on Agriculture include in this bill at page 25 a section with reference to the books and the records of the processors of agricultural products. For some time I have had pending before the Committee on Agriculture several bills with reference to this particular subject matter by which I have sought to amend the existing Packers and Stockyards Act of 1921 in such manner that the Secretary of Agriculture would have access to the books and records of the processors of agricultural products. Consequently, it is a great satisfaction to me to see the Committee on Agriculture include a provision of this type in this particular legislation, even though it is of only a temporary character. I trust it will establish a precedent upon which we may proceed in the future to accomplish the thing I have desired to accomplish for some time.

It should be remembered that notwithstanding the distress we have experienced during the past few years the processors of food products have been able to show a profit substantially higher than other major manufacturing industries in this country while the producers of the products they were processing were going bankrupt on every hand in our farm State of Iowa. This is one of the excellent reasons why the Secretary of Agriculture should have access to the books and records of such concerns. It would then be possible for us to determine the reason for such a strange coincident without additional action by Congress as appears to be necessary at the present time.

I might also suggest at this point that I likewise have pending before a committee of the Congress a resolution

asking for a thorough investigation of food processors, the prices they are charging consumers today and the percent of the said consumer's dollar that is reaching the pockets of the producers. With such data before us we could determine the exact status of the American farmer as compared to what it was say a decade or two ago. A similar proposal sponsored by Senator WHEELER has already passed the United States Senate. Action upon my resolution in the House would insure results.

The legislation I have proposed that deals with the inspection of books and records of food processors includes provisions that would simplify the legal procedure now existing with reference to the enforcement of the terms and the provisions of the Packers and Stockyards Act of 1921, which is being enforced with great difficulty at the present time. I shall cite to you a recent example in a case in the southern section of the United States resulting from a complaint entered by the Secretary of Agriculture against 12 of the packing industries of this country. They placed on the witness stand approximately 900 witnesses with reference to that particular matter. It was perfectly obvious, from their testimony, that they were doing it with the specific thought in mind of prolonging that case, thereby defeating the purpose of the Secretary of Agriculture from the standpoint of enforcing the provisions of the Packers and Stockyards Act of 1921. I trust that after our deliberations upon the pending bill, the Committee on Agriculture and the House of Representatives will consider seriously bills of a character such as I have described briefly today, with reference to giving the Secretary of Agriculture access to the books and records of the packing interests of this country as a permanent policy.

Furthermore, I trust such legislation along this line as may be considered by the Committee on Agriculture will, at the same time, simplify the legal procedure with reference to the enforcement of the act of 1921 in order that we can get some action with reference to the protection of the public that was intended to be afforded to them in that act.

[Here the gavel fell.]

Mr. BLANTON. Mr. Chairman, I offer an amendment. In line 7, page 49, strike out the words "shall be guilty of."

The CHAIRMAN. The Chair informs the gentleman from Texas that a motion is already pending before the Committee.

Mr. BLANTON. Mr. Chairman, something has been said about our farmers having given up their rights by reason of acts passed by Congress. Today in the United States I believe farmers have more rights than anywhere else in the world. In this country no farmer has given up any rights under any bill Congress has passed except by his own volition, and every right any farmer has given up has been for the benefit of all farmers as a class and, incidentally, for the benefit of the people of the United States, because whenever you affect the interests of the farmer you affect the interests of the people everywhere in our country.

In my mind I have just been comparing the rights of the farmers in this country with the rights of the farmers in Russia. In Russia they are told when to go to bed at night, when to get up in the morning, what they shall do as to farm work during the daytime, and how they shall do it, what they shall do at night, what they shall do for recreation; and after they work hard all day, all week, all month, and all year, most of the product of their industry is taken from them by the Government.

In Russia today you will find hundreds of thousands of farmers absolutely starving to death because their Government has not left them enough food from the products of their own labor to subsist upon.

Mr. HOEPPPEL. Will the gentleman yield?

Mr. BLANTON. Has the gentleman something informative to give us on the subject of starving farmers in Russia?

Mr. HOEPPPEL. Yes. I received a letter from a constituent of mine past 70 years of age. He and his aged wife have just lost their home because the Home Owners' Loan Corporation would not assist them. He must submit to an operation next month, and under our Democratic relief plan he

receives insufficient subsistence and absolutely no meat. His work order for 1 week included two cans of sardines. Imagine a diet of this kind for an aged person who is to submit to an operation!

Mr. BLANTON. Where is that?

Mr. HOEPEL. In Los Angeles. I think we ought to pay more attention to our own country, talk less about Russia, and do more for the United States and for our own unfortunate people.

Mr. BLANTON. I am talking about the American farmer and his rights as compared with the rights of starving farmers in Russia. I do not hesitate to discuss conditions in Russia when Russian Communists have been trying to disrupt the American farmers of the United States.

I do not want to see a condition ever arise in this country where the right of any farmer may be taken from him. I do not want a condition ever to arise in the United States where the Government of the United States may say to a farmer what he shall do, and how he shall do it, and what he shall not do, and where the Government may also say to him: "We will take from you most of the products of your labor."

I do not yield to the gentleman from California.

[Here the gavel fell.]

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to proceed for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BLANTON. May I say to the gentleman from California that one thing I did in this session of Congress I am proud of is my amendment that I got passed on the recent District appropriation bill that will prevent another dollar of American money being paid to any teacher in Washington who advocates or teaches communism in the schools in Washington, which read as follows:

That hereafter no part of any appropriation for the public schools shall be available for the payment of the salary of any person teaching or advocating communism.

I got that amendment placed in the bill, and passed, and it is permanent law. No Communist teacher in the schools of Washington, or anybody else connected with our public schools here advocating communism therein will ever be able to get another dollar of salary out of the Federal Treasury. [Applause.]

[Here the gavel fell.]

Mr. GIFFORD. Mr. Chairman, I regret another word seems necessary, but I want to parallel the words made by my good friend the gentleman from Kansas. After all the testimony that has been introduced by our New England Members in reference to the processing tax, I am sorry that our words have not been accepted as facts. Should we have cluttered up the RECORD with the letters and the statements that we have received from our manufacturers? The New England Council received scores of letters from manufacturers stating that they could not pass on this tax. There was one case where the manufacturer testified that after adding all the costs, in order to meet competition he could add only exactly 43 percent of this tax.

Mr. HOPE. Will the gentleman yield?

Mr. GIFFORD. I yield to the gentleman from Kansas.

Mr. HOPE. The gentleman will admit there has been a great increase in the cost of cotton goods?

Mr. GIFFORD. Indeed we admit that.

Mr. HOPE. It has been handed on. There has been a great increase in the retail price as well.

Mr. GIFFORD. It has not been handed on! The only point I make is that the gentleman said we had adduced no proof. The proof we have adduced is contained in pages upon pages that have been submitted to the special Cabinet committee.

Mr. HOPE. The gentleman has not produced any proof before the House.

Mr. GIFFORD. I cannot admit any such thing. We have testified here personally day after day. We have scores of letters on our desks which we could have put in the RECORD.

These letters have been filed with the Cabinet officers. I do not like the statement that we have not proven our case. I know, and the country knows, that we have proven our case. We could pass on only a portion, and sometimes none, of the processing tax in order to meet competition. The statement is an unfair statement, especially from the very able Member from Kansas, who is usually fair and considerate.

[Here the gavel fell.]

Mr. BEAM. Mr. Chairman, may I direct the attention of the Chairman of the Agricultural Committee and his legal adviser here to page 45, line 1, which states:

The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15 or under section 17.

In reference to the computation of the tax, I would like to ascertain from the chairman if that does not also imply an error in the ascertainment or computation of the tax? In other words, suppose an error is made in computing the tax rate. Is that section applicable to an error in computing the tax rate?

Mr. JONES. I doubt whether that would be included. I know what the gentleman is driving at. The trouble in construing it to include that would be that there might be a dispute over the elements which the Secretary considered in making up the rates.

I think any purely mechanical error that might be made in compiling the total tax—

Mr. BEAM. Or any mistake in determining the tax rate applicable to that section would certainly come within the meaning of the section.

Mr. JONES. If it were a mechanical mistake, it would probably be included. An error of law would not be included, because we do not want to put behind these taxes a controversy over whether the Secretary should allow so much consideration to this or so much to that, but if, in making up the tax, he inadvertently used a wrong figure or made a mistake in the compilation, I think such a mechanical or clerical mistake would be included.

Mr. BEAM. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. GIFFORD].

The amendment was rejected.

The Clerk read as follows:

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, to determine such facts. Such investigation shall be made after such notice and hearing and subject to such regulations as the President shall specify.

"(b) If, after such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by order direct that the entry into the United States of such article or articles shall, for such time as may be specified by him, be permitted subject to (1) such terms and conditions, (2) such limitations on the total quantities thereof which may be imported, or (3) the payment of such compensating taxes as he finds necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with such program or operation undertaken under this title. Any compensating tax imposed under this section shall be in addition to any tax imposed under section 15 (e) and the provisions of such section shall apply thereto.

"(c) Any decision of the President as to facts under this section shall be final.

"(d) Upon information of any order of the President under subsection (b), the Secretary of the Treasury shall permit entry of any article or articles specified therein only in conformity with such order.

"(e) After investigation, report, and finding in the manner provided in the case of an original order, any order or provision thereof may be suspended or revoked by the President whenever he finds that the circumstances requiring the order or provision no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the provisions of this section."

Mr. CRAWFORD. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. CRAWFORD: On page 49, strike out lines 15 to 25 inclusive, and on page 50, strike out lines 1 to 17 inclusive, and insert in lieu thereof the following:

"SEC. 22. (a) In order to put into force and effect the policy of Congress by this act intended, the United States Tariff Commission (1) upon the request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the Commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate and find upon such investigation that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken by this title, the said United States Tariff Commission shall certify its findings to the President. Such investigation shall take precedence over any investigation authorized by any previous act of Congress.

"(b) Upon the receipt by the President of such certificate issued by the aforesaid Commission, the President shall by order direct that the entry into the United States of such article or articles shall, for such a time as may be specified by him, be permitted subject to (1) such terms and conditions, (2) such limitations on the total quantities thereof which may be imported, or (3) the payment of such compensating taxes as he finds necessary to prescribe in order that the entry of such article will not render or tend to render ineffective or materially interfere with such program or operations undertaken under this title. Any compensating tax under this section shall be in addition to any tax imposed under section 15 (e) and the provisions shall apply thereto."

Mr. JONES. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CRAWFORD. Mr. Chairman, every Member of this House knows the concern there is throughout the country today, particularly in the farming sections, caused by the importation of foreign-produced farm goods coming into this country at a time when, through one means or another, the production of farm goods is being held down and acreage is being retired in the United States.

I think, perhaps, if this one objection to the triple A was eliminated there would be a great deal more satisfaction than at the present time. This would remove a great many of the complaints which people have against the triple A; but so long as we do decrease production in this country and at the same time bring in these staggering imports from other parts of the world, there will be a tremendous amount of justifiable opposition to the operations of the Agricultural Adjustment Act.

Section 30, as set forth in this bill, in my opinion, has three very distinctly weak provisions.

One is that when the President has to arrive at such a decision he will have pressure from the reciprocal trade agreement countries pushing on one side and pressure from the producers of such goods in this country pushing on the other, and as between these two forces he must have a reason.

The second point is that the United States Tariff Commission, which is supposed to be a nonpartisan commission, and which is supposed to have power to act without operating under duress or restraint imposed by the President, as set forth in the recent decision of the Supreme Court in the Humphrey case, must as set forth here carry on the investigation under such regulations as the President shall specify. I think therein is a very weak part of this section, and I think it imposes a responsibility on the President which he should not be forced to carry.

I believe this will subject the President to tremendous criticism, and I do not see how he can satisfactorily administer this particular section if he is to set forth the regulations under which the Tariff Commission is to act.

Mr. BOILEAU. Mr. Chairman, will the gentleman yield?

Mr. CRAWFORD. I yield.

Mr. BOILEAU. I may suggest to the gentleman that the reason for that is to facilitate matters, it being felt by those who proposed this amendment that if the Tariff Commission

operated under their usual methods it would take too long, and therefore the desired results would not be accomplished.

Mr. CRAWFORD. In answer to that statement, I may say that my amendment provides that such an investigation as would come about through this section would take precedence over any other investigation authorized by any previous act of Congress. This would leave the Tariff Commission free to act and carry on its investigation and determine the facts and certify these facts without any pressure from the President.

The third point I wish to bring out with reference to section 30 is that the decision of the President as to the facts under this section shall be final. Let the Tariff Commission determine the facts. Let it be an impartial investigation. Let Congress—either or both Houses have the right to initiate these highly important investigations in these peculiar times of crop reduction when so many people are going hungry—initiate the investigation by passing resolutions to the effect that the Commission shall make them and certify the facts to the President for prompt action. Let those who are being driven out of production, whether it be the processor or the farmer, have the right to appeal to the Tariff Commission to proceed with an investigation for a determination of the facts. Let the Tariff Commission have the right, under its own motion, to make an investigation if it feels that a sufficient quantity of goods are coming in to defeat the intent of Congress as set forth under the provisions of this act. Finally, let there be impartial investigations, nonpartisan investigations, which are the only kind the Commission should make. The Supreme Court has held that the Chief Executive shall not discharge members of the Tariff Commission simply because they do not agree with the tariff and trade policies of the President. Yet if we leave section 30 of the bill as it is now presented to us, we provide a means whereby the President can circumvent the Supreme Court decision and even issue the regulations whereby and whereunder the Commission shall be forced to act. That is not fair to the farm people of this country who are cooperating with the administration in this reduction program. It is not fair to the American people who contribute money in the form of processing taxes all to the end benefit payments may be made for the reduction of the production of food, clothing, and shelter. The enactment of such a provision in this bill, which purports to be in the interest of the American farmer, cannot be justified or successfully defended. Mr. Chairman, I hope the chairman of the committee will accept this amendment. [Applause.]

Mr. REED of New York. Mr. Chairman, I rise in opposition to the amendment. I ask unanimous consent to revise and extend my remarks and to include therein some official figures.

The CHAIRMAN. Without objection, it is so ordered.

Mr. REED of New York. Mr. Chairman, I believe that no person who loves individual liberty can examine the provisions of H. R. 8492—the purpose of which is to vest larger powers of regimentation in the Secretary of Agriculture than he now has under the Agricultural Adjustment Act—without a feeling of apprehension as to the wisdom of the proposed measure.

Almost every section and paragraph of the bill reeks with arbitrary regulations, licenses, pains, forfeitures, fines, and penalties. The poison in these legislative pills is sugarcoated with promises of bonuses, subventions, and a more abundant life to make them palatable until the drug has time to paralyze the victim.

The arbitrary powers under the A. A. A. sought to be vested in the Secretary of Agriculture and the still greater powers the amendments seek to confer upon him invite attention to the record of the official who is to wield these powers. The inflammatory character of the speeches, the propaganda machinery set in motion to mobilize the hatred of class against class by the official who is to administer such arbitrary and sweeping powers under the A. A. A. and under the amendments here proposed ought not to be ignored by those who legislate.

The statements made by the Secretary of Agriculture during his tour of New England, and the misleading and inflammatory statements recently made by him in his speech at Peoria, Ill., are not such as to inspire confidence in his leadership.

The farmers of this Nation, the great rank and file of them, are practical men, fair and honest, and they know that impractical leadership in the affairs of agriculture will in the long run mean disaster to their interests, not success.

To be more specific, what is the record of the Secretary of Agriculture as a formulator of policies and as a practical leader in the field of agriculture? Some very pertinent facts bearing on this point were recently stressed in a radio speech delivered on May 5, 1935, by Dr. G. W. Dyer, professor of economics, Vanderbilt University. Discussing the condition of the farmers in the Southern States, as revealed by authentic official statistics, he said:

There were 1,112,834 farms in the Southern States in 1930 that were operated by full owners. Of this number, only 328,773 were mortgaged. In the Southern States 784,773 farms were absolutely free of mortgages. * * * Less than 28 percent of the farms operated by full owners in the Southern States carry any mortgages at all. Over 78 percent of the farms of Virginia operated by owners are free of mortgage.

Professor Dyer then points out the conditions in Iowa, the home State of the man whom it is proposed to clothe with dictatorial powers to lead the farmers to economic salvation. Here is what he says:

The farm mortgage indebtedness of Iowa is greater than that of all the Southern States combined, with Texas excluded. In the State of Iowa, where Mr. Wallace has been a conspicuous leader in agricultural policies, farm mortgage indebtedness increased over \$285,000,000 between 1910 and 1920. This was an increase of 132 percent; yet this was the period of great agricultural prosperity.

The farmers of New York State have received insignificant benefits under the Agricultural Adjustment Act. This has been openly and frankly admitted by one of the A. A. officials, Mr. Chester Davis. Viewed from the angle of the cost of living resulting from the imposition of processing taxes upon the necessities of life, A. A. A. has been highly injurious to the farmers and all other consumers in New York State.

Official figures clearly demonstrate that the purpose and practical effect of the operation of the law is to collect processing taxes in one section of the country and distribute the money so collected to other sections. There had been collected in processing taxes under the A. A. A. from the taxpayers in New York State up to April 30, 1935, a total of \$89,528,119.86. The total rental and benefits paid to the farmers of New York State during the same period amounted, all told, to \$384,519.82.

Broken down as to commodities, \$66,696.24 was paid to farmers in my State for not raising wheat; \$67,384.91 was paid to the farmers for not raising tobacco; and \$250,438.67 for not raising corn and hogs.

The story of Iowa, the home State of the Secretary of Agriculture, presents a very different picture. The taxpayers of the State of Iowa paid in processing taxes during the same period \$27,837,138.47. Rentals and benefits paid to the farmers covering the same period amounted to \$70,376,519.14.

The official records of the A. A. A. show that in nine counties of Iowa up to April 30, 1935, the farmers had received in rental and benefits more than \$1,000,000 each or an actual aggregate sum for the nine counties of \$11,550,173.44.

I respectfully submit two schedules furnished by the Agricultural Department showing the benefits paid to farmers in the State of Iowa and the State of New York, respectively:

SCHEDULE No. 14

Rental and benefit payments, Apr. 30, 1935

County	Total	Wheat	Corn hogs
IOWA			
Adair.....	\$809,943.03	\$3,182.91	\$806,760.12
Adams.....	555,532.63	1,345.78	554,186.85
Allamakee.....	384,812.80	1,359.72	383,453.08
Appanoose.....	263,486.81	1,452.12	262,034.69
Audubon.....	718,746.02	698.23	718,047.79
Benton.....	918,564.15	1,884.41	916,679.74
Black Hawk.....	751,253.20	461.88	750,791.32
Boone.....	666,845.94	1,388.88	665,457.06
Bremer.....	437,955.76	415.73	437,540.03

SCHEDULE No. 14—Continued

Rental and benefit payments, Apr. 30, 1935—Continued

County	Total	Wheat	Corn hogs
IOWA—continued			
Buchanan.....	\$657,837.92	\$483.54	\$657,354.38
Buena Vista.....	848,725.19	130.97	848,594.22
Butler.....	676,611.99	64.75	676,547.24
Calhoun.....	749,858.75	964.62	748,894.13
Carroll.....	904,395.20	1,067.64	903,327.56
Cass.....	890,766.73	8,091.12	882,675.61
Cedar.....	837,106.89	2,024.30	835,082.59
Cerro Gordo.....	647,736.38	186.64	647,550.34
Cherokee.....	648,480.20	184.98	648,295.22
Chickasaw.....	456,845.74	11.76	456,833.98
Clarke.....	368,223.91	482.56	367,741.35
Clay.....	734,920.83	52.80	734,868.03
Clayton.....	822,586.66	1,071.70	821,514.96
Clinton.....	939,575.51	4,371.92	935,203.59
Crawford.....	1,168,927.14	7,195.87	1,161,731.27
Dallas.....	875,685.72	21,164.86	854,520.86
Davis.....	266,681.15	1,227.84	265,453.31
Decatur.....	411,243.75	2,626.61	408,617.14
Delaware.....	697,449.53	—	697,449.53
Des Moines.....	455,662.53	16,196.09	439,466.44
Dickinson.....	427,078.28	48.20	427,030.08
Dubuque.....	648,421.44	675.35	647,746.09
Emmet.....	701,761.70	1,350.37	700,411.33
Fayette.....	701,234.99	—	701,234.99
Floyd.....	485,769.73	1,108.77	484,660.96
Franklin.....	854,961.03	—	854,961.03
Freemont.....	780,423.50	38,274.79	742,148.71
Greene.....	739,496.99	426.63	739,070.36
Grundy.....	687,822.24	131.30	687,690.94
Guthrie.....	700,349.32	2,249.91	698,099.41
Hamilton.....	828,915.22	837.34	828,077.88
Hancock.....	725,788.46	149.34	725,639.12
Hardin.....	839,540.94	298.21	839,242.73
Harrison.....	838,719.24	38,586.88	800,132.36
Henry.....	530,981.19	3,290.86	527,690.33
Howard.....	368,212.35	1,066.73	367,145.62
Humboldt.....	607,068.19	215.74	606,852.45
Ida.....	751,291.46	137.00	751,154.46
Iowa.....	882,621.02	5,540.95	877,080.07
Jackson.....	564,435.87	1,152.85	563,283.02
Jasper.....	1,182,570.48	12,133.51	1,170,437.17
Jefferson.....	429,670.91	1,922.06	427,748.85
Johnson.....	926,933.01	1,679.47	925,253.54
Jones.....	644,413.90	469.51	643,944.39
Kiokuk.....	823,105.89	2,343.87	820,762.02
Kossuth.....	1,273,385.35	146.91	1,273,238.44
Lee.....	314,286.12	7,114.47	307,171.65
Linn.....	856,825.18	823.47	856,001.71
Louisia.....	470,782.17	16,511.05	454,271.12
Lucas.....	328,507.58	863.50	327,644.08
Lyon.....	701,633.06	435.59	701,198.07
Madison.....	780,735.40	23,717.13	757,017.87
Mahaska.....	926,178.42	7,182.20	919,096.22
Marion.....	743,776.14	6,967.01	736,809.13
Marshall.....	815,483.82	2,240.80	813,243.02
Mills.....	664,586.70	26,053.06	638,533.64
Mitchell.....	460,411.28	522.88	459,888.40
Monona.....	1,080,335.51	180,552.62	899,782.89
Monroe.....	308,887.26	2,781.08	306,106.18
Montgomery.....	732,398.12	14,044.99	718,353.13
Muscatine.....	485,611.72	6,227.96	479,383.76
O'Brien.....	761,508.46	306.29	761,202.17
Osceola.....	485,291.37	—	485,291.37
Page.....	914,383.27	37,450.51	876,932.76
Palo Alto.....	728,947.26	371.44	728,575.82
Plymouth.....	1,060,829.69	5,708.03	1,055,121.66
Pocahontas.....	790,562.37	—	789,774.37
Folk.....	739,359.89	42,278.02	697,081.87
Pottawattamie.....	1,537,616.29	16,819.91	1,520,796.38
Poweshiek.....	952,467.89	743.97	951,723.92
Ringgold.....	484,442.86	2,071.99	482,370.87
Sac.....	919,896.46	330.63	919,565.83
Scott.....	696,512.79	22,171.26	674,341.53
Shelby.....	1,008,540.51	1,138.91	1,007,401.60
Sioux.....	1,034,110.83	927.14	1,033,183.69
Story.....	847,200.61	1,993.53	845,207.08
Tama.....	966,578.02	1,547.40	965,030.62
Taylor.....	527,235.70	5,567.53	521,668.17
Union.....	441,928.53	1,310.16	440,618.37
Van Buren.....	272,723.64	2,298.01	270,425.63
Wapello.....	414,043.94	15,559.72	398,484.22
Warren.....	784,742.30	30,891.41	753,850.89
Washington.....	872,905.21	1,466.33	871,438.88
Wayne.....	407,253.01	858.18	406,394.83
Webster.....	761,879.02	958.43	760,920.59
Winnebago.....	434,598.45	—	434,598.45
Winneshiek.....	678,141.40	842.04	677,299.36

SCHEDULE No. 31

Rental and benefit payments, Apr. 30, 1935

County	Total	Wheat	Tobacco	Corn hogs
NEW YORK				
Albany.....	\$14,451.66	—	—	\$14,451.66
Allegany.....	4,119.52	—	—	4,119.52
Broome.....	5,104.86	—	—	5,104.86
Cattaraugus.....	11,577.37	—	—	11,577.37
Cayuga.....	24,292.58	\$3,705.36	\$11,986.11	8,601.11
Chautauqua.....	5,760.46	—	—	5,760.46
Chemung.....	18,692.32	237.89	13,618.93	4,835.50
Chenango.....	3,565.72	—	—	3,565.72

SCHEDULE No. 31—Continued

Rental and benefit payments, Apr. 30, 1935—Continued

County	Total	Wheat	Tobacco	Corn hogs
NEW YORK—continued				
Clinton	\$1,916.42			\$1,916.4
Columbia	6,906.50	\$287.47		6,619.03
Cortland	557.20			557.20
Delaware	7,950.33			7,950.43
Dutchess	1,870.50			1,870.50
Erie	15,812.93	1,681.72		14,131.21
Essex	4,110.12			4,110.12
Franklin	3,816.13			3,816.13
Genesee	13,578.39	6,387.10		7,191.29
Greene	2,944.71			2,944.71
Herkimer	1,400.26			1,400.26
Jefferson	7,143.67			7,143.67
Lewis	307.76			307.76
Livingston	16,363.39	12,241.65		4,121.74
Madison	4,069.58			4,069.58
Monroe	13,099.79	6,060.87		7,038.92
Montgomery	84.00			84.00
Niagara	11,235.91	3,301.14		7,934.77
Oneida	7,364.11			7,364.11
Onondaga	36,727.52	1,293.91	\$29,014.39	6,419.22
Ontario	19,358.68	9,599.70		9,758.98
Orange	201.35			201.35
Orleans	13,817.10	3,011.97		10,815.13
Oswego	8,082.32		927.32	7,155.00
Otsego	1,155.48			1,155.48
Rensselaer	5,770.73			5,770.73
Rockland	190.19			190.19
St. Lawrence	11,819.65			11,819.65
Saratoga	11,771.32			11,771.32
Schenectady	2,347.23			2,347.23
Schoharie	1,519.53			1,519.53
Schuyler	4,074.25	1,552.70		2,521.55
Seneca	8,591.14	1,766.39		6,824.75
Steuben	15,359.29		11,838.16	3,521.13
Sullivan	1,548.34			1,548.34
Tioga	2,211.11			2,211.11
Tompkins	2,720.40	1,376.29		1,344.11
Ulster	1,059.09			1,059.09
Warren	934.79			934.79
Washington	3,050.55			3,050.55
Wayne	8,676.80	1,968.16		6,708.64
Wyoming	9,312.54	6,109.79		3,202.75
Yates	6,124.13	6,124.13		
Total	384,519.82	66,696.24	67,384.91	250,438.67

Mr. MOTT. Mr. Chairman, I present a substitute for the amendment of the gentleman from Michigan.

The Clerk read as follows:

Page 51, line 4, after the word "section", insert: "Provided, however, That whenever the Secretary of Agriculture shall find that a surplus of any agricultural product or products exists in the United States he shall so certify to the President, and thereupon the President shall by order direct that no such product or products shall be imported into the United States so long as such surplus exists. Such order may be suspended or revoked by the President upon certification by the Secretary of Agriculture that such surplus no longer exists."

The CHAIRMAN. The Chair will say to the gentleman that he does not think that that is a substitute for the pending amendment, but is an amendment to the section.

Mr. MOTT. Very well. I will offer it as an amendment to the section.

Mr. Chairman, this amendment is so plain and simple that I feel that it explains itself.

Mr. ANDRESEN. Mr. Chairman, will the gentleman yield?

Mr. MOTT. I am sorry I cannot yield, but I have only 3 minutes. This amendment leaves section 30 as it is. The discretionary authority granted the President by section 30 is still there if he wants to use it. Gentlemen who think the President will use that discretion or authority ought to be satisfied on that score, because this amendment does not interfere with it.

This amendment, however, goes on and says that whenever the Secretary of Agriculture finds that there is a surplus in any agricultural commodity in the United States he shall certify that fact to the President, and the President thereupon shall by order prohibit the importation of that commodity into the United States so long as that surplus exists.

Now, many gentlemen on both sides of the aisle have stated at various times that they want regulation that will keep foreign agricultural products out of this country altogether when our own farmers are producing more of those commodities than they can sell. I speak to the Republicans

who time after time have expressed their opinion on that point. If they want tariff protection that will really protect, if they want regulation that will effectively give the American market to American farmers, let them vote for my amendment. Gentlemen who believe that agricultural commodities in this country of which we produce a surplus should be protected entirely from foreign importations, should vote for this amendment, whether they be Democrats or Republicans. [Applause.]

Mr. HULL. Mr. Chairman, I have an amendment which I send to the desk.

The CHAIRMAN. Is it an amendment to the pending amendment?

Mr. HULL. No; it is an amendment to the section.

The CHAIRMAN. The Chair asks the gentleman to withhold his amendment until the pending amendment is disposed of. The question is on the amendment offered by the gentleman from Michigan [Mr. CRAWFORD].

Mr. JONES. Mr. Chairman, just a word on that. I hope the House will vote down these amendments. This is a very fine provision as it stands now, under which something may be accomplished. It is not customary in legislation to give directions to the Chief Executive. I think we would be in danger of losing the whole power if the wishes of these gentlemen who want to make it different should prevail. They are somewhat in the position of the dog in Aesop's Fables. Having a piece of meat in his mouth, he saw the shadow of it in the water, and grabbed for what he thought was the better piece of meat and lost it all. This is a good provision if adopted and it can be made very effective. I hope the House will vote down the amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan.

The question was taken; and there were on a division (demanded by Mr. MARTIN of Massachusetts)—ayes 51, noes 111.

So the amendment was rejected.

Mr. MOTT. Mr. Chairman, I offer my amendment at this point.

The CHAIRMAN. The gentleman from Oregon offers an amendment which the Clerk will again report.

The Clerk again reported the Mott amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlemen from Oregon.

The question was taken; and there were on a division (demanded by Mr. Mott)—ayes 52, noes 110.

So the amendment was rejected.

Mr. WITHROW. Mr. Chairman, I offer the following amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. WITHROW: Page 49, line 20, after the comma, insert the following, "or if the domestic price is below the fair exchange value."

Mr. WITHROW. Mr. Chairman, I am deeply concerned with the welfare of the dairy farmer because the welfare of the State of Wisconsin is largely dependent on the welfare of our dairy industry. For the past several years dairy farmers have suffered severely because they have been unable to secure a parity price for dairy products. It is true that during the past several months prices paid to farmers for dairy products have increased, but the farm prices are still below parity and it is obvious that dairy farmers, already faced with bankruptcy, cannot continue indefinitely with prices which do not cover the cost of production.

Because of this very serious situation many representatives of the dairy farmer have come to Washington during the past year to ask that something be done to relieve the dairy farmer. These representatives of the dairy farmers, together with various Members of the House have presented their case before numerous agencies of the Government, only to find that a deaf ear has been turned to their pleas.

The improvement in dairy prices which has occurred has been almost entirely the result of weather conditions and the operations of nature rather than the result of any activity on the part of the various agencies of the Federal Government.

One of the most urgent requests which has been made by the dairy farmers is that they be protected from the competition of foreign imports. At this point let me say that while the activities of the A. A. A. have not helped dairy farmers, they have very materially increased the cost of supplies which dairy farmers must buy and have therefore actually increased the cost of production of dairy products. This fact makes it even more important that protection be afforded against foreign imports.

Despite the fact that butter is now being imported into this country at a price below the domestic cost of production, representatives of the dairy farmers found that the President was unwilling to utilize his power to increase the tariff on butter. I believe that the committee is sincere in its desire to protect our domestic dairy farmers from low-cost foreign imports, and I know that it is the intention of Congress to promote the welfare of our domestic dairy farmers. I do not believe, however, that we will accomplish this purpose by enacting the permissive provisions contained in this bill. It is true that these provisions might work to the advantage of dairy farmers if we could be assured that they would be properly and sympathetically administered, but our experience has been that it has been impossible to secure action under previous permissive legislation very similar to that contained in the committee amendment and I am not optimistic enough to believe that a mere reenactment of what is virtually the present law, will materially benefit dairy farmers.

I am therefore proposing an amendment which makes it mandatory that the President shall take action to prevent importations whenever the domestic price of any farm product falls below a fair exchange value.

My amendment would apply not only to butter but to other dairy products as well and includes all other agricultural products which enter into competition with dairy products.

During the first 2 months of this year the importation of butter into this country has increased more than 20 times over importation during a similar period last year. This rapidly increasing volume of importation, together with the fact that we are approaching the peak of our domestic production season, makes it imperative that action be taken immediately if we are to protect our domestic dairy farmer and the domestic butter market.

It is imperative that action be taken to assure to farmers a parity price for dairy products. I realize that protection from foreign competition alone will not accomplish this purpose, but it is certain that without effective protection from foreign competition, such as would be provided by my amendment, it will never be possible to establish or maintain a parity price in this country.

At this point I ask unanimous consent to insert a table which has been prepared by the Department of Agriculture showing the prices which were actually paid to farmers and the prices farmers should have received during the same period in order to give them a parity price. A comparison of these two prices will show you that farmers have been selling every pound of butterfat at an actual loss; that farmers have been forced to sell their product at a price below the actual cost of production.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Parity prices for butterfat and average prices actually paid to farmers, adjusted to seasonal, by months

	Parity prices butterfat per pound	Actual average farm price butterfat per pound
1924—January.....	42.7	25.7
February.....	43.3	29.0
March.....	43.1	30.2
April.....	41.8	28.4
May.....	41.3	28.6
June.....	40.4	29.1
July.....	40.7	29.4
August.....	41.7	30.8
September.....	43.7	31.7

Parity prices for butterfat and average prices actually paid to farmers, adjusted to seasonal, by months—Continued

	Parity prices butterfat per pound	Actual average farm price butterfat per pound
1934—October.....	44.9	31.7
November.....	45.6	33.9
December.....	46.2	34.9
1935—January.....	46.3	36.9
February 1.....	46.3	40.4

¹ Latest figure available.

Table prepared by Bureau of Agricultural Economics, U. S. Department of Agriculture.

Mr. WITHROW. There is no justice, gentlemen, in permitting the importation of dairy products when such importation drives into bankruptcy one of the principal branches of our agricultural industry, the dairy farmers.

If we are sincere in our desire to benefit the dairy farmers, then let us do it effectively by the method which is proposed by the amendment which I have introduced. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. JONES. Mr. Chairman, if that amendment were adopted, we would have the President investigating so much all of the time that he would not have time to take action, because he would have to investigate every time the price of a commodity went below parity.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The amendment was rejected.

Mr. HULL. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. HULL: Page 50, line 15, after the word "thereto", insert a comma and the words "and shall be not less than the difference between the cost of production in any foreign country and the cost of production in this country."

Mr. HULL. Mr. Chairman, the purpose of this amendment is to provide that the compensating tax which the President may levy under subsection (b) of this section cannot be less than the difference between the cost of production in our country and the cost of production in any foreign country.

Some 5 years ago there was presented to the Tariff Commission on behalf of Wisconsin dairymen a petition for a revision of the tariff and investigation of the cost of production at home and abroad. That petition is still unacted upon.

Mr. HOPE. Will the gentleman yield?

Mr. HULL. I yield.

Mr. HOPE. Does not the gentleman think that that requirement will necessarily slow up any action, because it will require the Tariff Commission to make studies abroad, and it would delay action to such an extent as to make it ineffective?

Mr. HULL. Oh, they have compiled much information on this same question. They have issued reports on it. All I am asking is that we in the Northwest may have that kind of protection which we need against the introduction of dairy products from countries like the Argentine, New Zealand, and Australia.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. HULL] has expired.

All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin.

The amendment was rejected.

Mr. WITHROW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WITHROW: On page 51, line 4, strike out the period, insert a colon and the following: "Provided, That no importation of any dairy product or other agricultural product which enters into competition with any dairy product shall be permitted unless application is made to the President. Upon receipt of such application for permit to import a dairy product or other agricultural product which enters into competition with any dairy product the President may issue a permit for such importation."

tion if he finds that such importation will not render the domestic dairy program or policy ineffective or materially ineffective. Violation of this provision by any person or corporation shall be punishable by a fine not to exceed \$10,000 for each offense. This provision shall not be construed to prevent the levying of a tax on any dairy product or other agricultural product which enters into competition with any dairy product upon which permit to import has been granted by the President."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin.

The amendment was rejected.

The Clerk read as follows:

SEC. 31. There is authorized to be appropriated for each fiscal year an amount equal to 30 percent of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of such fiscal year. Sums appropriated in pursuance of such authorization shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to: (1) Encourage the exportation of major agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation, (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; (3) purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands; and (4) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated in pursuance of this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to eliminate unprofitable agricultural and grazing lands, bring about the utilization of only such lands as can be profitably utilized, increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds authorized to be appropriated by this section shall be expended pursuant to (3) or (4) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section.

Mr. CARLSON. Mr. Chairman, I move to strike out the last word.

Mr. JONES. Mr. Chairman, I ask unanimous consent that all debate on this section close in 6 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CARLSON. Mr. Chairman, I want to call to the attention of the House the great need of assisting in the exportation of domestic wheat and wheat flour. The wheat harvest is now on, and the cash wheat market has dropped nearly 25 cents per bushel in the last 60 days. When the reciprocal trade agreement law was enacted last spring our people had great hopes that agreements would be negotiated with other countries, particularly with those that have been good markets for our wheat flour, which would permit mills and wheat growers in the United States to recover a substantial portion of the business they have lost since 1929, but instead of relief, here is what has happened: In every reciprocal trade agreement so far concluded wheat flour milled in bond has been classed as a United States product. This flour, milled from Canadian wheat, which has not paid the 42 cents per bushel duty, was used as a United States product because it was a product of industry. The State Department has been willing to accept this wheat flour in these agreements as though it were manufactured from wheat produced in the United States.

From January 1 to April 1, 1935, exports of flour amounted to 199,355 bushels of wheat, of which 30,668 bushels were milled wholly from United States wheat, and 168,687 bushels were milled from other wheat; or, in other words, 85 percent of our flour exports was from wheat milled in bond furnished by Canada. Trade agreements have been concluded with Belgium, Brazil, and Haiti, but no concessions in the duties on wheat or wheat flour were obtained in any of the agreements.

It is unfortunate that under our present laws flour milled in bond from imported wheat when exported from other nations is treated by our Government the same as flour milled from wheat grown in the United States. This is due to the language that appears in the trade-agreement law

and also in the various trade agreements which have been negotiated.

This question was recently brought to the attention of wheat growers and millers when our reciprocal trade agreement was entered into with Haiti. Haiti has a law which doubles the import duty on articles imported from nations which purchase less than 1 percent of the Haitian exports during a 2-year period. Canada, buying less than 1 percent of the Haitian exports, found its flour with 100-percent increase in duty, but flour milled in bond at Buffalo from imported wheat was held by our State Department to be entitled to the duty allowed United States flour, which enjoyed the regular basis. Many of us had the question up with the State Department, trying to get them to hold that bonded flour should not be entitled to greater privileges than Canadian flour, since such flour, if raised in the United States, would have to pay a duty to our Government, but the State Department turned us down.

The millers are greatly concerned because they feel no reduction of any consequence will be secured in any of the reciprocal trade agreements. Likewise the wheat producers are seriously disturbed because they are getting no relief through the trade agreements. Some months ago an agreement with Cuba was concluded and this contains substantial concessions on the import duty on wheat flour and naturally the millers and wheat growers believe other similar agreements should be developed.

The total flour exports from the United States have declined from 13,663,000 barrels in 1929 to 4,165,000 barrels in 1934. The flour exports milled from wheat grown in the United States have declined from 10,644,000 barrels to 1,793,000 barrels in 1934. This shows a startling decline in this period. In 1929 only 22 percent of our flour exports from the United States were milled in bond from Canadian wheat, but in 1934, 57 percent of our total flour exports were milled in bond. I want to call attention to the serious reduction in wheat exports to various countries.

Formerly the Netherlands and the United Kingdom were our best markets. In 1930 we exported 1,473,000 barrels of flour to the Netherlands, but in 1934 only 81,000 barrels. Our flour exports to the United Kingdom in 1930 amounted to 1,536,000 barrels, and only 66,000 barrels in 1934. For many years Brazil was one of the important markets for flour produced in the United States. In 1930 our flour exports to Brazil amounted to 849,000 barrels; in 1934 they were 160,000 barrels. Our flour exports to Denmark in 1930 amounted to 571,000 barrels, but in 1934 we exported only 33,000 barrels. In 1930 we exported 350,000 barrels to Norway, and in 1934, 147,000 barrels. Finland imported 375,000 barrels from the United States in 1930 and only 14,000 barrels in 1934. These examples are merely typical of the fearful decline in our flour exports. This constant decline in the flour production means a corresponding decline in the volume of wheat required for milling purposes.

In 1929 approximately 529,000,000 bushels of wheat were used in the production of flour. By 1934 the amount of wheat consumed in the production of flour declined to 447,000,000 bushels, representing a milling loss of more than 82,000,000 bushels of wheat.

As a representative of one of the great wheat-producing districts of the United States, I want to protest the use of wheat flour milled in bond from Canadian wheat as a United States product in making reciprocal trade agreements. With the passage of this act it is my hope that the State Department will try and secure tariff concessions in order that wheat growers of the United States might receive some benefits from reciprocal trade agreements. [Applause.]

Mr. SAUTHOFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAUTHOFF: Page 51, line 23, after the word "commodities" and the period, add the following: "None of the lands affected under the provisions of section 31 shall be used for creating any agricultural product within the purview of this act."

Mr. SAUTHOFF. Mr. Chairman, my purpose in offering that amendment is this, that no producer shall receive pay

from the Government for taking his acreage out of production and shall then be permitted to transfer it into pasturage on which he can raise sheep, beef cattle, or milk cows, and go into the dairy business. For that purpose, inasmuch as he is paid to take that acreage out of production, in fairness to the other farmers of the Nation he ought not be allowed to go into competition with them.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. SAUTHOFF] has expired.

Mr. JONES. Mr. Chairman, I do not think that would accomplish the purpose. That is covered by the main features of the Agricultural Act.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Wisconsin [Mr. SAUTHOFF].

The amendment was rejected.

The Clerk concluded the reading of the bill.

Mr. PETERSON of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Mr. PETERSON of Georgia moves to amend H. R. 8492 by adding new sections at the end of section 33, as follows:

"Sec. 34. The Secretary of the Interior, through the General Land Office, is hereby authorized—

"(a) To purchase any and/or all obligations secured by liens on farm lands, paying for the same an amount not exceeding the normal value of such lands plus the useful value of buildings and improvements thereon.

"(b) To settle and liquidate all obligations acquired under this act where the mortgagor is still in possession of such lands and where the total normal value of the lands plus the useful value of the buildings and improvements thereon exceeds the total encumbrances thereon, in the following manner: The mortgagor shall be permitted to retain of the mortgaged lands, free of any such obligation, an amount of the land involved which will equal in value to the difference between (1) the total normal value of the total lands encumbered plus the useful value of buildings and improvements thereon and (2) the total amount of the encumbrances. Such settlement shall be made in such manner as will vest in the General Land Office fee-simple title and possession to the remainder of such lands.

"(c) To recognize the right of every mortgagor to carry out the provisions of his obligation, and upon receipt from such mortgagor of complete payment of his obligation and satisfaction of indebtedness according to the terms of his contract, to cancel such obligation and convey it back to the mortgagor.

"Sec. 35. The Secretary of the Interior is hereby authorized to purchase fee-simple title to any and/or all farm lands held by the mortgagee or lienholder under a foreclosure concluded after January 1, 1920, paying for the same an amount not exceeding the normal value of such lands plus the useful value of buildings and improvements thereon and not exceeding the amount of indebtedness under the mortgage or other lien at the time of foreclosure.

"Sec. 36. The Secretary of the Interior is authorized and directed—

"(a) To make all lands coming into possession of the General Land Office under this act a part of the public domain.

"(b) To classify all lands in the public domain according to their fertility, adaptability, and usefulness for farm purposes.

"(c) To withhold and retain from private ownership all the public domain not suited for farm purposes.

"(d) To divide all public lands suitable for farm purposes into tracts, to be known as 'homesteads', of suitable size for the support of a family of average size under normal conditions, taking into consideration the fertility of the soil and general farm conditions and requirements in the section where said lands are located in determining the size of such tracts.

"Sec. 37. The Secretary of the Interior, through the General Land Office, is hereby authorized and directed to grant homesteads provided for in this act to any person who is the head of a family, subject to the following terms and conditions:

"(a) The applicant must have met the general requirements of the homestead acts now in force, not inconsistent with this act, before homestead under this act may be granted.

"(b) Preference must be given to farm families living on farms at the time this act goes into effect—a prior right in mortgagors living on encumbered lands at the time of liquidation of indebtedness to acquire homestead within the bounds of said encumbered lands shall be recognized as a fundamental policy of this act.

"Sec. 38. (a) Homestead grants shall include only the rights of possession and use of the lands included in such homestead tract, but such rights shall be just as full and complete as though the lands were held under fee simple title.

"(b) The Secretary of the Interior shall provide regulations whereby homestead grants provided for in this act may be exchanged.

"(c) No person shall be permitted, at any given time, to have title to more than one homestead tract under this act.

"(d) No person who is the owner of farm land shall be granted a homestead under this act.

"(e) Authority to sell, encumber, or in any manner make such homestead tract subject to any debt shall not be granted and is hereby prohibited as a fundamental policy of this act, and any exercise of or attempt to exercise any such power is hereby declared to be void and of no legal effect.

"(f) Homestead grants, under this act, shall be free except that a nominal registration fee of not exceeding \$10 may be charged.

"Sec. 39. (a) The laws, including those relating to taxation, of any State or political subdivision in which any lands coming into the possession of the Secretary of the Interior under the terms of this act are situated shall apply in the case of such lands in the same manner and to the same extent as such laws apply in the case of privately owned lands.

"(b) Upon failure of any owner of homestead grant under this act to meet all such obligations on the lands held under such homestead grant, his rights under said grant shall be forfeited and shall revert to the General Land Office, and said Office shall have power to eject the owner from possession and repossess such lands, making them again eligible for entry by other qualified applicants under this act.

"Sec. 40. There is hereby authorized to be appropriated, from time to time, such sums as may be necessary to carry out the provisions and intent of this act."

Mr. JONES. Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill.

The CHAIRMAN. Does the gentleman from Georgia desire to be heard on the point of order?

Mr. PETERSON of Georgia. Mr. Chairman, this amendment provides that the farmers, the actual farmers themselves, shall be permitted to enjoy the greatest possible benefits from the other portions of this act or from other similar acts passed by Congress. In my opinion, the amendment is germane to the legislation now before us, because it is in strict harmony with the purpose of the act.

The CHAIRMAN. The Chair is familiar with the wording of the amendment. While there may be some relationship between the purposes of the amendment and the bill, they are not so close as to make the amendment germane. The pending bill is a production-control measure, whereas the amendment offered by the gentleman from Georgia deals with an entirely different subject matter.

The amendment is clearly subject to the point of order, and the Chair sustains the point of order.

Mr. UTTERBACK. Mr. Chairman, I move to strike out the last word.

Mr. JONES. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto do close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. UTTERBACK. Mr. Chairman, this session of Congress has had before it many bills of great importance to the people of the entire Nation, but no bill that has been before this Congress up to the present hour is of greater importance, not only to the people of the agricultural districts of this country but to the people of the entire Nation, than the pending bill amending the Agricultural Adjustment Act.

This bill is important because our agricultural interests want and need the extension of the benefits of the agricultural adjustment program. This bill is important to those representing industrial districts for the simple reason that industry in this Nation cannot prosper, cannot recover, unless the agricultural interests of this country likewise prosper.

Two years and a half ago I saw corn shoveled into the furnaces and stoves of homes and public buildings in the State of Iowa—corn that had been offered for sale or had been sold at 10 cents and less per bushel. Farmers who receive such prices for the things they raise and produce can never purchase the things that are produced by industry and labor. It seems to me self-evident, therefore, that if we are to have industrial recovery, we must have agricultural recovery. On the other hand, if we are to have agricultural recovery in this country we must have industrial recovery. The farmer cannot sell the things he produces and receive therefor a reasonable price unless labor is employed, unless business is receiving a fair and just income upon the amount of money honestly and prudently invested in that business.

So, Mr. Chairman, I hope no Member of any agricultural area and no Member of any industrial area will vote against this bill.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. UTTERBACK. I yield.

Mr. SABATH. It is the opinion of the gentleman, I take it—and I know he has given a great deal of thought and study to this problem and to this legislation—that it will be legislation not only in the interest of the farmer but in the interest of commerce, in the interest of labor, and in the interest of the entire Nation?

Mr. UTTERBACK. That is my judgment and opinion.

Mr. SABATH. After thorough study and consideration of the subject matter?

Mr. UTTERBACK. Yes.

The CHAIRMAN. All time has expired. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Cox, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, pursuant to House Resolution 230, he reported the same back to the House with sundry amendments.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded upon any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill. The question was taken; and on a division (demanded by Mr. MARTIN of Massachusetts) there were—ayes 168, noes 52. So the bill was passed.

A motion to reconsider was laid the table.

EXTENSION OF REMARKS—H. R. 8492

Mr. EICHER. Mr. Speaker, at the outset of my remarks let me state unequivocally that I shall vote for the pending bill. Its provisions fall short, in my judgment, of laying down a program for agriculture that is economically sound, permanently workable, and thoroughly in the national interest. Serious danger also exists that its processing tax framework may not pass the inspection of the Supreme Court when the test of Federal power under the interstate commerce clause and the taxing authority of the Constitution is applied. Because of these doubts, and also because reduced production is progressively reducing our foreign trade and making more acute our unemployment and many other national problems, I have long been urging the adoption of amendments that will substitute cost of production for parity in determining the minimum return to the agricultural producer for those products consumed at home, and such lower price for exports as will move our surplus on the world markets.

However, until these sounder provisions find a place on our statute books I shall support the processing tax because it is the farmer's tariff, hoping always that we may have the foresight to place our economic and constitutional house on a surer foundation before our Court of last resort brings it crashing about our ears.

In the confident hope that my researches will contribute something of value to congressional and public thought on this problem of all national problems, I am setting forth (1) a legal study of the processing tax versus cost of production in the light of recent Supreme Court decisions, and (2) a summarized and also a detailed explanation of the amendments to the Agricultural Adjustment Act that are suggested in my bill, H. R. 5580, and (3) a reprint of my bill in full, amended in several particulars to meet fully and squarely the constitutional discussion contained in the recent N. R. A. decision of the Supreme Court (the Schechter case).

I

Keeping in view the doubts that the Schechter decision has cast upon A. A. A.'s framework, it is my purpose to

present herein a synopsis of the vital amendments to A. A. A. that H. R. 5580 proposes, and to demonstrate the unquestionably sound economic and constitutional foundation that, with their adoption, would then underlie the administration's entire farm program:

It will leave unrepealed all of the A. A. A. except its parity provisions and for them substitute the minimum cost of production price for the domestic consumption percentage of all farm commodities.

It will make mandatory, under penalty, the payment to producers of not less than the minimum domestic price for the domestic consumption percentage of each delivery in interstate commerce, and the issuance of receipts to producers for the export percentage of each delivery—the cashing of their receipts to await disposal of such exportable surplus on the world market by a Government export agency.

It is estimated that 90 percent of domestic consumption of staple agricultural products moves in interstate commerce between production and consumption, wherefore the small, uncontrolled intrastate market will inevitably be upheld to the preponderant federally maintained minimum. The State is to the Nation like the Nation is to the world. It is easy to keep our domestic market price up to the world market price, but not so easy to keep the world price up to our own desired level, as we have found to our sorrow.

Congressional authority to decree minimum—cost of production, fair competition—prices for agricultural products moving to their markets through interstate channels is amply sustained by the decisions hereinafter digested. The Schechter case defines the termination of interstate commerce. Also, it throws doubt on the Federal power to control production, either by compulsion or by inducement through taxation-raised benefits; this for the reason that such activities precede the beginning of interstate commerce. Under H. R. 5580 the first and only impingement of Federal power occurs when the producer starts the specific commodity into the "flow", the "current", of interstate commerce.

The Government's control over the allocation of domestic consumption percentages remains flexible, adjustable, even to the point of proclaiming production limitation of a particular crop when deemed necessary, the inducement to comply being not by benefits but by requiring the acceptance of more world-market receipts by noncomplying producers.

Manufacturing exporters, notably of textiles, can recover their lost foreign markets for finished goods by buying their raw materials from the Government export agency at a low enough price to enable them to do so, the deficit, if any, below the world price, resulting to the producers, to be made up by a processing tax on the particular commodity. This tax will be very small as compared with the present rate, and, because levied on the subject of, and for the purpose of furthering interstate and foreign commerce, will be unquestioned as to validity. There can be on it no shadow of suspicion that it is used as a mere subterfuge to make possible the exercise of an otherwise nonexistent Federal power.

It is definitely demonstrable that the A. A. A., with its existing machinery, can accurately ascertain uniformly applicable average production costs on average farms over 5-year periods that will be scientific and equitable and practically workable. For example, using the accepted practices of industry as a yardstick, it is true and can be established that over a 5-year period, reckoning the average farm as a business unit, the difference in cost of raising a bushel of corn on the average 158-acre Iowa farm and on the average 450-acre North Dakota farm will be less than 1 cent per bushel.

"Dumping" will in no sense occur; rather, through the Government surplus export agency the revival of world trade can be accelerated by processes of orderly marketing and bargaining. Price will move our agricultural products again into foreign consumption just as the Webb Act of 1918 legalized sales, below cost, of industrial goods abroad.

Fifteen years ago the net world trade of American agriculture and American industry was substantially equal. Now American agriculture has a heavily unfavorable balance of world trade, whereas American industry holds a heavily favorable balance.

In approaching the study of the decisions, let it be borne in mind that under these amendatory provisions to the A. A. A. the law first speaks when the producer seeks to market his production in the flow of interstate commerce; and then it commands the purchaser, under penalty, to pay to the producer for the domestic consumption percentage of his crop only not less than it cost the producer to raise it. That is the extent of the artificially stabilized market. With reference to the export percentages the producers are under no compulsion, except only that their interstate commerce buyer cannot legally purchase their domestic consumption percentages at the cost of production price unless they surrender to the Government at the same time the export percentages of their production and accept receipts therefor which they can later cash at the world price.

The distinguishing language between inter- and intra-state commerce, contained in the N. R. A. case of *Schechter against United States*, decided by the Supreme Court on Monday, May 27, 1935, is the following:

The undisputed facts thus afford no warrant for the argument that the poultry handled by defendants at their slaughterhouse markets was in a "current" or "flow" of interstate commerce and was thus subject to congressional regulation. The mere fact that there may be a constant flow of commodities into a State does not mean that the flow continues after the property has arrived and has become commingled with the mass of property within the State and is there held solely for local disposition and use. So far as the poultry here in question is concerned, the flow in interstate commerce had ceased. The poultry had come to a permanent rest within the State. It was not held, used, or sold by defendants in relation to any further transactions in interstate commerce and was not destined for transportation to other States. Hence, decisions which deal with a stream of interstate commerce, where goods come to rest within a State temporarily and are later to go forward in interstate commerce, and with the regulation of transactions involved in that practical continuity of movement, are not applicable here. See *Swift & Co. v. United States* (196 U. S. 375, 387, 388); *Lemke v. Farmers Grain Co.* (258 U. S. 50, 55); *Stafford v. Wallace* (258 U. S. 495, 519); *Chicago Board of Trade v. Olsen* (280 U. S. 420, 439); *Tagg Bros. v. United States* (280 U. S. 420, 439).

2 Did the defendants' transactions directly "affect" interstate commerce so as to be subject to Federal regulation? The power of Congress extends not only to the regulation of transactions which are part of interstate commerce but to the protection of that commerce from injury.

Following is a review of the five cases above cited:

Lemke v. Farmers Grain Co. (258 U. S., p. 50) was a suit involving the constitutionality of a statute of North Dakota regulating among other things the prices to be paid by dealers for grain purchased from producers. The majority opinion by Mr. Justice Day held that the State statute was an unconstitutional interference with interstate commerce in view of the evidence that practically all the wheat purchased by the complainant in the case was for shipment to and sale in the Minneapolis market, and that this being the course of business, it fixed and determined the interstate character of the transaction. The majority opinion also distinguished the line of cases defining the beginning of interstate commerce as that time when goods begin their interstate journey by delivery to a carrier or otherwise by saying:

None of them indicates, much less decides, that interstate commerce does not include the buying and selling of products for shipment beyond State lines.

The majority opinion contains this further language:

It is alleged that such legislation is in the interest of the grain growers and essential to protect them from fraudulent purchases and to secure payment to them of fair prices for the grain actually sold. This may be true, but Congress is amply authorized to pass measures to protect interstate commerce if legislation of that character is needed. The supposed inconveniences and wrongs are not to be redressed by sustaining the constitutionality of laws which clearly encroach upon the field of interstate commerce placed by the Constitution under Federal control.

The minority opinion by Mr. Justice Brandeis, with whom Mr. Justice Holmes and Mr. Justice Clarke concurred, stated

that the acts of the local dealers whereby the grain was bought at less than its fair value constituted frauds against which the Federal act did not purport to afford any protection, and further said:

So far as the transactions were wholly intrastate, Congress was without power to do so. So far as the sales were part of transactions in interstate commerce, the power was ample; but Congress did not see fit to exert it. * * *

The minority opinion further stated:

The requirement that the buyer shall take only a proper margin for graded grain is, in effect, requiring that he pay a fair price. Laws designed to prevent unfair prices are ordinarily enacted to protect consumers. But there is no constitutional objection to protecting producers against unconscionable bargains if conditions are such that it is they who require protection. Nor can there be any constitutional objection to using as a factor in determining what is fair the price prevailing in terminal markets even if they happen to be located in another State.

Stafford v. Wallace (258 U. S., p. 495) involved the right to injunctive relief against orders of the Secretary of Agriculture promulgated pursuant to the Packers and Stockyards Act of 1921. The majority opinion by Mr. Chief Justice Taft held that sales of livestock in the Chicago stockyards were not merely local transactions, saying further:

They create a local change of title, it is true, but they do not stop the flow; they merely change the private interests in the subject of the current not interfering with, but, on the contrary, being indispensable to its continuity. * * * It is manifest that Congress framed the Packers and Stockyards Act in keeping with the principles announced and applied in the opinion in the *Swift* case. The recital in 2, paragraph b, of title I of the act, quoted in the margin, leaves no doubt of this. The act deals with the same current of business and the same practical conception of interstate commerce.

The extract from the Packers and Stockyards Act set forth in the margin at page 520 is as follows:

The first title, 2, paragraph b, provides that "for the purpose of this act * * * a transaction in respect to any article shall be considered to be in commerce if such article is part of that current of commerce usual in the livestock and meat-packing industries, whereby livestock (and its products) are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for slaughter of livestock within the State and shipment outside the State of the products resulting from such slaughter. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act.

Swift & Co. v. United States (196 U. S., p. 375) involved the validity of injunctive relief against violations of the Sherman Act of 1890, and it was distinctly held as follows:

When cattle are sent for sale from a place in one State with the expectation they will end their transit after purchase in another State, and when in effect they do so with only the interruption necessary to find a purchaser at the stockyards, and when this is a constantly recurring course, it constitutes interstate commerce and purchase of the cattle is an incident of such commerce.

The following is quoted from the majority opinion by Mr. Justice Holmes at page 399:

It should be added that the cattle in the stockyards are not at rest even to the extent that was held sufficient to warrant taxation in *American Steel & Wire Co. v. Speed* (192 U. S. 500). But it may be that the question of taxation does not depend upon whether the article taxed may or may not be said to be in the course of commerce between the States, but depends upon whether the tax so far affects that commerce as to amount to a regulation of it.

Chicago Board of Trade v. Olsen (262 U. S., p. 1) was a suit to enjoin enforcement of provisions of the Grain Futures Act of 1922. In the opinion of the Court by Mr. Chief Justice Taft (Justices McReynolds and Sutherland dissenting) it is said:

In the act we are considering Congress has expressly declared that transactions and prices of grain in dealing in futures are susceptible to speculation, manipulation, and control which are detrimental to the producer and consumer and persons handling grain in interstate commerce and render regulation imperative for the protection of such commerce and the national public interest therein. * * * But it is contended that it is too remote in its effect on interstate commerce, and that it is not like the direct additions to the cost of the producer of marketing cattle by exorbitant charges and discrimination of commission men and dealers, as in *Stafford v. Wallace*. It is said there is no relation between

prices on the futures market and in cash sales. This is hardly consistent with the affidavits the plaintiffs present from the leading economists, already referred to, who say that dealing in futures stabilizes such prices. It is true that the curves of prices in the futures and in the cash sales are not parallel and that sometimes one is higher and sometimes the other. This is to be expected, because futures prices are dependent normally on judgment of the parties as to the future, and the cash prices depend on present conditions, but it is very reasonable to suppose that the one influences the other as the time of actual delivery of the futures approaches, when the prospect of heavy actual transactions at a certain fixed price must have a direct effect upon the cash prices in unfettered sales.

Tagg Bros. & Moorhead v. United States (280 U. S., p. 420) was also a suit to enjoin the enforcement of an order of the Secretary of Agriculture under the Packers and Stockyards Act prescribing a maximum tariff charge for the services at the Omaha stockyards. Appellants stressed the claim that price fixing being a direct taking of property for a supposed public benefit cannot be resorted to unless just compensation is given in return. The unanimous opinion of the Court written by Mr. Justice Brandeis contains the following language:

The argument is that in "legislative price fixing there are vital distinctions from the constitutional standpoint between property and the use of property on the one hand and personal services on the other; * * * that this rate fixing is in essence wage fixing since the stockyard services performed by the plaintiffs involved only skill and labor and that wage fixing was held to be beyond the power of Congress. * * * There is here no attempt to fix anyone's wages or to limit anyone's net income. Differences in skill, industry, and experience will continue to be factors in the earning power of the several plaintiffs. For the order fixes only the charges to be made in individual transactions."

Finally, it is to be remembered that in the New York State Milk Control case decided last year (*Nebbia v. New York*, 291 U. S. 502) the Supreme Court confirmed the right of a State under its police power to fix the prices of milk. In the field of interstate commerce the power of Congress is just as complete. In *Brooks v. United States* (267 U. S. 432) the Supreme Court upheld the right of Congress to forbid the transportation of a stolen automobile in interstate commerce on the ground that, within the field of interstate commerce, Congress enjoyed plenary police power.

II

The bill is an ambitious effort so to amend the Agricultural Adjustment Act as to preserve all the gains made by the very efficient administration of its emergency provisions and to lay the foundation for a permanently workable farm policy that will be thoroughly consistent with the Democratic platform pledges of 1932.

In summary:

First. It repeals no part of the A. A. A. except the parity provisions, and substitutes therefor the cost-of-production principle as to the percentage of agricultural production that is domestically consumed.

Second. The exportable surplus—beyond the needs of an "ever normal granary"—is to be handled by a Federal agency on the world markets and net accounting made to producers—receipt holders—without subsidy or other cost to the Government.

Third. It empowers the Federal agency to supply manufacturing exporters with raw materials from the exportable surplus, under bond, at a price that will permit successful competition abroad with foreign manufacturers of similar products, the deficit, if any, from the net world price to be made up by processing taxes, which will obviously be less than one-tenth of the present schedules.

Fourth. It preserves the county and State committees, adding to their duties important advisory functions as fact-finding agencies for the Department of Agriculture in ascertaining costs of production for the various commodities and in compiling from year to year the necessary production and consumption data.

Fifth. It will induce voluntary as opposed to compulsory adjustment of acreage and production through that self-interest whereby losses suffered from the sale of excess production on world markets will impel farmers to transfer acreage to crops whose volume of production is nearer the demands of the domestic market.

Sixth. It will in no sense require "dumping", but, on the contrary, will permit controlled marketing by a Federal agency through orderly bargaining. It will contribute substantially auxiliary strength to the arms of the Department of State and the Department of Commerce in effectuating the important reciprocal trade program and in preventing the increase in subsidized competitive acreage in foreign lands.

Seventh. It empowers the Secretary of Agriculture to build up and maintain an ever normal granary out of the surplus at net world prices to the producer and to arrange for storage on farms under seal.

Eighth. It provides for loans to producers on their exportable percentages pending disposition on the world market.

Ninth. It invokes existing powers of the Government to protect domestic price levels by compensating and flexible tariffs, or by embargoes.

Tenth. It specifically reaffirms the power of the Secretary of Agriculture to limit production of any commodity, and sets up simplified alternative machinery to effectuate any desired production control program.

Eleventh. It will reduce consumer costs by promoting the stabilization which will reduce the speculative spread between prices received by producers and prices paid by consumers.

Twelfth. It will completely disarm those special interests which would destroy the A. A. A. and its tremendous accomplishments for agriculture without providing a substitute.

Thirteenth. The certain increase in agriculture's potential buying power will forthwith reopen factories, and the greater volume of commodities to be handled will substantially reduce unemployment.

Fourteenth. It is constitutional under the power to regulate interstate commerce and the power to regulate the value of money in commodities. If supplementary State legislation should prove desirable, there can be no doubt of its unanimous enactment.

DETAILED EXPLANATION OF H. R. 5580, TO AMEND A. A. A. BY SUBSTITUTING COST OF PRODUCTION FOR PARITY AND PROVIDING SURPLUS CONTROL WITH CONCESSIONS TO MANUFACTURING EXPORTERS

An appropriate text for this discussion is available in the following excerpt from the 1934 report of the Secretary of Agriculture to the President, at page 6:

Necessary as it was to meet the curtailed foreign markets and the surplus crisis of 1933, reduction in the output is only a partial and paradoxical answer in the long run to the crying need which is briefly expressed in the phrase "balanced abundance." The problem is to retain fair and reasonable profits without falling into the pit of scarcity economics.

The serious danger exists at this moment that blind opponents of "equality for agriculture with industry", willfully ignoring the truism that without it no lasting national recovery is possible, may convince our anxious country that we are in fact falling into that "pit" so graphically pictured by Secretary Wallace, and may thus accomplish the undoing of all the splendid progress that has been made toward agricultural revival under his sincere leadership since 1933. The amendments to the A. A. A. proposed in this bill, it is earnestly believed, point the only sure and safe way to the hoped for "balanced abundance", and at the same time will permit successful transition from the stop-gap devices of our emergency period to a permanently workable and economically sound farm policy that will foster the reestablishment of normal domestic and international relationships in the fields both of agriculture and of industry. Every business that endures necessarily receives cost of production. If agriculture is to remain the bulwark of our economic order and is not to sink to peasantry, it must be encouraged to operate on the basis of fair exchange both as to volume and values.

As to foodstuffs in general, it may be said that, given a cost of production return to the producer for the domestically consumed percentage, he could afford, if necessary, to give away the exportable surplus. Wheat normally averages the greatest percentage of surplus, for from 1920 to 1932, inclusive, we exported 20 percent of our wheat, including

flour. In industry generally, the sales commissions and expenses run from 20 percent to perhaps 100 percent. In the great automobile industry they run as high as 35 percent. If the farmers gave the Government 20 percent of their wheat as a commission for fixing the price of the other 80 percent at a cost-of-production level, they would not be out as much as industry generally pays for selling its products. Hog production comes next, and the percentage of surplus is about half as much as the wheat percentage. The $1\frac{1}{3}$ percent of corn and less than 1 percent of oats could be given to the Government without feeling the loss. As for beef, we have no surplus. Therefore, the farmers' problem is to get a cost-of-production price for the percentage consumed at home. Every labor organization concedes this right to farmers, and recent meetings of the textile industry have done the same. If the Government took these small surpluses, it would realize something in world markets, pay the expenses of handling them, and return something to the farmers.

Cotton presents a different problem, for the reason that over half of our cotton is exported. We also have underconsumption of cotton at the present time, just as we have of food products. Furthermore, the reduction of cotton acreage, especially in Texas, has taken away the jobs of many thousands of cotton pickers and has added to the unemployment and relief rolls. It has also reduced railroad tonnage and export business, about 90 percent of Texas cotton being exported since they have few mills for manufacturing. The A. A. has helped the cotton farmers by means of the 12-cent loans, and has strengthened the price of corn in the same way. Perhaps these loans have also helped the world market by holding back this cotton to some extent. If the Government could render these benefits by means of a loan, it would do much better if it had absolute control of the cotton exportable surplus. This surplus has amounted to about 65 or 70 percent of the world market for cotton, not of the world production, but of the proportion of cotton sold from one country to another. Anybody who has 65 or 70 percent of the world market requirements and has his products paid for, so that the bank cannot call his note or the sheriff sell him out, is in a position to influence and improve that world market. Also, if the Government were in control, it could use this control both ways, and perhaps check the increase of world production that is certainly encouraged by plowing up the cotton fields of the United States.

The proposed amendments provide for the protection of any foreign markets now held by American exporters, and they can buy from this exportable surplus enough raw material to meet all such demands at the world price. The bill also provides a further protection of American manufacturers by permitting the Government agency to furnish them raw materials at such prices as will enable them to compete in foreign markets with their finished product. This price may be less than the world price to be received by the farmers, which may cause a deficit, the only deficit that can occur under the provisions of this bill. In order to meet such deficit a processor's tax is provided.

Cotton is the principal product to which these provisions will apply. The amount of processor's tax to be paid on the cotton that is used for manufacture into exportable goods is not one-tenth as much as is now paid by the textile industry. If the industry itself pays this tax, there is no reason for the farmers to object, and little ground for anybody else, if it results in recovering foreign markets.

This bill seeks to combine the virtues of the A. A. A., the McNary-Haugen plan, the export-debenture plan, and the principle of cost of production for domestic consumption, plus the receipt plan of surplus control first suggested by Senator McAdoo. It meets the situation first by retaining or improving the farm organizations which the Secretary of Agriculture has set up under the Adjustment Act. Section 20 gives all farm organizations an equal voice and provides a place for those not in the organization at all.

Their duties, however, will be changed. Instead of meeting to make allotments of the number of acres their neigh-

bors will be permitted to plant, they will meet to discuss and figure out their cost of production, and this is an education needed by every farmer. Under the plan of this bill the reduction policy can perhaps be abandoned entirely upon all production except cotton, and probably even on that. The farmers are to get receipts for the percentages for exports and they get a final settlement at the world price. If they overproduce, they will get more of these receipts and a lower world price, and that is all the check deemed necessary, even on cotton.

Under this plan the Secretary of Agriculture ascertains the average cost of production to farmers of each product during the preceding 5-year period. It is thought fairest to use an average of years rather than the uncertainty of any one particular season. The individual farm is considered as a business unit and the method of computation is the same as in industry. The farmer gets the same pay for management, labor of himself, family, and hired help, as for like services in industry. He is given an adequate allowance for the depreciation of soil, improvements, equipment, stock breeding animals, work animals, buildings, and also for taxes and other overhead charges. He is allowed 4 percent upon his capital investment. Checking through the history of the country we find that 4 percent has been the average annual earnings of all capital at a normal level of values during all the history of the country, and the farmers are willing to accept the actual facts of capital earnings in our American economy. The Secretary of Agriculture estimates the total production of each farm crop as it approaches maturity. He estimates the percentage to be used in domestic consumption and to be moved in interstate commerce and he also estimates the percentage that will be for export, if any. He then makes public announcement of the cost of production price for the percentages consumed at home, and all dealers are required to pay not less than the announced prices to the farmers as they sell their crops. For the export percentages the dealer will issue a receipt countersigned by a Government agency and he will deliver that percentage to such agency with compensation for storage and handling. This Government agency can retain any portion of the exportable surplus to meet shortage in years of drought or other calamity, but it must remove it from the domestic market for all other purposes and dispose of it in world markets to the best advantage. At the end of the marketing season, as prescribed by the Secretary of Agriculture, these receipts will be redeemed at the post offices by this Government agency at the net price realized in the world markets, and without expense to the Treasury of the United States.

All of this can be done as a permanent remedy and solution of the farm problem. It is not an emergency matter. The parity price, as provided in the A. A. A., is repealed and the cost-of-production price substituted therefor. This is the only fundamental change in the Adjustment Act, but it is not believed that reduction of acreage will be necessary after these provisions are put in operation.

The Grain Futures Administration of the Agricultural Department has prepared a chart showing the range of the wheat market from 1897 to 1934. On this chart is a bar for each month's range of price. The amazing fact appears that during the war period the price of wheat varied from about 40 to over 100 cents during a single month. This market was usually so manipulated that wheat was bought from farmers at the low figure and sold by the speculators at the high figure. This chart shows that the farmers sold their wheat in the latter part of 1916 and the early part of 1917 at an average of \$1.51 per bushel. A considerable portion of it was held over and later sold before the new crop by the speculators at a price as high as \$3.45 per bushel. The price of flour to the public was fixed largely on this higher market. President Wilson was displeased with this situation and arrived at the conclusion that the \$1.51 was too low for the farmers in war time, and the \$3.45 was too high for the speculators. On August 10, 1917, he signed a bill authorizing the Government to fix a cost-of-production price and buy the surplus at that price. Four days later he

appointed his Farm Commission. Sixteen days later this Commission completed its deliberations and on the 30th of August fixed the price of wheat at \$2.20 per bushel, No. 1 Northern, Chicago. The Wheat Corporation bid that price and wheat immediately went to that level. This chart shows a straight line of wheat prices after it was thus fixed by the Government, the only straight line of prices without fluctuation or gambling in the history of wheat. Railroad rates went up 6 cents per bushel and the chart shows an equal rise of the wheat price as fixed by the Wheat Board. The Wheat Corporation bought and held \$585,000,000 worth of wheat to maintain this fixed price. The shortage of world production then sent the price above the American price and the Wheat Corporation sold at a profit of \$59,000,000. A few farmers were able to hold their wheat from the 1916 crop to the high speculative market in 1917. One of the great farm leaders was able to do this and he was always inclined to criticize the Wheat Corporation for pulling down the price. It did pull down the speculative price but it just as certainly raised the farmers' price.

We are now in a depression far worse than the war. Everything that was done then is more than justified now, and this bill will do the same thing for wheat and all the other products that Woodrow Wilson did in war time, and he gave the farmers the best prices and the greatest prosperity they have ever had in all their history. Their share of the national income during the war was about 20 percent, while at the present time it is only about 9 percent. More than 40 percent of our population is agricultural, and at all times it is entitled to a share of the national income at least as large as Woodrow Wilson actually gave it in war times.

This bill unites the farmers, the laboring people, and the industries. It gives the farmers the cost of production for their products, and this includes an adequate annual wage for labor, and it provides a concession to give industries a chance to make a winning fight for foreign markets.

It is said that if the price of agricultural products be increased to a cost-of-production level it will cause overproduction. Many of us who know the farmers reach an opposite conclusion. With low prices the farmer will plow up every fence corner and will try to produce enough to meet his taxes and expenses. With reasonable prices he will not make such supreme efforts. Furthermore, the analysis by the National Industrial Conference Board in its report entitled "Agricultural Problems in the United States—1926" shows that the agricultural plant has been in full operation since 1900 and that the per capita acreage and production are both constantly declining, and it concludes:

The average farmer and his family under present conditions are working so hard, and the overhead charges for interest and taxes are so high, that stabilization or even moderate increases in prices would hardly be likely to stimulate any considerable general over-expansion of acreage or production.

This conclusion is fully sustained by the Agriculture Department's record of production and by the observations of Secretary Wallace in his book entitled "Agricultural Prices", at page 61.

What is the general economic effect of paying \$500,000,000 in benefits to farmers to reduce acreage? The crops that would be produced upon this acreage at prices outlined in this bill plus the increased price on other acreage would be more than six times the value of the benefit payments, and then, too, the benefits are a taxed income and not a produced income. The conclusion follows that the general income of agriculture is lower by over \$3,000,000,000 than it would be if this bill were in effect. This reduction in buying power closes factories and turns labor out of employment and deepens the industrial depression. And yet there are those who persist in maintaining the defeatist position that there can be no further improvement in agriculture except through industrial improvement. They fail to give adequate weight to the most certain factor of all, namely, that throughout our Nation's economic history agricultural production and resulting buying power was the John the Baptist of our industrial development and wealth—including factory pay rolls—and not vice versa. It is also true that much of our

burdensome farm-mortgage indebtedness represents the increment prior to 1920 of agricultural capital values which was used as buying power by agriculture to build up our tremendous industrial structure.

As stated by the financial writer of the National City Bank in its bulletin for April, the Secretary deserves general support in his unremitting effort to bring the country to understand that the elementary principle of foreign trade is that exports of goods can be paid for only by imports of goods, services, or gold. But the contention that foreign lack of dollar exchange explains the 41-percent decline since last August in cotton exports is untenable, for the reason that during the period of decline foreign countries have been selling more goods to the United States and thus have had more dollar exchange. They have been buying more of other American goods, and have also bought more cotton from other countries. The writer states that during the first half of this season mills outside the United States used 1,100,000 bales less of American cotton than a year earlier, but nearly 1,000,000 bales more of other growths, their consumption of all cotton thus showing only a nominal decrease. The conclusion is obvious that our loss of cotton exports is not primarily the result of inability to buy, but of a shift in foreign demand from American to other growths, due to the more favorable prices at which the foreign growths have been selling. It appears that during the first 4 months of this season Egyptian, East Indian, and Brazilian cotton sold from half a cent to more than 2 cents a pound lower relative to American cotton than they did on the average in the three previous seasons.

Finally, it is important to note that the bill is in every respect designed to carry out the principles and demands of the Democratic platform. In formulating our permanent farm program we certainly dare do no less. The scientific studies of the Department of Agriculture itself disclose that a liberal diet for the American people would require the production from many millions more of our acres than our average cultivation of the 5 years preceding 1933. And our population increased 17,000,000 from 1920 to 1930. Those facts must be recognized in determining our long-run policy.

No; national self-containment is not the road we must choose. The American people did choose when they ratified the Democratic platform of 1932 and thus made it a binding contract. The order-taking method of salesmanship is outmoded. If we would retract our former foreign customers we must fill our shelves, show our goods, and quote the right price. Industry sells its excess production abroad at whatever price the "traffic will bear." Revive agriculture by according it the same privilege.

III

[H. R. 5580, 74th Cong., 1st sess.]

A bill to amend title I of an act entitled "Agricultural Adjustment Act" (Public, No. 10, 73d Cong.), and to provide additional relief by increasing agricultural purchasing power, and for other purposes

Be it enacted, etc., That title I of the Agricultural Adjustment Act of the Seventy-third Congress be, and the same hereby is, amended by adding thereto the following sections:

"SEC. 20. For the purpose of assisting him in carrying out the provisions of this act the Secretary of Agriculture shall appoint committees of farmers residing in the respective governmental subdivisions for which they are appointed and shall promulgate regulations governing appeals from their decisions. There shall be a committee for each State, and for each county or parish, and for each township, to be known as 'State, county, or parish, and township adjustment committees', respectively, and the membership of each committee shall be not less than three nor more than five. Each national and representative farm organization having a total membership of over 50,000 shall be entitled to designate one member for each of said committees, and the remaining member or members of each of said committees shall be farmers who are not and have not been members of any farm organization. The Secretary of Agriculture shall, from time to time, obtain reports from said committees on conditions in their respective jurisdictions that are pertinent to the decisions he is required to make under this act and shall arrive at such decisions after he has had the benefit of the statistical and other informative matter contained in such reports and after conference with national officers of the respective farm organizations above described.

"SEC. 21. The Secretary of Agriculture shall annually ascertain the average cost to farmers, considering average yields and production during the preceding 5-year period, of the production of

each agricultural commodity produced in the United States. All items of cost shall be considered and calculated in accordance with the formula and method commonly used in the manufacturing industry. He shall consider the individual farm as a business unit and shall include compensation to farm operators for management, and for labor of themselves and their families and hired help, equal to the compensation paid for like services in industry, together with adequate allowance for depreciation of soil, improvements, equipment, stock-breeding animals, work animals, and buildings, and also for taxes and other overhead charges. He shall also determine the investment value of the property devoted to the production of such commodities, using the official census data so far as pertinent, such determination to be at the normal level of values between inflations and depressions reckoned over such period of time as will make possible the accurate ascertainment of such normal value, and upon the property investment value as so determined there shall be calculated and allowed a capital return of 4 percent. He may also ascertain and allow an equitable differential against varying transportation costs to different markets and may establish such zones or classifications as are appropriate and necessary therefor.

"Sec. 22. The Secretary of Agriculture shall annually determine and designate the beginning and ending of the appropriate marketing period for each agricultural commodity, and shall also annually estimate the volume of production for the current year of each such commodity. Prior to the marketing period for each such commodity he shall also estimate (1) the percentage thereof required for domestic consumption, and (2) the percentage thereof, if any, remaining for export.

"Sec. 23. The Secretary of Agriculture shall thereupon make public proclamation and announcement of the cost of production figures and the domestic consumption and export percentages aforesaid and of the date when and the period for which the same shall be controlling as provided herein upon the sale and purchase of each such commodity, and upon request he shall furnish detailed information to all dealers, manufacturers, millers, elevators, processors, packers, butchers, ginners, compressors, and other agencies dealing in or handling the same. After such effective date all said dealers, manufacturers, millers, elevators, processors, packers, butchers, ginners, compressors, and other agencies shall, except as modified in section 27 of this act, pay to the farmers not less than the cost of production price determined and proclaimed as aforesaid for such percentage of each delivery in interstate commerce of such commodity as is not estimated for export: *Provided*, That to all farmers making delivery within the first 30 days after the duly proclaimed beginning date of the marketing year applicable to the commodity so delivered the allowable minimum shall be 2 percent less than the cost of production price as aforesaid, and to all farmers making delivery during the second 30-day period after such beginning date the allowable minimum shall be 1 percent less than the cost of production price. If in the judgment of the Secretary of Agriculture the objectives of this act, including the furtherance of orderly marketing, require such action, the Secretary shall proclaim such further reasonable upward variations in the allowable minimum as may be necessary to attain such objectives, and also to govern such marketings by producers as may not have been completed during the designated marketing year. For the percentage, if any, of each such delivery thereof as has been estimated for export as aforesaid there shall be issued and delivered to the farmers a receipt, countersigned by such agency as the President of the United States may designate, which receipt shall show the grade of the commodity. Sales from one farmer to another for feeding, breeding, or seeding purposes shall not be subject to the provisions of this act. For the purpose of this act a transaction in respect to any commodity shall be considered to be in interstate commerce if such commodity is part of that current of commerce that is usual in the industry or industries engaged in the handling of such commodity whereby such commodity (and its products) are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State, or for manufacturing, milling, processing, packing, slaughtering, ginning, compressing, or in any manner handling such commodity or any part thereof within the State and the shipment outside the State of the products resulting therefrom. Articles normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this act.

"Sec. 24. At such reasonable time as the Secretary of Agriculture may direct, the said dealers, manufacturers, millers, elevators, processors, packers, butchers, ginners, compressors, and other agencies dealing in or handling such farm products shall deliver to such agency as the President may designate all of the percentage of said commodities estimated for export in the kind and grade as receipted or in processed form as hereinafter provided. If and when authorized by the Secretary of Agriculture, bills of sale evidencing storage of such exportable percentages on farms under seal will be accepted by such agency in lieu of the physical delivery of the property. In the case of livestock and poultry, the packers and also the butchers, after processing the same subject to Government inspection, shall make delivery of the percentage estimated for export in the form of livestock and poultry products, provided that the butchers may deliver their percentages through packers, and the said agency shall pay the reasonable cost of processing; and the same provision shall apply to milk and the processors thereof. If unable to make reasonable and satisfactory arrangements for such processing, then such agency shall purchase or acquire by

condemnation or construct the proper equipment and facilities. Such agency shall provide by rental, purchase, or construction, or by condemnation in State or Federal courts, the necessary storage and terminal facilities for handling the export percentages, and shall remove same entirely from the domestic market, except for emergency purposes, and shall hold and dispose of the same to the best advantage in any world market, and through the Postal Service shall redeem the receipts in the net amount realized for each product after deducting all costs and expenses of handling and disposing of the same. On the direction of the President, such agency shall hold in storage such portion of the said exportable percentages as it may deem advisable as a reserve against emergencies, droughts, and crop failures, and any portion thereof that is undisposed of on settlement date shall be held for such purpose. Settlement shall be made in full not later than the end of each designated marketing period and each farmer shall have the option to accept in full the net world price, at the time of settlement, for the percentage withheld for emergencies, or he may accept a credit of 90 percent thereof upon his receipt and await the final disposal for any balance that may be realized, or, if he has received a 90-percent loan as hereinafter authorized, he may continue the same without interest until such final disposal. The said agency is directed to estimate the cost and expense of handling each of said commodities and to estimate the probable world price and through the Postal Service to make loans to any farmers upon the security of their receipts up to 90 percent of the net value thus estimated.

"If in any locality the demand for domestic consumption is greater than the national estimated percentage, the said agency is authorized to supply the deficiency out of the exportable surplus from the same or other convenient locality at the cost of production price plus transportation, storage, and handling charges, and it shall maintain a national balance by purchasing, upon the same terms, like amounts from the percentage estimated for domestic consumption in localities where the demand for domestic consumption is less than the national estimated percentage.

"If any farmer at any time is unable to sell his products in the regular markets, the said agency is directed to accept and receipt for the exportable percentage of his production as herein provided for, and to purchase from him the percentage of his production for domestic consumption at the cost of production price and is authorized to resell such domestic consumption percentage in the domestic market at the same or higher price.

"If the percentage estimated for domestic consumption should be insufficient to supply the domestic demand, the said agency is authorized to supply such shortage out of the exportable percentage at the cost of production price, plus storage and expenses.

"Sec. 25 The Secretary of Agriculture is authorized to advance, from time to time, to the Postmaster General such sums as are shown to be required for the handling and redemption of the receipts as provided herein, and for the making of loans thereon, and for the expenses of the Post Office Department in connection therewith. At the request of the Secretary of Agriculture, the Postmaster General under such regulations as he may prescribe shall require the employees of the Post Office to perform, without extra compensation, such fiscal agency services as may be desirable and practicable in connection with the handling, safe-keeping, and redemption of said receipts, and the making of loans thereon.

"Sec. 26. The said agency is authorized to use the resources and facilities of the Export-Import Bank, and upon order of the President, may use any funds collected in processors' taxes, or that are provided in section 12 (a) of the Agricultural Adjustment Act for carrying out the provisions of this act.

"Sec. 27. That part of the Agricultural Adjustment Act relating to price parity with other products is hereby repealed, and the method of determining prices as herein provided is substituted therefor: *Provided, however*, That, if before the beginning of any production year the factors of visible supply, prospective demand, and prospective production volume are such that in the judgment of the Secretary of Agriculture, guided by the reports that have been submitted by the various State, county, or parish, and township committees, a limitation is necessary upon the production of any agricultural commodity or commodities during the ensuing year, he shall determine and proclaim a uniform percentage of reduction for the information of each producer of such commodity: *Provided further*, That the encouragement of small-unit farming as distinguished from large-scale farming is hereby declared to be desirable public policy, and the Secretary of Agriculture is, therefore, directed to determine and proclaim such reasonable differential in acreage and percentage reduction as will discourage uneconomic overproduction and will promote the social objective of more family occupied and operated farm homes. He is also directed to adopt as the production base the normal production capacity of each farm, reckoned in accordance with average farmerlike methods and practices of diversification, fertilization, and rotation, and the average annual yields and production of the same or similar farms during the preceding 5-year period. In the marketing of each such commodity produced during such year the farmer shall be paid, as herein provided, for the full domestic consumption percentage of each delivery of said commodity only in the event he presents to the purchaser at the time of sale the certificate of his county adjustment committee that he has complied with such proclamation of limitation. Any farmer delivering for sale without presentation of such certificate shall be paid not less than the proclaimed cost of production price, as provided herein, only for such portion of the domestic consumption percentage of each delivery thereof as remains after deducting from such domestic consumption percentage the per-

centage of proclaimed production limitation applicable thereto. For the entire remainder of each delivery each such farmer shall receive and shall accept only the receipt that is hereinbefore provided for, and said entire remainder shall be handled accordingly.

"Sec. 28. By the enactment hereof the Congress declares and invokes its constitutional power to regulate interstate and foreign commerce, to promote the general welfare, and to regulate the value, in agricultural commodities, of all authorized money.

"Sec. 29. Any person, dealer, manufacturer, miller, elevator operator, processor, packer, butcher, ginner, compressor, or other agent dealing in or handling such farm products, who violates the provisions of this act by paying less than the cost-of-production prices provided for herein shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 2 years, or both.

"Sec. 30. The said agency is directed to protect all foreign markets for the exportable surplus of agricultural products now being held or hereafter acquired by exporters, and for that purpose is directed to furnish the necessary products, when available, at the net price to farmers as herein provided; and said agency is further directed to furnish to processors and manufacturers, under bond or other adequate guaranty of performance, from the exportable surpluses coming into its possession, any raw materials to be processed or manufactured and exported, and to do so at prices that will permit such processors and manufacturers to meet competition with their products in foreign markets upon fair and reasonable terms. Processing taxes shall be levied with respect to such commodities at such rate as may be necessary to make good any deficit in the net prices payable to farmers for the exportable surpluses thereof.

"Sec. 31. The President of the United States, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of State, and the Secretary of Commerce are directed to cooperate in exercising their lawful powers, through the medium of foreign trade agreements, and through other appropriate measures for restriction or expansion of imports of competing agricultural commodities, their byproducts, and/or competing substitutes, to maintain the prices to farmers for the domestically consumed percentages of all agricultural commodities as nearly as may be within a range not exceeding 10 percent above the proclaimed cost-of-production price level."

Mr. NELSON. Mr. Speaker, the Agricultural Committee, of which I have long been a member, has devoted many weeks to careful consideration of this bill to amend the Agricultural Adjustment Act. As a result, we now have a measure reported from the committee without a dissenting vote and which I am glad to support.

This bill differs greatly from the original draft. Some controversial features, including the issuing of so-called "imposed licenses" were taken out, while desirable additions, such as the export bounty plan, were put in. If the bill contained nothing more than the latter provision designed to help in marketing abroad more of our surplus farm crops it would be entitled to support.

In fact, as a permanent farm help I regard this as perhaps the most valuable feature of the bill. Back in 1929, when the Hoover farm marketing measure, against which I was one of 35 House Members to vote, was before our committee, I offered an amendment to put this provision in the bill, but without success. So it is with some satisfaction that I now see, in substance at least, the same provision approved, not only by the House, but, if I read the papers correctly, by the Republican "grass roots" meeting recently held in Illinois.

But before discussing further the proposed amendments to the Agricultural Adjustment Act I wish to speak of the original act itself. This measure, while not perfect, is remarkable in at least one respect. For the first time, the farmers of the United States were allowed to have their own plan tried out. Until this bill was approved by Franklin D. Roosevelt no other President had been willing to let producers have what they wanted in the way of farm relief legislation and which the Congress, notably by the passage of the McNary-Haugen bill, had done the utmost to grant. There was no veto of farm legislation by President Roosevelt as there had been by President Coolidge and President Hoover.

As to how long it may be advisable to continue the main provisions of the A. A. A. it is now too early to say. It is certain, though, that up to now, due in part to the terrible drought of 1934 in the Corn Belt, the wheat and corn-and-hog checks, have saved many farmers from complete failure. Right now, when excessive rains and consequent floods are delaying corn planting and holding up other farm work in last year's drought region, the outlook would be darker still

but for the Roosevelt farm program, for which all farmers may be truly thankful.

Personally, I have not thought of the present farm program as permanent in the sense of affording a full and satisfactory solution of the agricultural program, a program of as vital interest to the cities as to the country, for until the purchasing power of the farmer has been restored the big, once self-satisfied cities cannot prosper as in the past. Incidentally, we have heard in the discussion on the bill now under consideration complaints to the effect that to provide crop payments to farmers is unfair to city consumers. My answer is that whenever he has money to spend the farmer buys goods and so helps the merchant, manufacturer, and others in the cities. The man who is broke is a poor customer. To help the farmer is to help all.

Getting back to what I was about to say, what I should like would be to see us get rid, within reason, of all subsidies, but so long as there is continued a high protective tariff, greatest of all subsidies, it is advisable to do what we can do, directly or indirectly, to relieve agriculture of the heavy burdens imposed. In other words, as it sometimes is necessary to fight fire with fire, so it may be necessary to fight subsidy with subsidy. This is what some of the A. A. A. provisions mean—mean the tariff in reverse, mean benefits to the farmer.

We cannot afford to be content with present conditions, but must look to getting back our foreign markets. Well can we afford to spend as much money for market expansion as for crop curtailment. Prosperity through plenty, rather than security through scarcity, should represent our ultimate aim. I have no great fear, in the future years, of an overproduction of food in America, taking 1 year with another, provided there is proper distribution. I say this because population is increasing, while acre yield, due to loss of soil fertility, is decreasing.

If at any time there is overproduction of staple crops two avenues are open. Either a proper part of the surplus may be stored—and this "ever normal" granary plan as now advocated by Secretary of Agriculture Wallace and as referred to in the story of Joseph's interpretation of Pharaoh's dream as told in the forty-first chapter of Genesis, holds good—or plans may be perfected to market more of the farm surplus abroad. As to the latter, the present high protective tariff stands most in the way.

Speaking of the tariff, I quote briefly from a great keynote speech, a real agricultural program, as made by Franklin D. Roosevelt at Topeka, Kans., on September 14, 1932:

The present administration, and the two previous administrations, in all of which the President was an important member, failed utterly to understand the farm problem as a national whole, or to plan for its relief; and second, they destroyed the foreign markets for our exportable farm surplus beginning with the Fordney-McCumber tariff and ending with the Grundy tariff, thus violating the simplest principle of international trade, and forcing the inevitable retaliation of foreign countries.

"One way of attacking this disparity is by restoring international trade through tariff readjustments. You farmers put this well in a single phrase, 'we must make the tariff effective.'"

"When the depression in agriculture began in 1921, Republican leaders first sought to belittle the plight of agriculture. They claimed that the old familiar tariff remedy would suffice, and they offered the Fordney-McCumber Tariff Act, passed (God save the mark) under the ironic label of farm relief. The Republican leaders in positions of national responsibility at that time—and this, of course, includes the then Secretary of Commerce—either did not or would not realize the change in international conditions due to international debts. They closed their eyes to the outstanding economic fact. Prior to the war we had paid our interest on our debts to Europe by means of agricultural exports. After the war, because we had changed to a creditor, and Europe was in debt to us, it was necessary that we demand either goods or gold in return. The Fordney-McCumber tariff barrier shut off the normal trend of trade. Europe could not pay, so she could not buy. Specifically, she began to stop buying our surplus farm products."

So, Mr. Chairman, in supporting the bill now being considered—a bill containing many good features, some temporary yet necessary to help get agriculture out of the hole where it was at the beginning of the Roosevelt administration, and others more permanent in character—I feel, as Mr.

Roosevelt expressed in his address from which I have just quoted, that as a long-time proposition the assistance promised in getting back foreign markets is best of all.

Truly, to again quote from the Roosevelt speech at Topeka:

Industry can never prosper unless the agricultural market is restored and farm buying power returns.

Happily, as shown by present prices for livestock and grain and practically everything else the farmer has to sell, as compared with "before Roosevelt" prices, farm buying power has even now advanced far on the return road.

Mr. PLUMLEY. Mr. Speaker, I believe that the people of my State know that I do not approve of the governmental theories or the principles incident to and involved in the original so-called "triple A" legislation. I cannot yet believe that these theories or principles are right or that they will be upheld, either by the people themselves or eventually by the Supreme Court, insofar as the delegation of power to regulate and to regiment and to impose taxes among other matters and things to which I object are found in the act.

Moreover, I am fearful that the power which is granted may be used equally as well to the disadvantage as to the advantage of those who favor the act as originally drawn and now sought to be amended. I just cannot bring myself to favor the theories which underlie the original legislation, and I question very seriously that any ultimate benefit to agriculture is effected by these amendments.

I am not a prophet, nor the son of a prophet, but one is not required so to be in order to venture the opinion that the A. A. A. will eventually go the way of the N. R. A. And this I know is the opinion of many of its most interested advocates. It is a situation that confronts us, however, and not a theory, for the dairy farmers and others whose interests are tied up with and in them in my State have been aided and assisted by the original A. A. A. Act, insofar as its provisions applied to the milk licenses, and there is no denying the fact. Their very livelihood was at stake; and under the act, whether it be constitutional or not, their interests were or have been protected, their dairies were saved, and they received more for their milk at their door as producers than they otherwise would have received in the present chaotic condition. In the proposed amendments they see their hope of continued existence, if not prosperity, and there is considerable force in their contention. What helps them helps indirectly and directly all the people of my State. One cannot conscientiously oppose, on grounds real or imaginary, legislation that really benefits the farmer.

As some of you know, I could not bring myself to support some of the other bills which were presented to the Committee on Agriculture for its consideration, my principal objection being against the delegation of authority to the Secretary of Agriculture. But this bill which we are today considering materially changes the former bills and definitely limits and circumscribes the authority of the Secretary of Agriculture. Even this bill does not go as far as I would like to have it, but some of the objections which I have had to the former legislation have been removed. I do not like the provisions of the bill which prepare the way for the maintenance of artificial prices, the restriction of imports, and the dumping of exports abroad. I do not like the confused scramble for temporary gains regardless of the principles which are involved and with little thought for the ultimate welfare of the farmer. Nevertheless, it cannot be overlooked there are temporary gains, and that the dairy farmers in my State are in a desperate situation.

This bill affords temporary relief which he must have if he is to survive the present chaotic condition, so I am constrained to vote for the bill; to be an opportunist if you like, and for once to follow Thomas Jefferson, of whom it was said:

He was an opportunist to be sure. He never refused the half loaf he could get because of the whole loaf he could not have. He trimmed his sails at times to save his craft, and this was wisdom. He compromised at the call of necessity.

I am going to vote for these amendments, hoping, but very much in doubt as to whether or not I am voting for the best ultimate interests of the farmer.

It is the milk situation in Vermont which is the compelling and determining motivating force which impels me to vote as I do. I am advised, and with reservations I admit that as a temporary measure the provisions in the act involving assistance to the dairy farmers are justified by their interests and exigencies. They themselves admit they are not favorable to the use of compulsion on the part of the Federal Government as a general rule, but they contend that so long as certain handlers of milk and other dairy products refuse to cooperate with the dairy farmers so that the farmers may receive a reasonable return for their toil, just so long do they feel that it is entirely right and proper for the Federal Government to exercise its powers to the end that the farmer will receive his fair share of the consumer's dollar. It may not be right and proper, but I see no other way out in the existing situation.

I am also advised the marketing agreement provision of the A. A. A. is amended by this bill in an effort to define the limits of interstate commerce in a manner which will comply with the rules laid down by the Supreme Court in the N. R. A. case.

They aver that the old license section of the A. A. A. has been entirely rewritten and that the changes insofar as they affect dairy farmers are as follows:

First. The term "license" is abandoned and the word "order" is used in its place. This change is made because of the fact that the penalties for violation have been changed from a revocation of the violators right to do business to a schedule of fines. This change made the use of the word "license" meaningless. The word "order", on the other hand, is used in connection with the Packers and Stockyards Act, the Interstate Commerce Commission Act, the Federal Trade Commission Act, and similar Federal legislation.

Second. The definition of "interstate commerce" in the order section is amended to meet the requirements of the Supreme Court in the N. R. A. case.

Third. To meet the requirement of the Supreme Court that definite limitations must be placed on delegation of authority, to the executive or administrative branches of the Government, the provisions which may be placed in an order are definitely set out. These provisions in the case of milk and its products are:

(a) Provisions for fixing the minimum prices to be paid producers or associations of producers by distributors or processors.

(b) Provisions for the fixing of prices on a use classification basis.

(c) Provisions for differentials to cover grade, quality, location, production, volume, and market.

(d) Provisions for the use of the individual dealer-pool plan, the market-pool plan, and the base-surplus plan. In connection with the individual dealer-pool plan the act requires that such a plan must be approved by three-fourths.

The plans for selling milk above discussed are the ones used in practically every milk market in the United States. They have been developed over a period of the last 20 years by the cooperative associations who, during this period, have been selling milk in the various markets of this country.

(e) Provisions for the operation of an equalization fund in the market so that all dealers will pay the same price for milk in each use classification.

(f) Provisions requiring that new producers receive the manufacturing price for a period of 90 days after they come into the market.

(g) Provisions providing for a check-off from producers for the purpose of verifying weights, sampling and testing, and for the guaranty of dealer payments.

(h) A provision guaranteeing the right of a cooperative association operating in more than one market to blend its sales and pay its producers in accordance with the contract between the cooperative and its producers. This does not,

however, permit any cooperative to sell milk at prices less than those fixed by the Secretary's order.

(i) Provisions prohibiting unfair methods of competition and unfair trade practices.

(j) Provisions for the appointment of market administrators or industry boards to administer the orders.

The provisions above discussed are the only ones which may be included in orders covering milk and its products. It is not necessary, however, that each order contain all of these provisions. Only those provisions which are necessary in the particular market or in connection with the individual product will be used. Certain of the provisions will naturally be used only in orders affecting fluid milk and cream, while others will be used only in connection with manufactured milk products in the event that the producers of manufactured dairy products desire to utilize the marketing agreement and order sections of the bill.

Fourth. Every order issued by the Secretary must be based on a marketing agreement. Orders may be issued by the Secretary—

(a) To make effective a marketing agreement signed by the processors, distributors, or other handlers of at least 50 percent of the volume of the commodity or product covered by the order; or

(b) Where the processors, distributors, or other handlers refuse to sign a marketing agreement the Secretary with the approval of the President may issue an order making such marketing agreement effective if two-thirds of the producers by number or volume of the commodity or product covered by the proposed marketing agreement approve the issuance of such order.

Fifth. The Secretary is required to terminate any order issued by him when such termination is requested by a majority of the producers in number and volume of the commodity or product covered by the order.

Sixth. The Secretary is required to give due consideration to the different conditions existing in the production and marketing of commodities in various parts of the country.

Seventh. Retailers of milk and producer-distributors are required to comply with the provisions of any order affecting them.

Eighth. In determining whether producers approve or disapprove a proposed marketing agreement or in determining whether they desire to terminate any order, the Secretary is given permission to allow bona fide cooperatives to voice the sentiments of their producers. We feel that Congress should make it mandatory on the Secretary to accept the expression of the bona fide cooperative association as evidence of the sentiment of its membership.

Ninth. The act provides for the filing of reports by parties to marketing agreements or persons subject to orders and the examination of their books and records relative to operations affecting the marketing agreement or order. This information must be kept confidential by the Secretary except in cases of hearings or law suits on violations of any agreement or order. The Secretary is, however, permitted to publish the names of violators and to issue composite reports in connection with the operation of marketing agreements or orders which shall not identify information obtained from any particular person.

Tenth. A provision is contained authorizing the Secretary to cooperate with State agencies in connection with programs under the A. A. A. This provision also requires that before any confidential information is furnished to such agencies that they shall agree to keep such information confidential in the same manner as is required of Federal employees under the act.

Eleventh. The bill provides for the collection from all handlers of their pro rata share of the expense of administering a marketing agreement or order. The share of any cooperative under this section is to be measured by the quantity of the commodity distributed, processed, or shipped by such cooperative.

There are those who contend that the decision in the Schechter case spells the eventual finding by the Supreme Court that the A. A. A. and these amendments are uncon-

stitutional, and very able lawyers are convinced there can be no question that this will be the case. On the other hand, there are equally as able lawyers who hold to the contrary.

I was interested in what the gentleman from North Carolina [Mr. COOLEY] had to say in respect to the legal construction which would be given the act, especially with reference to milk-marketing orders or licenses. He said:

In metropolitan milk markets, such as Boston, there is, of course a relatively small volume of milk which is produced in the same State in which it is distributed, and hence does not move in interstate commerce. The application of milk orders to this relatively small amount of milk is amply justified under the doctrine that Congress has the power to regulate interstate commerce when intrastate commerce is so intermingled with the interstate commerce regulated that effective regulation of the latter requires regulation of the former, or when the regulation of interstate commerce alone would give an unfair competitive advantage to intrastate commerce of the same character, or when intrastate commerce directly affects or burdens interstate commerce. Thus, the Interstate Commerce Commission may regulate intrastate railroad rates when such intrastate rates, if unregulated, would hinder effective regulation of interstate railroad rates, or would discriminate against those who ship goods in interstate commerce (the *Shreveport case*, 234 U. S. 342; *United States v. Louisiana*, 290 U. S. 70; *New York v. United States*, 257 U. S. 591).

It seems obvious that in these interstate milk markets the fixing of minimum producer prices for interstate milk could not be effective without fixing equivalent prices for intrastate milk which is in direct competition with interstate milk, and the fixing of minimum producer prices for interstate milk alone would clearly discriminate against such milk.

Therefore it would appear that there can be no very serious question that the fixing of minimum producer prices for milk is permissible under the due-process clause of the fifth amendment. *Nebbia v. New York* (291 U. S. 502) and *Hegeman Farms Corporation v. Baldwin* (293 U. S. 163) established that fixing such minimum producer prices for milk does not contravene the due-process clause of the fourteenth amendment, and it is well settled that the restraints of the fifth amendment upon congressional legislation are no greater than those of the fourteenth amendment upon State legislation (*Heiner v. Donnan*, 285 U. S. 312, 316).

Some time ago Governor Smith, of Vermont, appointed a special commission composed of E. B. Cornwall, of Middlebury, Vt., chairman; John P. Candon, of Pittsford, and Wallace H. Gilpin, of Barton, to investigate the Boston milk-market situation, which commission made the following report:

In the light of Judge Brewster's decision against the Boston milk license, and in favor of the Seven Oaks and Westwood Farms organization, whose producers are in Vermont, every milk producer in Vermont must realize that the market is in the most precarious situation in several years, and that now is the time for every producer to give his utmost to cooperate with his purchasing unit, and that such unit if need be, must temporarily give and take with other units to preserve the advantage now offered the producer by the A. A. A. Boston milk license. It is more important just now that there be complete cooperation between organizations than at any time in years, to prevent an absolutely ruinous situation in the Boston market.

The Seven Oaks decision is a most unfortunate one from the Vermont producers' standpoint. Producer groups have been altogether too ignorant of the effect they may be having upon the entire market, by what seems at the moment a personal gain in market or in price. Unfortunately, too, we find there is a fostering of sentiment among individual producers against other groups. This is probably unintentional in some cases. In others it appears intentional.

There is still a lack of friendliness between producer groups which tends to destabilize the market. This is unfortunate and is causing a most unhappy sentiment against Vermont and Vermont milk producers as a whole in Massachusetts. Legislation is threatened in that State, which would harm all Vermont producers, because of the growing feeling in Boston and in Massachusetts that Vermont producers are quarreling among themselves. This is one of the most serious points in the entire situation. Let every individual producer and producer group remember this: If Massachusetts passes laws against Vermont, it will be probably largely the result of Vermonters' actions.

If the different marketing units continue to jockey for position in case of a smash-up, the smash-up is inevitable. It will mean a milk war, the cost to be borne by all the farmers of New England. It will be useless to try to allocate the blame, probably no unit will be blameless. The fact is that the farmer who is now beginning to pay his bills and meet his interest payments at the bank will again be "broke."

If the units will cooperate to a reasonable extent, the present license system can be saved and improved, regardless of lawyers and court decisions. This result will be made easier of attainment if Vermont's congressional delegation and those of other States realize the importance of the passage of the A. A. A. amendments.

Commenting with respect to this report the Hon. Wallace H. Gilpin, a member of the Commission, has this to say:

Problems surrounding milk production, milk prices, and milk marketing are among the most argued questions in New England. This has been true since the New England dairyman became essentially a milk producer instead of a butter and cream manufacturer, and there is no reason to believe the problems can be permanently settled to the satisfaction of all factions.

A few fundamental features of the problems might well be considered and if once established in the minds of those who would discuss milk problems, will assist in making certain phases of the situation clear. One of the first is to realize that the price paid the producer for class 1 milk is an artificial price forced to a higher level than the natural price milk will bring manufactured into any of many dairy products, such as butter, cheese, casein, etc. Such artificial price invites trouble. Witness farmers in one area attempting to get two ratings for a single farm in order to get more milk into the class 1 level; and in the market consider the temptation to sell class 2 milk at the class 1 price.

In order to give every milk producer an equal chance at the artificial class 1 price the Federal Government, through the A. A. A. and a Boston area license plan, has figured carefully from records of production in the past a base rating for each farmer. This rating is founded on the total sales of class 1 milk in the Boston market. Every pound of milk the producer makes above his base rating, he must realize from the start, is being produced in direct competition with the western dairyman, who can produce milk cheaper than here, because that surplus milk must go into products which the western dairyman makes, and all such products can be stored and shipped anywhere.

The producer sometime feels that he is cheated by the Boston distributor who double-crosses him on the surplus or class 2 milk, but every investigation carried on by farmer representatives indicates that this is not true to any great extent. The large dealers are kept well under control by Federal and State boards with expert audits which begin at the country milk station and are carried to the very consumer. In fact, there appears to be no attempt on the part of any of the larger dealers to do this thing and what the small dealer may get away with is negligible. In fact, the Federal Government, in the Boston market, is employing numerous expert accountants from entirely outside concerns to do this type of work, and their figures are hardly open to doubt.

The greatest trouble appears to be cutthroat competition among Boston distributors for the Boston business, and lack of farmer cooperation in the country. Repeatedly those who have studied the problem state that if the milk producers of Vermont could and would get together solidly, there would be no milk problem left except that problem to which every business is open, viz, general conditions in the market. But so long as the producers themselves are split into factions so long will the Boston market have opportunity to play with them.

The A. A. A. Boston license has undoubtedly given the New England milk producer a much better milk check than he would have otherwise had, better than the New York producer gets; and the Massachusetts milk control board is making an honest, if weak, attempt to aid the producer who will not be aided except in sections and by factions. This reflects upon the whole of Vermont and is undoubtedly responsible for the growing dissatisfaction among Massachusetts dairymen and other Massachusetts interests with Vermont's milk position and attempted legislation there which would materially damage the entire milk-production business in Vermont. Temporary patching of trouble may avail for a time in the Boston milk market, but sooner or later the producers of Vermont must all get solidly together or the class 1 milk price will be wiped out by unnecessary and damaging Boston competition which warring and dissenting factions here encourage and unconsciously abet.

As Milo C. Reynolds, commenting editorially on Judge Brewster's decision holding the Boston milk-marketing agreement illegal, void, and unenforceable, pertinently pointed out in the Burlington Clipper of May 23:

There are principles in this decision which, if sustained by a higher court, would completely wipe out of existence all regimentation of production and enforced regulation of business and industry. In the face of this decision, which will seriously affect the Vermont farmer unless some other plan is evolved to take its place, there is more reason than ever for the Vermont dairymen to get together in a solidified organization. If it is illegal for the Federal Government to put in a regulation which fixes the price that the farmer shall be paid for his milk, then the farmer has got to take the situation in his own hands. This can only be done by organization and such organization has got to be thorough and complete.

To cry over this decision is not going to help matters. The producers' interest is in the future and not the past. The thing to determine now is the best procedure to protect the milk price in that Boston market. A good deal has been gained during the past year. There must be some way that measures can be adopted to hold that gain. It may be such a result can be brought about through a complete organization of the producers of Vermont. If that is the best method, then no time should be lost in bringing about such an organization. If milk leaders by any tactics attempt to discourage such an organization, they should be swept aside. The interest of the Vermont producer is paramount in

this State to that of any dealer or any distributor. And the interest of these producers is so far-reaching that it affects all the people of the State.

This legislation we are considering is admittedly to be enacted in the alleged interest of the farmer. There can be no question, as was said at Springfield, Ill., recently that—

The farmer of right is entitled to a fair proportionate part of the national income and to receive a parity price for the products of his farm in domestic markets.

It may be that the original act and these last amendments, insofar as they seek to control and regulate production and processing, are unconstitutional; that the price-fixing provisions and those imposing agreements upon minorities and upon majorities are a deprivation of property of private citizens without their consent and without compensation, and are therefore unconstitutional. And the original bill and these amendments may in other respects be held unconstitutional. To be perfectly frank with you, I do not see how it can be otherwise; nevertheless, as a temporary expedient, because of the exigency of the situation which confronts the farmers of my State, and since under the circumstances, political and otherwise, I see no other way, so long as the provisions of the original act are in force and operative, to obtain the desired temporary relief for them, I am forced to take whatever of temporary benefit and relief I can get in the manner and form prescribed by the terms of this act, as amended, whether I like it or not.

Mr. UTTERBACK. Mr. Speaker, I desire to discuss the bill now pending before the House, H. R. 8492, a bill to amend the Agricultural Adjustment Act, which has been recommended for our approval by the Committee on Agriculture after a long and exhaustive study.

It is appropriate that a Democratic administration should lay before this Congress a bill that is the most comprehensive and far-reaching piece of legislation for the benefit of farmers ever enacted in the history of this or any other country.

Twenty-three years ago this month, in June 1912, the Democratic Party in convention at Baltimore, Md., wrote in its platform a plank proposing a study of agricultural credits and endorsing legislation permitting national banks to loan a reasonable proportion of their funds on real-estate security. Woodrow Wilson was the nominee of that convention. His election to the Presidency in November 1912 was the birth of legislation for the real financial benefit of American farmers. Under the direction of President Wilson the first step was taken to set up a system of Federal farm credits to relieve American farmers of high interest rates and overhead charges in connection with farm loans.

PRESIDENT WILSON VETOES FORDNEY TARIFF

The World War interrupted President Wilson's agricultural program. In the last 2 years of his administration a Republican Congress dominated by high-tariff industrialists refused to follow the leadership of President Wilson and passed the Fordney Tariff Act of 1920. One of President Wilson's last official acts was to veto that bill. If his three Republican successors to the White House had followed his example, they would have done much to have prevented the decline of American agriculture in the 12 years that followed March 4, 1921, and that reached a climax in the economic collapse during the Hoover administration.

President Wilson was not deceived about the effect of tariffs on agriculture. His keen mind and his discerning eye surveyed the situation and read the answer clearly and accurately. He vetoed legislation to revive the War Finance Corporation to loan money to European countries. It was clear to him that buyers could not always be buyers or borrowers. He knew that borrowed money must be repaid or the lender must stop lending sooner or later. The war changed us from a debtor to a creditor nation, and every loan we made abroad increased the debt burden upon our former creditors who are now our debtors.

President Wilson realized that these debtors had no money. He knew that they could repay our loans in only one way; that was by selling us enough of our products to

pay the interest on their debts and something on the principal.

The foreign market for the products of 40,000,000 acres of American farm land that were brought into production during the World War ceased to exist after the war ended and the soldiers of Europe returned to their farms. The foreign market for the products of American factories theoretically ceased to exist at the same moment, but American manufacturers in cooperation with American international bankers supported the foreign market for the products of American factories upon a false and unsound foundation for 10 years by loaning \$15,000,000,000 of American money abroad.

The Republican Congress in the last 2 years of President Wilson's administration and three successive Republican administrations thereafter either could not or would not see and admit that self-evident fundamental common-sense business situation. More foreign loans and higher tariffs were the only answers they had to the problem. It was like building a 100-story building on sand. Sooner or later a building so constructed is certain to collapse.

MONEY DRAINED FROM FARM BANKS

New York bankers who made most of the foreign loans made them to support the sales of products of factories which they owned. However, it was not their money that they loaned. That money was drained from the banks in the agricultural areas of the country. At the same time, prices of agricultural products were declining almost steadily and as a result of this unsound post-war industrial boom, the disparity between the prices of agricultural products and industrial products increased year after year.

There were no foreign loans to support exports of agricultural products. New York bankers and Republican administrations left the American farmers to shift for themselves. During practically the entire period from 1921 to 1929 farm prices were below the cost of production and farmers were being crushed financially between the millstones of debt and insufficient incomes. Three successive Republican administrations did nothing to help them. At the same time the cash reserves of farmers and Midwest business men in banks of the agricultural area were being siphoned off to New York and thence to Europe.

Twice in this period Democrats in Congress joined Progressive Republicans and gathered sufficient votes to force a bill through Republican Congresses designed to enable the farmer to help himself. That bill was the McNary-Haugen bill. It proposed to finance the export of agricultural surpluses by the export debenture plan. The farmers of the United States asked for that plan. They were able to muster sufficient strength among Democrats and Progressive Republicans to push it through Congress twice, but each time it was vetoed by a Republican President and could not be passed over the vetoes.

A well that is pumped hard enough and long enough finally runs dry if the water supply is not replenished. Financial reserves that are siphoned away finally disappear if incomes do not equal the outgo. That is what happened to the United States during the period from 1921 to 1933. The well ran dry. Financial reserves disappeared.

The American farmer produces the new wealth upon which most of the Nation does business. For many years he supplied the money to support billions of dollars of foreign loans, so that our international bankers and their industrial plants might continue to fatten on rich foreign business. The farmer did not realize what was going on. He knew that the prices of his products were going down and that the prices of the things he bought were going up, but he did not understand the cause. Few persons outside of a select circle did. American agriculture was being strangled gradually. It was being strangled ruthlessly and heartlessly—and those who were doing it were gradually cutting away the principal support of American industry. They were destroying the jobs of millions of American workingmen.

Ultimate collapse was as certain as night follows day. American agriculture finally reached the exhaustion point.

Hundreds of banks in the agricultural areas closed under the strain of those trying years 1921 to 1929. Thousands of farm mortgages were foreclosed.

The agricultural depression began in 1921. The industrial depression began in 1929 when a weakened and exhausted agriculture could not carry the load any longer. Then industrial unemployment swept over the land. Then the American farmer and the American laboring man stumbled on hand in hand to the brink of economic chaos and social revolution as the whole house of cards built on the unsound economic practices of three Republican administrations crumbled in the greatest economic collapse in history, the panic of 1932-33.

I would like to review briefly the legislative record on the tariff and farm relief of the three Republican administrations from 1921 to 1933.

REPUBLICAN TARIFF LAWS MAKE FARM SITUATION WORSE

The Fordney Tariff Act of 1921 became a law when President Harding signed it on June 27, 1921. According to our Republican friends, this act was to have solved the agricultural problem. Speeches made in Congress in support of the bill indicated the Republican administration believed it would. A higher tariff was the Harding administration's proposed solution of the farm problem, but the entire country knows now that the Fordney tariff did not solve the problem. It made the condition of agriculture worse.

It was clearly apparent several months later that the farm problem remained unsolved. Then Secretary of Agriculture Henry C. Wallace, father of our distinguished Secretary of Agriculture, Henry A. Wallace, insisted that President Harding call a national agricultural conference to discuss the situation. With farm mortgage foreclosures increasing, as a wave of bank failures swept over the agricultural areas of the country and with land values and farm prices registering further declines, the conference met during the winter of 1922. For the first time in the history of our country, farmers were asked to assist in planning for agriculture. More than 300 farmers and 90 other persons representing various agricultural interests attended the conference. A total of 39 legislative recommendations were made to Congress and the President.

Among other things, the farmers asked Congress and the President to take steps immediately to reestablish a fair exchange value for all farm products. The Republican administration answered that request by enacting another tariff bill raising the rates established in 1921. The Tariff Act of 1923 merely increased the farmer's distress by increasing the prices of the things he bought on the protected and controlled industrial market while the prices of his products, sold at the world price because of uncontrolled surpluses, continued to decline.

The doctrine of the McNary-Haugen bill was in the air in 1923. In 1924 the first McNary-Haugen bill was introduced in Congress. It failed to pass by 40 votes and as if to halt the rising tide of agricultural strength, our rugged Republican individualists handed the farmer another meaningless sop in the shape of a 12-cent increase in the tariff on wheat. But although the tariff on wheat was fixed at 42 cents a bushel, and on corn at 25 cents a bushel, farm prices continued to decline, farm mortgage foreclosures continued to increase and the wave of bank failures continued unabated in the agricultural areas.

Again in 1925 the McNary-Haugen bill was before Congress but friends of the farmers were unable to gather sufficient strength to force a vote. In March 1925, President Coolidge addressed the annual convention of the American Farm Bureau Federation. He condemned the McNary-Haugen plan as price fixing, defended the tariff system as a boon to agriculture and asserted that agriculture was nearly back to normal. However, it took more than words of a Republican President to stop farm foreclosures and farm-bank failures. More than 5,000 small banks closed in this country between 1921 and 1929.

A new McNary-Haugen bill reappeared in 1926, but it was defeated in the Republican Congress. Finally, in that year,

business men of the country began to show some interest in the farmer's plight. The National Industrial Conference Board, representing business interests, took note of the agricultural situation and urged strongly the need for agricultural relief legislation. Farm groups became more insistent but the Republican administration did nothing.

PRESIDENT COOLIDGE VETOES McNARY-HAUGEN BILL

In 1927 the McNary-Haugen bill was ushered in again. This time, the bipartisan agricultural strength of Democrats and Progressive Republicans was sufficient to push it through Congress, but the bill encountered a veto at the hands of a Republican President, Calvin Coolidge.

The McNary-Haugen bill was passed again in 1928. Again it was vetoed by President Coolidge and from 1928 to 1932 the farmers of America sank deeper and deeper into the mire of depression. In 1930 after the collapse of industry and with unemployment spreading over the land, the Republicans raised the tariff again. Under the leadership of President Hoover, a Republican Congress passed the infamous Smoot-Hawley Tariff Act. In the next 12 months the annual gross income of the American farmer declined from \$9,414,000,000 to \$6,911,000,000, or more than 25 percent.

In an attempt to save themselves, the farmers raised every possible bushel of grain and pound of fiber and produced every possible pound of meat and animal products. Their efforts to meet fixed charges of taxes, interests, and living costs in this way, were defeated by still further decline of prices and still lower gross income. In 1920 the gross farm income of the American farmer was \$13,566,000,000. In 1932, after 12 years of uninterrupted Republican administration, the gross income of the American farmer was \$4,328,000,000, a decline of \$9,238,000,000, or approximately 70 percent in 12 years.

That was the answer of Republican administrations to American agriculture, which was pleading for assistance. That was the way three successive Republican Presidents solved the farm problem. They were starving the farmer out.

During the period of 1916 to 1920, when food prices were high, the farmer gained and held a slight economic advantage over industry. Farm prices advanced faster than the prices of the things the farmer buys. The farmer lost this advantage in 1921 and his disadvantage increased steadily from then until March 4, 1933, when Franklin D. Roosevelt became President of the United States.

During three successive Republican administrations, the American farmer engaged in a losing fight against the effects and results of a high protective tariff policy that finally caused over 50 foreign nations, not only in Europe but including Canada and the South American republics as well, to pass retaliatory tariff laws, fix import quotas, and establish embargoes which destroyed almost the last bit of foreign market for our agricultural and industrial products.

Canada raised a high tariff wall against all American products, both manufactured and agricultural. It put a tariff of 25 cents per bushel on corn and similar tariffs on other agricultural products, yet they cannot raise corn profitably in Canada for the reason that the season is too short. In the fall of 1932, when Iowa corn was selling for 7 cents to 12 cents a bushel, when it was being used as fuel to heat Iowa farm homes, Canada was paying 35 cents a bushel for inferior corn imported from South Africa and South America. Iowa corn should and would have been purchased for Canada's needs except for the retaliatory tariffs raised by Canada against the excessive and greedy tariff rates fixed in the Smoot-Hawley Act.

MANUFACTURERS OPEN PLANTS ABROAD

The big manufacturers had a way to meet the situation. They simply took some of the millions of dollars they had accumulated under the special privilege high tariff trust policy of Republican administrations, went to Canada and other foreign countries, built branch factories, installed new machinery, used foreign raw materials, employed foreign labor, and manufactured the identical products they had formerly manufactured in the United States, where they had

used American raw materials and American labor. In that way they were able to avoid the payments of tariff and to escape the limitations imposed by quotas and embargoes. The result of such an industrial policy was the discharge of thousands of American workers from factories and mines. This condition made it impossible for those formerly employed in industry to purchase the products of the farms and pay a fair price for them. As a result, the farmer lost a large part of his former domestic market in addition to losing all of his foreign market. In addition to all this, the farmer struggled against high transportation costs, high interest rates, and finally against insect pests and drought.

The agricultural record of the Republican Party has been written. It was written during the years 1921 to 1933 in indelible facts that the people of this country, particularly the American farmers, will not forget soon. It is a record of neglect and failure, deceit and double dealing. The harvest of that record was hundreds of thousands of farm foreclosures, collapse of farm values, thousands of bank failures, incalculable financial distress and suffering among millions of farm people, utter discouragement and despair in the agricultural areas of the country, and, in a large measure, the industrial and financial collapse of the country in 1929-32.

Yet in the face of all that, the Republican Party wrote in its platform in 1932 the following statement:

Under Republican administration the position of agriculture was gradually improved.

In accepting the nomination for a second term, President Hoover said:

The farmer was never so dependent upon his tariff protection for recovery as he is at the present time. We shall hold to that.

Franklin D. Roosevelt was inaugurated President of the United States on March 4, 1933. At that time farm products were selling at the lowest prices in 60 years. Many Iowa farmers were burning corn in their stoves. Some public buildings in Iowa were being heated with corn that officials had purchased at 10 cents or less a bushel.

For more than 6 months before President Roosevelt took office farmers of the United States were on the verge of open revolt against economic conditions that had been imposed upon them by Republican administrations. Farm strikes, farm holiday movements, and open resistance to foreclosure sales occurred throughout the country. These were not sporadic outbursts, they were common occurrences. These were organized efforts of farmers to keep their homes in the face of steadily increasing distress and hardship. The belief that President Roosevelt and the Democratic Congress, in cooperation with newly elected Democratic Governors and Democratic State legislatures, would do something to help them was the only hope of millions of farm people in those dark days when the powerful forces of depression were tightening around them.

DEMOCRATS DID NOT FAIL

President Roosevelt and his fellow Democrats did not fail the farmers. The President promised action and he kept his promise. He summoned farm leaders of the country to Washington for conferences with him and Secretary of Agriculture Henry A. Wallace. Three Republican Presidents from 1921 to 1933 denied the farmers what they asked. President Roosevelt said to the farmers: "Tell us what you want done and we will do it." The Agricultural Adjustment Act was written to conform with the ideas of farm leaders.

The Agricultural Adjustment Act became a law on May 12, 1933. In that act Congress declared that an economic emergency existed in part because of the breaking down of farm prices and resultant disparity between the prices of agricultural and other commodities. Congress declared its policy to reestablish prices to farmers at a level that would give agricultural commodities a purchasing power, with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the pre-war period of 1909-14.

This readjustment is not complete, but a comparison of prices in the winter of 1932 to 1933 and the present time shows how well the program has succeeded.

In December 1932 the farm price of wheat was 32 cents a bushel. Today it is 90 cents a bushel.

In December 1932 the farm price of corn was 19 cents a bushel. Corn actually sold as low as 12, 10, and even 7 cents a bushel. Today it is selling for 85 cents a bushel.

In December 1932 the farm price of cotton was 5 cents a pound. Today it is 12 cents a pound and prosperity is returning to the Southern cotton districts.

At the close of 1932 the farmer was receiving the lowest price in 54 years for his hogs. The Chicago hog market was \$2.73 per hundred pounds. Many farmers in Iowa, where more hogs are raised than in any other State, sold hogs for less than 2 cents a pound. Today the Iowa farmer is getting \$9 a hundred pounds for his hogs.

Prices of other farm products have advanced in comparison. In addition to all this, under the provisions of the Agricultural Adjustment Act hundreds of millions of dollars have been paid in benefits to agricultural adjustment contract signers. On March 31, 1935, collections of processing taxes and related funds totaled \$777,770,476.76. Payments to contract signers, administration costs, and refunds up to the same time totaled \$797,013,505.13.

Processing taxes are an integral and essential part of the agricultural adjustment program.

The theory of this tax as defined in the Agricultural Adjustment Act is based on the belief that farmers should receive parity prices for their products. The rate of processing tax is the difference between the current farm price and parity. Thus in the case of cotton parity was determined at approximately 16 cents a pound. The present farm price is slightly under 12 cents a pound. The processing tax of 4.2 cents a pound makes up the difference. The processing tax on wheat is 30 cents a bushel, and on hogs is \$2.25 per hundred pounds.

In their effort to feed the world during the war the farmers of America brought 40,000,000 acres of new land into production, and built up an agricultural industry that could not be effectively reduced by individual action. The processing tax is the means with which the farmers can unite co-operatively in more than 5,000 production-control associations in the country to control production effectively to the end that they may receive parity prices for their products.

BENEFITS PAID TO FARMERS

Benefits paid to Iowa farmers from processing taxes up to April 30, 1935, were as follows:

County	Total	Wheat	Corn-hog
Adair	\$809,943.03	\$3,182.91	\$806,760.12
Adams	555,532.63	1,345.78	554,186.85
Allamakee	384,812.80	1,359.72	383,453.08
Appanoose	263,486.81	1,462.12	262,024.69
Audubon	718,746.02	698.23	718,047.79
Benton	918,564.15	1,884.41	916,679.74
Black Hawk	751,253.20	461.88	750,791.32
Boone	666,845.94	1,388.88	665,457.06
Bremer	437,985.76	415.73	437,570.03
Buchanan	657,837.92	483.54	657,354.38
Buena Vista	848,725.19	130.97	848,594.22
Butler	676,611.09	64.75	676,546.34
Calhoun	749,858.75	964.62	748,894.13
Carroll	904,395.20	1,067.64	903,327.56
Cass	890,766.73	8,091.12	882,675.61
Cedar	837,106.89	2,024.30	835,082.59
Cerro Gordo	647,736.98	186.64	647,550.34
Cherokee	948,480.20	184.98	948,295.22
Chickasaw	456,845.74	11.76	456,834.98
Clarke	368,223.91	482.56	367,741.35
Clay	734,920.83	52.80	734,868.03
Clayton	822,586.66	1,071.70	821,514.96
Clinton	939,575.51	4,371.92	935,203.59
Crawford	1,168,927.14	7,195.87	1,161,731.27
Dallas	755,685.72	21,164.86	734,520.86
Davis	266,681.15	1,227.84	265,453.31
Decatur	411,243.75	2,626.61	408,617.14
Delaware	697,449.53		697,449.53
Des Moines	455,662.53	16,196.09	439,466.44
Dickinson	427,078.28	48.20	427,030.08
Dubuque	648,421.44	675.35	647,746.09
Emmett	471,761.79	1,360.37	470,401.42
Fayette	701,234.99		701,234.99
Floyd	485,769.73	1,108.77	484,660.96
Franklin	845,961.09	593.91	845,367.18
Fremont	780,423.50	38,274.79	742,148.71
Greene	739,060.99	426.63	738,634.36
Grundy	687,822.24	131.30	687,690.94
Guthrie	700,349.32	2,249.91	698,099.41
Hamilton	828,915.22	837.34	828,077.88
Hancock	725,788.46	149.34	725,639.12
Hardin	859,540.94	298.21	859,242.73

County	Total	Wheat	Corn-hog
Harrison	\$938,719.24	\$38,586.88	\$900,132.36
Henry	530,981.19	3,290.86	527,690.33
Howard	368,212.35	166.73	368,045.62
Humboldt	607,068.19	215.74	606,852.45
Ida	751,291.46	137.00	751,154.46
Iowa	882,621.02	5,540.95	877,080.07
Jackson	564,435.87	1,152.85	563,283.02
Jasper	1,182,570.48	12,133.31	1,170,437.17
Jefferson	429,670.91	1,922.06	427,748.85
Johnson	926,933.01	1,679.47	925,253.54
Jones	664,413.90	469.51	663,944.39
Keokuk	823,105.89	2,343.87	820,762.02
Kossuth	1,273,385.35	146.91	1,273,238.44
Lee	314,286.12	7,114.47	307,171.65
Linn	856,825.18	823.47	856,001.71
Louisa	470,782.17	16,511.05	454,271.12
Lucas	328,507.98	863.50	327,644.48
Lyon	701,633.66	435.59	701,198.07
Madison	780,735.00	23,717.13	757,017.87
Mahaska	926,178.42	7,182.20	918,996.22
Marion	743,776.14	6,967.01	736,809.13
Marshall	815,489.62	2,240.80	813,248.82
Mills	664,586.70	26,053.06	638,533.64
Mitchell	460,411.28	522.88	459,888.40
Monona	1,080,335.51	180,552.62	899,782.89
Monroe	308,887.26	2,781.08	306,106.18
Montgomery	732,398.12	14,044.99	718,353.13
Muscatine	485,611.72	6,227.96	479,383.76
O'Brien	761,508.46	306.29	761,202.17
Osceola	485,291.37		485,291.37
Page	914,383.27	37,450.51	876,932.76
Paolo Alto	728,947.26	371.44	728,575.82
Plymouth	1,060,829.69	5,708.03	1,055,121.66
Pocahontas	790,562.37	797.55	789,764.82
Polk	739,359.89	42,278.02	697,081.87
Pottawattamie	1,537,616.29	16,819.91	1,520,796.38
Poweshiek	952,467.89	751.97	951,715.92
Ringgold	484,442.86	2,071.99	482,370.87
Sac	919,896.46	330.63	919,565.83
Scott	696,512.79	22,171.26	674,341.53
Shelby	1,008,540.51	1,138.91	1,007,401.60
Sioux	1,034,110.83	927.14	1,033,183.69
Story	847,200.61	1,993.53	845,207.08
Tama	966,578.02	1,547.40	965,030.62
Taylor	527,235.70	5,567.53	521,668.17
Union	441,928.53	1,310.16	440,618.37
Van Buren	272,723.64	2,290.01	270,433.63
Wapello	414,943.94	15,559.72	399,384.22
Warren	784,742.30	30,891.41	753,850.89
Washington	872,905.21	1,466.33	871,438.88
Wayne	407,253.01	858.18	406,394.83
Webster	761,879.02	958.43	760,920.59
Winnebago	434,598.45		434,598.45
Winneshek	678,141.40	842.04	677,299.36
Woodbury	1,203,858.04	45,583.53	1,158,274.51
Worth	415,533.00	53.62	415,479.38
Wright	843,053.94	199.96	842,853.98
Total	70,376,519.14	730,143.80	69,646,375.34

It will be seen from the above table that agricultural adjustment contract signers in Iowa were paid \$70,376,519.14 in processing-tax land rental and crop adjustment benefits up to April 30, 1935. In Iowa and throughout the country every farmer has received two more dollars in price increases for every dollar that has been paid in processing-tax benefits. In other words, the processing tax has been multiplied by three in actual benefits to agriculture. All farmers, whether they have signed crop-adjustment contracts or not, have shared in the price increases that have been brought about by the agricultural adjustment program.

In 1932 the gross farm income of the United States was \$4,328,000,000.

In 1933, the first year of the agricultural adjustment program, the gross income of American farmers was \$5,051,000,000, an increase of 17 percent over 1932.

In 1934, the second year of the agricultural-adjustment program, the gross income of American farmers was \$6,100,000,000, an increase of 41 percent over 1932.

In 1935 the gross income of American farmers will be still higher. It is still below what it should be, but it is increasing and will continue to increase until the parity price is reached if the agricultural adjustment program of President Roosevelt's administration is continued.

FARM AND LABOR INCOME EQUAL

Only those who are unsympathetic to the welfare of the farmer and the country as a whole can logically oppose this program. It has brought order out of chaos. It has enabled millions of farmers to retain their homes and to gradually regain financial independence. The increased buying power of agriculture is already reflected in higher factory pay rolls, increased industrial production, larger sales, and an

improvement in general business conditions. Over a long period of years, from 1920 to 1935, farm income and labor income have been practically equal in this country. They rise and fall together. When farm income is high, labor income is high. When farm income is low, labor income is low. It is to the interest of workers in the cities that farm incomes increase because their income will increase also.

Action to increase the income of farmers was quick and effective, once the Agricultural Adjustment Act was enacted. Under authority granted in the act, the Secretary of Agriculture approved an emergency hog-marketing program and a corn loan program. Under the hog-marketing program the Government purchased 7,000,000 pigs that would have flooded the market later as mature fat hogs. Edible meat that could be salvaged was used for unemployment relief. Farmers benefited by an increase in the price of marketable hogs. Corn that would have been fed at a loss to growing pigs was saved on the farms.

The corn loan program made it unnecessary for farmers to sell their corn in order to get money. There was an abundant supply of corn in most of the Corn Belt during the winter of 1933-34. In connection with the effort the Agricultural Adjustment Administration was making to advance the price of corn it was desirable to keep surplus corn off the market not only to prevent the market price from being depressed but also to keep the grain out of the hands of speculators and on the farms so that farmers might ultimately receive the full increase in price that was to result from the Agricultural Adjustment program.

With corn selling at approximately 35 cents a bushel in November 1933, the Secretary of Agriculture announced a corn loan plan. Corn was sealed on farms and 45 cents a bushel was loaned to the owners.

The amount of corn loans by States was as follows:

Colorado.....	\$70,000
Illinois.....	31,100,000
Indiana.....	1,200,000
Iowa.....	57,150,000
Kansas.....	1,000,000
Minnesota.....	5,500,000
Missouri.....	1,000,000
Nebraska.....	22,000,000
Ohio.....	280,000
South Dakota.....	1,700,000
Total.....	121,000,000

The corn loan program kept millions of bushels of corn off a depressed market. Farmers who needed money to pay their taxes, interest, and living expenses were loaned 10 cents more a bushel than the market price. Today all those loans have been paid. Not a dime has been lost by the Government. This is in sharp contrast to loans that have been made by the Government for some other purposes since 1929, notably to certain banks and railroad companies. Millions of bushels of corn that were sealed on farms has been sold by farmers at more than 75 cents a bushel. The farmers have paid their loans and have had 30 cents a bushel in addition.

Approximately \$121,000,000 was loaned by the Government on 267,000,000 bushels of corn during the winter of 1933-34. A large percent of these loans were made to Iowa farmers. At the time the loan was announced the farm price of corn in Iowa was 35 cents a bushel. At the announced expiration of the loan—July 15, 1934—the price of corn had reached 51 cents a bushel. Millions of bushels were released upon payment of the loans. Millions of bushels were resealed for new loans. The corn loan program for 1934-35 authorized loans of 55 cents a bushel. Corn thus sealed was in the hands of thousands of farmers in the drought area last summer and winter. Their crops burned in the fields, but in many cases they had corn on which the Government had loaned them 45 or 55 cents a bushel. Thus they had feed for their livestock at a reasonable cost, when otherwise they would have had to pay grain speculators upward of \$1 a bushel. If the corn was not used for feed, farmers had the opportunity to sell their corn for 70 cents or more a bushel. The profit on sealed corn above the amount the Government loaned to Iowa farmers was actually more than the farmers received for their full crop in 1932.

AMOUNT OF CORN LOANS IN IOWA

The amount of corn loans made in the various counties of Iowa and the number of borrowers in each county were as follows:

County	Amount	Number of borrowers
Adair.....	\$525,000	930
Adams.....	233,000	620
Allamakee.....	17,000	75
Appanoose.....	4,500	17
Audubon.....	430,000	800
Benton.....	1,030,000	1,480
Black Hawk.....	315,000	600
Boone.....	1,200,000	1,920
Bremer.....	80,000	250
Buchanan.....	288,000	870
Buena Vista.....	1,000,000	1,880
Butler.....	354,000	1,000
Calhoun.....	1,700,000	2,990
Carroll.....	1,018,000	2,045
Cass.....	435,000	870
Cedar.....	577,000	620
Cerro Gordo.....	490,000	1,010
Cherokee.....	675,000	1,160
Chickasaw.....	122,000	475
Clarke.....	30,000	70
Clay.....	780,000	1,450
Clayton.....	37,000	113
Clinton.....	590,000	970
Crawford.....	335,000	475
Dallas.....	1,335,000	2,043
Davis.....	79,000	237
Decatur.....	42,000	129
Delaware.....	167,000	442
Des Moines.....	133,000	224
Dickinson.....	447,000	795
Dubuque.....	65,000	200
Emmet.....	718,000	1,078
Fayette.....	90,000	285
Floyd.....	353,000	887
Franklin.....	708,000	1,370
Fremont.....	1,365,000	1,377
Greene.....	1,897,000	2,964
Grundy.....	716,000	1,680
Guthrie.....	623,000	1,099
Hamilton.....	1,400,000	2,093
Hancock.....	939,000	1,450
Hardin.....	700,000	1,030
Harrison.....	876,000	1,270
Henry.....	316,000	455
Howard.....	104,000	450
Humboldt.....	905,000	1,450
Ida.....	920,000	821
Iowa.....	275,000	486
Jackson.....	77,000	169
Jasper.....	586,000	750
Jefferson.....	97,000	248
Johnson.....	305,000	476
Jones.....	162,000	337
Keokuk.....	196,000	511
Kossuth.....	1,676,000	3,403
Lee.....	46,000	95
Linn.....	406,000	843
Louisa.....	161,000	238
Lucas.....	29,000	63
Lyon.....	702,000	1,422
Madison.....	336,000	732
Mahaska.....	139,000	225
Marion.....	95,000	135
Marshall.....	700,000	884
Mills.....	969,000	1,580
Mitchell.....	339,000	1,045
Monona.....	853,000	1,220
Monroe.....	6,000	26
Montgomery.....	682,000	941
Muscatine.....	241,000	388
O'Brien.....	823,000	1,190
Osceola.....	443,000	744
Page.....	652,000	978
Palo Alto.....	799,000	1,764
Plymouth.....	723,000	1,210
Pocahontas.....	2,802,000	2,070
Polk.....	910,000	1,282
Pottawattamie.....	1,341,000	2,622
Poweshiek.....	415,000	654
Ringgold.....	129,000	465
Sac.....	1,153,000	1,410
Scott.....	267,000	595
Shelby.....	613,000	1,144
Sioux.....	605,000	1,133
Story.....	1,837,000	1,680
Tama.....	856,000	1,254
Taylor.....	95,000	193
Union.....	183,000	363
Van Buren.....	21,000	61
Wapello.....	147,000	125
Warren.....	197,000	356
Washington.....	269,000	630
Wayne.....	7,500	30
Webster.....	1,980,000	2,803
Winnebago.....	386,000	1,189
Winnesiek.....	30,000	114
Woodbury.....	1,400,000	2,024
Worth.....	262,000	809
Wright.....	1,245,000	1,797
Total.....	56,853,000	93,440

The following table shows the gain realized by farmers of the various States on sealed corn as a result of the increase in price between December 15, 1933, and July 15, 1934:

State	Farm price Dec. 15, 1933 (per bushel)	Farm price July 15, 1934 (per bushel)	Difference between Dec. 15, 1933, and July 15, 1934	Approximate bushels sealed	Difference in value, Dec. 15, 1933 to July 15, 1934
Ohio.....	\$0.39	\$0.56	\$0.17	155,555	\$26,444.35
Indiana.....	.37	.55	.18	2,666,666	499,999.88
Illinois.....	.39	.54	.15	69,111,111	10,366,665.00
Iowa.....	.35	.51	.16	127,000,000	20,320,000.00
Kansas.....	.37	.56	.19	2,222,222	422,222.00
Minnesota.....	.34	.49	.15	12,222,222	1,833,330.00
Missouri.....	.40	.60	.20	2,222,222	444,444.00
Nebraska.....	.33	.50	.17	46,888,888	8,311,111.00
South Dakota.....	.37	.52	.15	3,777,777	566,666.00
Total.....					42,790,882.23

Those figures do not show the total gain to farmers from the corn-sealing program. Many farmers did not seal all their corn. Some farmers sealed none; but all farmers benefited by the price increase that followed, not only in the price of corn but of livestock and other farm products. The corn-loan program has been justly acclaimed a great success. It never could have been or would have been adopted except for the agricultural adjustment program. Crop loans of such magnitude are only possible in connection with an effective program of crop control.

Briefly that is the record of the agricultural program of the Roosevelt administration from March 4, 1933, to now, with particular reference to benefits that have accrued to corn-hog farmers of the Central West. My colleagues from the cotton, wheat, and tobacco districts have detailed more completely the benefits that have accrued to the farmers of their districts.

A. A. A. IS POPULAR WITH FARMERS

The agricultural-adjustment program has been popular with the farmers. It has been a democratic program from the start. The farmers told President Roosevelt and Congress what they wanted. It was given to them. Then farmers elected their own representatives in 5,000 crop-control associations in the country to direct the program. During the last 8 months almost 3,000,000 farmers have voted in four referendums to continue the adjustment program. More than 86 percent of the votes were in favor of the program.

In administering any great comprehensive and far-reaching piece of legislation experience frequently proves that certain changes would be beneficial. Administration and enforcement of legislation disclose imperfections. This is perfectly natural.

It was not to be expected that the Agricultural Adjustment Act would work out perfectly as first enacted. In the 2 years since May 12, 1933, some imperfections have been discovered. It has been determined that some changes and some additions are desirable. These will make the act more effective and more beneficial for the farmers of the United States. At the same time they will not affect unjustly any person or group of persons in the country.

The amendments to the Agricultural Adjustment Act that are proposed in the bill now before the House of Representatives will make the act more flexible. They will permit the use of different plans for different commodities, thus enabling the plan to be fitted to a particular commodity.

The amendments have two principal purposes. The first is to continue and make the agricultural adjustment program more effective. The second is to make certain that the program of agricultural adjustment will be carried on within the powers given Congress under the Constitution as interpreted by the Supreme Court in the Schechter case.

The bill provides for "the ever normal granary plan." The Government is authorized to purchase agricultural commodities which have been pledged as security for Government loans and to use these commodities as payments in kind to producers who cooperate in the crop adjustment program. Adequate reserves of food and other agricultural

products can be maintained in this manner. These reserves will be effective insurance against unfavorable crop conditions and will tend to prevent such great fluctuations in prices as have occurred in the past.

The bill sets up a plan for effective marketing agreements and Executive orders to accomplish the object of the parity price for certain nonbasic agricultural commodities. It continues the production-adjustment program for basic agricultural commodities.

The parity price is redefined in the bill, so as to include current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate. At the present time, taxes per acre and mortgage interest per acre are probably about 160 to 170 percent of the pre-war level. This method of figuring the parity price may be expected to give parity standards approximately 5 percent higher than under the Agricultural Adjustment Act of 1933.

TARIFF RECEIPTS TO AID FARMERS

The bill authorizes restrictions on imports from abroad which might threaten the success of the agricultural-adjustment program. An important addition to the present Agricultural Adjustment Act authorizes an annual appropriation of 30 percent of the gross customs or import duty receipts of the Government for the use of the Agricultural Adjustment Administration. Since the farm population of the United States is roughly 30 percent of the total population, this provision will make available for the benefit of the farmer a sum equivalent to his fair share of tariff receipts. On the basis of tariff receipts during the last 3 years, it is expected that approximately \$100,000,000 annually will be available for the benefit of farmers.

This fund can be used to encourage the exportation of major agricultural commodities and products, to remove agricultural commodities and products from the normal channels of trade, to acquire submarginal farming and grazing lands and retire them from agricultural production, and to finance acreage and production adjustment benefit payments of agricultural commodities. The bill is comprehensive and far-reaching. It will provide funds for expanding the domestic markets for the fullest utilization of our agricultural resources and for recapturing foreign markets wherever possible.

These Agricultural Adjustment Act amendments carry the new deal's farm-crop controls much farther than did the emergency act of 1933. They are necessary if we propose to deal with the great basic industry of agriculture with a long-range view and embrace all of our six and a half million farmers.

The Agricultural Adjustment Act has served as a brake on agricultural overproduction. Last year it retired 36,000,000 acres from production of crops, of which large surpluses had been accumulated. Farm income has increased \$1,772,000,000. A permanent policy must be able to cope with all possible crop conditions—normal, bumper, and unfavorable. These amendments will forestall danger of crop shortages by permitting the Secretary of Agriculture to use rental and benefit payments to increase as well as to reduce crops. The ever normal granary plan will permit the Government to acquire nonperishable grains and fibers, such as corn and cotton, and seal them in granaries on farms or in warehouses as protection against drought or other crop disasters. Under this plan the Government can maintain reserves without being forced to dump them as it did wheat under the old Farm Board scheme.

These amendments will safeguard the Agricultural Adjustment Act of 1933. They will extend its usefulness and provide programs flexible enough to continue and maintain the rehabilitation of American agriculture. The bill was ready for action by the House of Representatives 2 weeks ago, but was sent back to the Agricultural Committee for further study after the Supreme Court handed down its decision on N. R. A. codes. It is the opinion of attorneys for the Government that the provisions of the bill now conform to requirements laid down by the Supreme Court in the Schechter poultry case.

ADMINISTERED BY TWO IOWANS

The Agricultural Adjustment Act has been administered, and these amendments proposed in this bill will be administered, by two Iowa men of great ability, the distinguished Secretary of Agriculture, Henry A. Wallace, and the Administrator of the Agricultural Adjustment Act, Chester C. Davis. Secretary Wallace and Mr. Davis are native Iowans. The distinguished Secretary is a graduate of Iowa State College, which is located in my congressional district. It is one of the great if not the greatest agricultural college in the world. Mr. Davis is a graduate of Grinnell College, a great institution located only a few miles from my congressional district. Both of these men knew farming and farm problems as young boys. They have given their lives to the service of agriculture.

Before coming to Washington, Secretary Wallace was editor of a great farm journal that has been published by three generations of the Wallace family. For many years he has been known as a scholarly student of agriculture, economics, and other scientific problems. He owns and operates a grain and dairy farm, located near Des Moines. He knows the farm problem from personal contact with farmers and from personal experience. The interest of the common man is close to his heart, because he is a common man himself.

Many of the provisions of the Agricultural Adjustment Act were written as the fruit of ideas that were born in the brain of Henry A. Wallace and that he had given publicity to in the editorial columns of his farm journal. Henry A. Wallace conferred with Franklin D. Roosevelt on agricultural matters during the campaign of 1932. Henry A. Wallace was summoned to Warm Springs, Ga., after the election, to discuss proposed agricultural legislation with the President-elect. Henry A. Wallace has the confidence of farm people. When he was named Secretary of Agriculture, the farmers of America knew that their hopes were to be realized if within the possibility of human endeavor. If there is one man more than any other who should be given the credit for the inception, the development, the administration, and the success of the agricultural adjustment program, it is the distinguished Secretary of Agriculture, Henry A. Wallace.

Chester C. Davis has toiled at the Secretary's side. While the Secretary has been busy with the multitude of official duties of his office, Chester C. Davis has given undivided attention to the agricultural adjustment program. His sympathetic understanding of the farm problems and his great administrative ability have made the Agricultural Adjustment Act a virile, living thing, that has meant financial salvation for millions of American farmers and given them new hope for the future.

Mr. Speaker, this session of Congress has had before it many bills of importance to the people of the entire Nation, but no bill that has been before this Congress up to the present hour is of greater importance, not only to the people of the agricultural districts of this country but to the people of the entire Nation, than the pending bill amending the Agricultural Adjustment Act.

This bill is important because our agricultural interests want and need the extension of the benefits of the Agricultural Adjustment program. This bill is important to those representing industrial districts for the simple reason that industry in this Nation cannot recover, cannot prosper unless the agricultural interests of this country likewise recover and prosper.

Two years and a half ago, I saw corn shoveled into the furnaces and stoves of homes and public buildings in the State of Iowa—corn that had been offered for sale or had been sold at 10 cents or less a bushel. Farmers who received such prices for the things they raise and produce cannot purchase the things that are produced by industry and labor. It seems to me self-evident, therefore, that if we are to have industrial recovery we must have agricultural recovery. On the other hand, if we are to have agricultural recovery in this country, we must have industrial recovery. The farmer cannot sell the things he produces for a fair and reasonable price unless labor is employed at reasonable wages and unless business is receiving a fair and just income

upon the amount of money honestly and prudently invested in that business.

So, Mr. Speaker, I hope no Member from any agricultural district and no Member from any industrial district will vote against this bill. It is my opinion that this legislation is not only in the interest of the farmer but in the interest of commerce, in the interest of labor, and in the interest of the entire Nation.

Mr. SABATH. Mr. Speaker, that this is legislation in the immediate interest and for the benefit of the farmers of the country in general nobody can deny.

None the less, I am further convinced that the legislation is designed to favorably affect our entire population.

The repeated assertion that the enactment of this proposed legislation would increase the cost of living may be justified to a small extent; but I have always believed, as now, that if we increase the purchasing power of the farmers it will help all, and this has been proved by the increased demand of farmers for manufactured articles, which in turn benefits the workers.

Agriculture is the oldest occupation of man. Agriculture is the pillar of our permanent prosperity. Unless the farmer receives a fair return for his products, our whole social structure is irremediably out of joint. Give agriculture a fair return for its products, and its increased purchasing power will cause the wheels of industry to hum like music to the ears of workers in industry and industrialists, and no complaint will be heard from any constructive source about a small increase in the cost of living.

We must use in some quantity all the products of agriculture, while agriculturists without money can fairly well, though not comfortably, exist without many products of industry; therefore, it plainly follows that our first desideratum should be, in evolving a scheme to benefit all, to help the farmer. The pending legislation will undoubtedly help agriculture.

Mr. Speaker, I recognize that the pending bill contains provisions that I wish could be avoided; but, after all, we must face the iron fact that all legislation is to a degree a compromise between clashing aspirations and conflicting attitudes. We cannot please all who would like to go further than this bill goes or who would eliminate some of its provisions.

Naturally, there are some Republicans and even some Democrats who are opposed to this proposed measure, but, everything considered, I am confident that most Members of broad and penetrating experience and enlightened vision will ultimately conclude that the pending bill is fair and deserves the support and active encouragement of all well-meaning Members.

When some of our Republican friends who are obstructively opposing this legislation reach home and feel the throbbing pulse of their constituencies they will want to claim credit for aiding in the adoption of this wholesome legislation.

Of those who for partisan advantage criticize almost every effort of the present Democratic majority, I need say little. They identify themselves readily. Their carpings will not avail, regardless of the number of "grass roots" conferences they may hold and the amount of misinformation they may try to feed their constituencies. The enlightened, the thinking people of this Nation will remember the years 1930, 1931, and 1932, and with gratitude the improvement in our national life effected since the election of President Roosevelt and the Democratic Congress.

Mr. Speaker, as a Member from the great State of Illinois, in whose capital the so-called "grass roots" parley was held, I have taken careful notice of the 18 points or grievances that parley set forth. This is a forerunner of what they feel will aid them in their campaign, from now up to the date of election in 1936 in their attempt to regain control that was, happily for our common country, wrested from unfaithful, incompetent, short-sighted hands.

I believe it would have been of real interest to the American people if the leaders of the "grass roots" parley should have familiarized the Nation with their real motive, whom

they actually represented, and where the money to defray the expenses of that conference came from.

That gathering must at once appear as a most ridiculous attempt by "has-beens" and repudiated leaders to regain the saddle. It is interesting, yes, amusing, and farcical. We all recognize that the leaders of the Republican Party will shortly be charged with having pulled a great boner. It will open the eyes of the American people to the desperate chance the "grass rooters" are taking in an effort to block, in the first place, the pending wholesome legislation, and, next, to effect their desire to continue to serve the special interests, as in the past.

Unfortunately for them, when they selected Springfield, the capital of our State, the home of Abraham Lincoln, they committed the most colossal blunder in the selection of a vantage ground from which to assail President Roosevelt in connection with his interview in regard to the decision of the Supreme Court in the National Industrial Recovery Act case. Had they possessed a modicum of intelligence, or recalled simple history, Springfield, the home of Lincoln, would have been the last place for them to meet, because this great man in no uncertain terms in the Dred Scott case made clear that the American people had rights of which even the Supreme Court could not deprive them. I remember that a majority of these gentlemen are the same men who assailed all of those advocating the repeal of the eighteenth amendment as nullifiers, but notwithstanding these ridiculous charges the country by an overwhelming majority did vote to repeal the Prohibition Act. And notwithstanding it had been held constitutional by the Supreme Court and notwithstanding it took away police powers from the respective States. The founding fathers, who gave Congress the legislative power, the President the executive power, and the Supreme Court the judicial power, never intended to vest all of these powers in one arm of government—the judiciary. True, today we have many so-called "judge-made" laws forced upon us by legal technicians and the beneficiaries of special interests never contemplated by the framers of the Constitution.

In view of the contemptible manner in which the "grass rooters" have assailed President Roosevelt and his worthy and successful efforts for the Nation, I feel that the Congress should know the leaders of the "grass roots" movement, especially some of those who are responsible for the ridiculous, unfair, and unwarranted charges against President Roosevelt and the Democratic Congress, and who would admit, if they were honest, that only the strenuous and courageous efforts of the Congress and legislation of his initiation saved us, as many believe, from revolutionary troubles.

I have many times portrayed conditions that existed in 1930, 1931, and 1932, when 80 percent of our plants, factories, banks, and other businesses closed and 16,000,000 willing workers were unemployed; when it became necessary for the Federal Government to advance money to municipalities and States to feed the hungry—yes, starving—unemployed, as contrasted with conditions of today. Therefore I need not restate those unhappy conditions. All those conditions were known to these leaders of the "grass roots" conference, and especially to the keynoter, that feeble old man, ex-Governor Lowden, who permitted himself to be used by such other ex-Republican officeholders as ex-Senator Deneen; ex-Senator Glenn; ex-chairman of the Illinois Commerce Commission, Frank L. Smith; Mr. Doyle; Mr. Brooks; and many others who are today drawing—thanks to Republican Federal judges—large, unwarranted salaries as useless receivers and attorneys for receivers that they themselves helped to create.

In a futile effort to cause thinking and injured persons to forget that misrule, inefficiency, unconscionably sharp business practices, and machinations that effected the greatest catastrophe in the history of this or any other country, they hide behind the Constitution and the doctrine of State rights. Unfortunately they have the same regard for the Constitution and State rights as they have had for the general welfare of our citizenry, which regard is nil. They

fatuously hope that they may by this hue and cry "stand by the Constitution" and "respect State rights", again deceive the voters. I am convinced, though, that the vast majority of the American people will not be misled by them.

The "grass rooters" have in stentorian tones quoted the Founding Fathers and that great Southerner, Calhoun, in connection with the Constitution and State rights.

Let me for a moment, please, hark back to the pronouncements of some of the Founding Fathers. And I shall rely chiefly upon Washington, the founder of the Republic, Jefferson, the fountain of its idealism, and Lincoln, the exemplar of its magnanimity and the preserver of its internal unity.

Both Washington and Jefferson anticipated "periodic repairs." It was the wise and immortal Washington, standing, as always, foursquare to all the winds that blow, who said that—

The warmest friends and the best supporters the Constitution has do not contend that it is free from imperfections; but they found them unavoidable and are sensible; if evil is likely to arise therefrom, the remedy must come hereafter.

Again, it was Jefferson, that stalwart opponent of a centralized government, who said, in a letter dated July 12, 1816, to Samuel Kercheval, on the Constitution:

Some men look at constitutions with sanctimonious reverence, and deem them like the Ark of the Covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age well; I belonged to it, and labored with it. It deserved well of its country. It was very like the present, but without the experience of the present; and 40 years of experience in government is worth a century of book-reading and this they would say themselves, were they to rise from the dead. I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their * * * ancestors. * * * Each generation is as independent as the one preceding, as that was of all which had gone before. It has then, like them, a right to choose for itself the form of government it believes most promotive of its own happiness; consequently, to accommodate to the circumstances in which it finds itself, that received from its predecessors; and it is for the peace and good of mankind that a solemn opportunity of doing this * * * should be provided by the Constitution; so that it may be handed on, with periodical repairs, from generation to generation, to the end of time, if anything human can so long endure. * * * This corporeal globe, and everything upon it, belong to its present corporeal inhabitants, during their generation. They alone have a right to direct what is the concern of themselves alone, and to declare the law of that direction. * * * If this avenue be shut to the call of suzerainty, it will make itself heard through that of force, and we shall go on, as other nations are going, in the endless circle of oppression, rebellion, reformation; and oppression, rebellion, reformation, again; and so on forever.

In conclusion let me briefly quote an extract from the immortal President and founder of the Republican Party, Lincoln, in his debate with Douglas concerning the Dred Scott decision. He said:

We believe as much as Judge Douglas (perhaps more) in obedience to and respect for the judicial department of Government. We think its decision on constitutional questions, when fully settled, should control not only the particular cases decided but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself. More than this would be revolution. But we think the Dred Scott decision is erroneous. We know the Court that made it has often overruled its own decisions, and we shall do what we can to have it overrule this.

To strengthen his position Lincoln quoted President Jackson in connection with Jackson's veto of an act of Congress, as follows:

If the opinion of the Supreme Court covered the whole ground of this act it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the Court must, each for itself, be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands it and not as it is understood by others.

I am sure that if Lincoln were alive he would resent and condemn the action of the "grass roots" leaders and wholeheartedly approve the humane policies and practices of President Franklin D. Roosevelt. Against the words of the four great and good Americans, Washington, Jefferson, Jackson, and Lincoln, I have quoted, we have the ex-Republican officeholders trying to create damaging prejudice against President Roosevelt. Whom shall we believe, the "grass rooters" and has-beens, who desire at any cost to regain with all fours the trough of Hoover, or the words of men who will stand for countless centuries as exponents of real and constructive wisdom?

NATIONAL LABOR RELATIONS BOARD

Mr. O'CONNOR, from the Committee on Rules, reported the following privileged resolution for printing in the RECORD:

House Resolution 263

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 1958, a bill to promote equality of bargaining power between employers and employees, to diminish the causes of labor disputes, to create a National Labor Relations Board, and for other purposes, and all points of order against said bill are hereby waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 3 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Labor, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit, with or without instructions.

Mr. SNELL. Is it the intention to bring up that bill tomorrow?

Mr. O'CONNOR. I understand it is the plan to bring up the Wagner-Connery labor-disputes bill tomorrow.

PARTICIPATION OF THE UNITED STATES IN TEXAS CENTENNIAL EXPOSITION

Mr. O'CONNOR, from the Committee on Rules, reported the following privileged resolution for printing in the RECORD:

House Resolution 264

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of Senate Joint Resolution No. 131, a joint resolution providing for the participation of the United States in the Texas Centennial Exposition and Celebrations to be held in the State of Texas during the years 1935 and 1936, etc. That after general debate, which shall be confined to the joint resolution and shall continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the joint resolution shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the joint resolution for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

Mr. O'CONNOR. Mr. Speaker, the rule just presented is in place of a rule presented the other day in which there were some errors. I ask unanimous consent that a similar resolution, House Resolution 257, may be laid on the table.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

NATIONAL MEMORIAL MILITARY PARK IN VICINITY OF KENNESAW MOUNTAIN

Mr. HILL of Alabama. Mr. Speaker, I call up the conference report upon the bill (H. R. 59) to create a national memorial military park at and in the vicinity of Kennesaw Mountain, in the State of Georgia, and for other purposes.

The Clerk read the conference report.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 59) to create a national memorial military park at and in the vicinity of Kennesaw Mountain in the State of Georgia, and for other purposes, having met, after full and free conference, have

agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

JOHN J. MC SWAIN,
LISTER HILL,
HARRY C. RANSLEY,

Managers on the part of the House.

MORRIS SHEPPARD,
DUNCAN U. FLETCHER,
ROBERT D. CAREY,

Managers on the part of the Senate.

STATEMENT

The managers on the part of the House, having met in full and free conference with like managers on the part of the Senate constituting the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H. R. 59, beg leave to submit the following statement:

The Senate amendment consisted of striking out certain language authorizing the Secretary of the Interior to purchase additional lands in order to round out and complete the area of the Kennesaw Mountain Battlefield Park, if said lands could be purchased at reasonable prices, and if the prices demanded be unreasonable in the opinion of the Secretary of the Interior, then that the Secretary of the Interior be authorized to exercise the right of eminent domain and to condemn such parcel or parcels of land as he deem necessary in order to complete and round out the area of said battlefield park. As a result of the conference, the Senate agreed to recede from its said amendment, and the language of the bill will remain as it was when the bill passed the House.

JOHN J. MC SWAIN,
LISTER HILL,
HARRY C. RANSLEY,

Managers on the part of the House.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

COLUMBIA INSTITUTION FOR THE DEAF

Mr. PALMISANO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 1180) to amend section 4865 of the Revised Statutes, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the number of beneficiaries from the several States and Territories authorized by section 4865 of the Revised Statutes, as amended, for admission to the collegiate department of the Columbia Institution for the Deaf, be, and it hereby is, increased from 125 to 145.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DURHAM COUNTY, N. C.

Mr. UMSTEAD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 7374) to amend section 98 of the Judicial Code to provide for the inclusion of Durham County, N. C., in the middle district of North Carolina, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SNELL. Mr. Speaker, reserving the right to object, as I understand from the gentleman from North Carolina, this is a matter of local convenience and is entirely satisfactory to the people in that part of the State?

Mr. UMSTEAD. The gentleman is correct.

Mr. MOTT. May I ask the gentleman on what subject this bill bears?

Mr. UMSTEAD. It is for the purpose of transferring a county from one judicial district to the other. There are three Federal judicial districts in the State of North Carolina. This bill transfers the county of Durham, which is my home country, from the eastern district to the middle district and is by the unanimous consent of the bar of that county.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 98 of the Judicial Code, as amended (U. S. C., Supp. VII, title 28, sec. 179), is amended (1) by striking out "Durham", in the second paragraph thereof,

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JUNE 19), 1935

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the first sentence of subsection (1) of section 2 of
4 the Agricultural Adjustment Act, as amended, is amended
5 by striking out the first word and inserting in lieu thereof the
6 following: "Through the exercise of the powers conferred
7 upon the Secretary of Agriculture under this title, to ", and
8 by inserting before the period at the end thereof a semicolon
9 and the following: " and, in the case of all commodities for
10 which the base period is the pre-war period, August 1909
11 to July 1914, will also reflect current interest payments per

1 acre on farm indebtedness secured by real estate and tax
2 payments per acre on farm real estate, as contrasted with
3 such interest payments and tax payments during the base
4 period ”.

5 (b) Section 2 of the Agricultural Adjustment Act,
6 as amended, is amended by striking out subsections (2) and
7 (3) and inserting in lieu thereof the following:

8 “(2) To protect the interest of the consumer by (a)
9 approaching the level of prices which it is declared to be
10 the policy of Congress to establish in subsection (1) of this
11 section by gradual correction of the current level at as rapid
12 a rate as the Secretary of Agriculture deems to be in the
13 public interest and feasible in view of the current consump-
14 tive demand in domestic and foreign markets, and (b)
15 authorizing no action under this title which has for its pur-
16 pose the maintenance of prices to farmers above the level
17 which it is declared to be the policy of Congress to establish
18 in subsection (1) of this section.”

19 SEC. 2. Section 8 of the Agricultural Adjustment Act,
20 as amended, is amended by striking out everything pre-
21 ceding subsection (2) and inserting in lieu thereof the
22 following:

23 “(1) Whenever the Secretary of Agriculture has
24 reason to believe that:

1 “(a) The current average farm price for any
2 basic agricultural commodity is less than, or is likely
3 during the current or next succeeding marketing year
4 for such commodity to be less than, the fair exchange
5 value thereof, and

6 “(b) The conditions of and factors relating to
7 the production, marketing, and consumption of such
8 commodity are such that the exercise of any one or
9 more of the powers conferred upon the Secretary under
10 subsections (2) and (3) of this section would tend to
11 effectuate the declared policy of this title, and that the
12 exercise of any one or more of such powers would be
13 administratively practicable,

14 he shall cause an immediate investigation to be made to
15 determine such facts. If, upon the basis of such investiga-
16 tion, the Secretary finds the existence of such facts, he shall
17 exercise such one or more of the powers conferred upon him
18 under subsections (2) and (3) of this section as he finds,
19 upon the basis of such investigation, administratively prac-
20 ticable and best calculated to effectuate the declared policy
21 of this title.

22 “(2) Subject to the provisions of subsection (1) of
23 this section, the Secretary of Agriculture shall provide,
24 through agreements with producers or by other voluntary
25 methods,

1 “(a) For such adjustment in the acreage or in
2 the production for market, or both, of any basic agri-
3 cultural commodity, as he finds, upon the basis of the
4 investigation made pursuant to subsection (1) of this
5 section, will tend to effectuate the declared policy of
6 this title, and to make such adjustment program prac-
7 ticable to operate and administer, and

8 “(b) For rental or benefit payments in connec-
9 tion with such agreements or methods in such amounts
10 as he finds, upon the basis of such investigation, to be
11 fair and reasonable and best calculated to effectuate
12 the declared policy of this title and to make such pro-
13 gram practicable to operate and administer, to be paid
14 out of any moneys available for such payments or to be
15 made in quantities of one or more basic agricultural
16 commodities acquired by the Secretary pursuant to
17 this title.

18 “(3) Subject to the provisions of subsection (1) of
19 this section, the Secretary of Agriculture shall make pay-
20 ments, out of any moneys available for such payments,
21 in such amounts as he finds, upon the basis of the investiga-
22 tion made pursuant to subsection (1) of this section, to be
23 fair and reasonable and best calculated to effectuate the
24 declared policy of this title:

1 “(a) To remove from the normal channels of
2 trade and commerce quantities of any basic agricul-
3 tural commodity or product thereof;

4 “(b) To expand domestic or foreign markets for
5 any basic agricultural commodity or product thereof;

6 “(c) In connection with the production of that
7 part of any basic agricultural commodity which is
8 required for domestic consumption.

9 “(4) Whenever, during a period during which any of
10 the powers conferred in subsection (2) or (3) is being
11 exercised, the Secretary of Agriculture has reason to believe
12 that, with respect to any basic agricultural commodity:

13 “(a) The current average farm price for such com-
14 modity is not less than, and is not likely during the
15 current or next succeeding marketing year for such
16 commodity to be less than, the fair exchange value
17 thereof, or

18 “(b) The conditions of and factors relating to the
19 production, marketing, and consumption of such com-
20 modity are such that none of the powers conferred in
21 subsections (2) and (3), and no combination of such
22 powers, would, if exercised, tend to effectuate the
23 declared policy of this title or that the exercise thereof
24 would not be administratively practicable,

1 he shall cause an immediate investigation to be made to
2 determine such facts. If, upon the basis of such investi-
3 gation, the Secretary finds the existence of such facts, he
4 shall not exercise any of such powers with respect to such
5 commodity after the end of the marketing year current at
6 the time when such finding is made and prior to a new
7 finding under subsection (1) of this section.

8 “ (5) In the course of any investigation required to be
9 made under subsection (1) or subsection (4) of this section,
10 the Secretary of Agriculture shall hold one or more hear-
11 ings, and give due notice and opportunity for interested
12 parties to be heard.

13 “ (6) No payment under this title made in an agri-
14 cultural commodity acquired by the Secretary in pursuance
15 of this title shall be made in a commodity other than that
16 in respect of which the payment is being made. For the
17 purposes of this subsection, hogs and field corn may be
18 considered as one commodity.

19 “ (7) In the case of sugar beets or sugarcane, in the
20 event that it shall be established to the satisfaction of the Sec-
21 retary of Agriculture that returns to growers or producers,
22 under the contracts for the 1933-1934 crop of sugar beets
23 or sugarcane, entered into by and between the processors
24 and producers and/or growers thereof, were reduced by
25 reason of the payment of the processing tax, and/or the

1 corresponding floor stocks tax, on sugar beets or sugarcane,
2 in addition to the foregoing rental or benefit payments, the
3 Secretary of Agriculture shall make such payments, repre-
4 senting in whole or in part such tax, as the Secretary deems
5 fair and reasonable, to producers who agree, or have agreed,
6 to participate in the program for reduction in the acreage
7 or reduction in the production for market, or both, of sugar
8 beets or sugarcane.

9 “(8) In the case of rice, the Secretary of Agriculture,
10 in exercising the power conferred upon him by subsection
11 (2) of this section to provide for rental or benefit payments,
12 is directed to provide in any agreement entered into by him
13 with any rice producer pursuant to such subsection, upon
14 such terms and conditions as the Secretary determines will
15 best effectuate the declared policy of this title, that the
16 producer may pledge for production credit in whole or in
17 part his right to any rental or benefit payments under the
18 terms of such agreement and that such producer may
19 designate therein a payee to receive such rental or benefit
20 payments.

21 “(9) Under regulations of the Secretary of Agricul-
22 ture requiring adequate facilities for the storage of any non-
23 perishable agricultural commodity on the farm, inspection
24 and measurement of any such commodity so stored, and the
25 locking and sealing thereof, and such other regulations as

1 may be prescribed by the Secretary of Agriculture for the
2 protection of such commodity and for the marketing thereof,
3 a reasonable percentage of any benefit payment may be
4 advanced on any such commodity so stored. In any such
5 case, such deduction may be made from the amount of the
6 benefit payment as the Secretary of Agriculture determines
7 will reasonably compensate for the cost of inspection and
8 sealing but no deduction may be made for interest.”

9 SEC. 3. The first sentence of subsection (b) of section
10 12 of the Agricultural Adjustment Act, as amended, is
11 amended to read as follows: “In addition to the foregoing,
12 for the purpose of effectuating the declared policy of this
13 title, a sum equal to the proceeds derived from all taxes
14 imposed under this title is hereby appropriated to be
15 available to the Secretary of Agriculture for (1) the acqui-
16 sition of any agricultural commodity pledged as security for
17 any loan made by any Federal agency, which loan was
18 conditioned upon the borrower agreeing or having agreed
19 to cooperate with a program of production adjustment or
20 marketing adjustment adopted under the authority of this
21 title, and (2) the following purposes under part 2 of this
22 title: Administrative expenses, payments authorized to be
23 made under section 8, and refunds on taxes.”

24 SEC. 4. Subsection (2) of section 8 of the Agricul-
25 tural Adjustment Act, as amended, is amended by desig-

1 nating said subsection as section 8b, by inserting said section
2 at the end of section 8a, and by amending the first sentence
3 thereof to read as follows: "In order to effectuate the
4 declared policy of this title, the Secretary of Agriculture
5 shall have the power, after due notice and opportunity for
6 hearing, to enter into marketing agreements with processors,
7 producers, associations of producers, and others, engaged
8 in the handling of any agricultural commodity or product
9 thereof, in the current of interstate or foreign commerce, or
10 so as directly to burden, obstruct, or affect, interstate or
11 foreign commerce in such commodity or product thereof."

12 SEC. 5. The Agricultural Adjustment Act, as amended,
13 is amended by striking out section 8(3) thereof and by
14 adding after section 8b, the following new section:

15 "ORDERS

16 "SEC. 8c. (1) The Secretary of Agriculture shall,
17 subject to the provisions of this section, issue, and from time
18 to time amend, orders applicable to processors, associations
19 of producers, and others, engaged in the handling of any
20 agricultural commodity or product thereof specified in sub-
21 section (2) of this section. Such persons are referred to in
22 this title as 'handlers'. Such orders shall regulate, in the
23 manner hereinafter in this section provided, the handling of
24 such agricultural commodity, or product thereof, only in the
25 current of interstate or foreign commerce, or so as directly

1 to burden, obstruct, or affect, interstate or foreign commerce
2 in such commodity or product thereof.

3 "COMMODITIES TO WHICH APPLICABLE

4 "(2) Orders issued pursuant to this section shall be
5 applicable only to the following agricultural commodities and
6 the products thereof (except products of naval stores), or
7 to any regional, or market classification of any such com-
8 modity or product: Milk, fruits (including pecans and
9 walnuts but not including apples and not including fruits for
10 canning), tobacco, vegetables (not including vegetables for
11 canning), and naval stores as defined in the Naval Stores
12 Act. As used in this section, the term 'vegetables' includes
13 soybeans.

14 "NOTICE AND HEARING

15 "(3) Whenever the Secretary of Agriculture has
16 reason to believe that the issuance of an order will tend to
17 effectuate the declared policy of this title with respect to
18 any commodity or product thereof specified in subsection
19 (2) of this section, he shall give due notice of and an
20 opportunity for a hearing upon a proposed order.

21 "FINDING AND ISSUANCE OF ORDER

22 "(4) After such notice and opportunity for hearing,
23 the Secretary of Agriculture shall issue an order if he finds,
24 and sets forth in such order, upon the evidence introduced
25 at such hearing (in addition to such other findings as

1 may be specifically required by this section) that the issuance
 2 of such order and all of the terms and conditions thereof
 3 will tend to effectuate the declared policy of this title with
 4 respect to such commodity.

5 “TERMS—MILK AND ITS PRODUCTS

6 “(5) In the case of milk and its products, orders issued
 7 pursuant to this section shall contain one or more of the
 8 following terms and conditions, and (except as provided
 9 in subsection (7)) no others:

10 “(A) Classifying milk in accordance with the form in
 11 which it is ultimately used or consumed, and fixing, or pro-
 12 viding a method for fixing, minimum prices for each such
 13 use classification which all handlers shall pay, and the time
 14 when payments shall be made, for milk purchased from
 15 producers or associations of producers. Such prices shall be
 16 uniform as to all handlers, subject only to adjustments for
 17 (1) volume, market, and production differentials customa-
 18 rily applied by the handlers subject to such order, (2) the
 19 grade or quality of the milk purchased, and (3) the loca-
 20 tions at which delivery of such milk, or any use classification
 21 thereof, is made to such handlers.

22 “(B) Providing:

23 “(i) for the payment to all producers and associa-
 24 tions of producers delivering milk to the same handler
 25 of uniform prices for all milk delivered by them: *Pro-*

1 *vided*, That, except in the case of orders covering milk
2 products only, such provision is approved or favored by
3 at least three-fourths of the producers who, during a
4 representative period determined by the Secretary of
5 Agriculture, have been engaged in the production for
6 market of milk covered in such order or by producers
7 who, during such representative period, have produced
8 at least three-fourths of the volume of such milk pro-
9 duced for market during such period; the approval
10 required hereunder shall be separate and apart from
11 any other approval or disapproval provided for by this
12 section; or

13 “(ii) for the payment to all producers and asso-
14 ciations of producers delivering milk to all handlers
15 of uniform prices for all milk so delivered, irrespective
16 of the uses made of such milk by the individual handler
17 to whom it is delivered;

18 subject, in either case, only to adjustments for (a) volume,
19 market, and production differentials customarily applied by
20 the handlers subject to such order, (b) the grade or quality
21 of the milk delivered, (c) the locations at which delivery
22 of such milk is made, and (d) a further adjustment,
23 equitably to apportion the total value of the milk sold
24 by any handler, or by all handlers, among producers

1 and associations of producers, on the basis of their production
2 of milk during a representative period of time.

3 “(C) In order to accomplish the purposes set forth in
4 paragraphs (A) and (B) of this subsection (5), provid-
5 ing a method for making adjustments in payments, as among
6 handlers (including producers who are also handlers), to
7 the end that the total sums paid by each handler shall equal
8 the value of the milk purchased by him at the prices fixed
9 in accordance with paragraph (A) hereof.

10 “(D) In order to accomplish the purposes set forth in
11 paragraph (A) of this subsection (5), providing that all
12 handlers shall pay the price specified in such order for milk
13 utilized for manufacturing purposes for all milk delivered to
14 them by producers who were not, upon the effective date of
15 such order, regularly selling milk for consumption in the area
16 covered thereby, for the period of ninety days from and
17 after the commencement of deliveries by such producers,
18 respectively.

19 “(E) Providing for the verification of weights, sam-
20 pling, and testing of, and security for the payment for,
21 milk purchased.

22 “(F) Nothing contained in this subsection (5) is in-
23 tended or shall be construed to prevent a cooperative market-
24 ing association qualified under the provisions of the Act of
25 Congress of February 18, 1922, as amended, known as the

1 'Capper-Volstead Act', engaged in making collective sales
 2 or marketing of milk or its products for the producers
 3 thereof, from blending the net proceeds of all of its sales
 4 in all markets in all use classifications, and making distri-
 5 bution thereof to its producers in accordance with the con-
 6 tract between the association and its producers: *Provided*,
 7 That it shall not sell milk or its products to any handler
 8 for use or consumption in any market at prices less than
 9 the prices fixed pursuant to paragraph (A) of this sub-
 10 section (5) for such milk.

11 " (G) No marketing agreement or order applicable
 12 to milk and its products in any marketing area shall pro-
 13 hibit the marketing in that area of any milk or product
 14 thereof produced in any production area in the United
 15 States.

16 "TERMS—OTHER COMMODITIES

17 " (6) In the case of fruits (including pecans and wal-
 18 nuts but not including apples and not including fruits
 19 for canning) and their products, tobacco and its products,
 20 vegetables (not including vegetables for canning) and their
 21 products, and naval stores as defined in the Naval Stores Act,
 22 orders issued pursuant to this section shall contain one or
 23 more of the following terms and conditions, and (except as
 24 provided in subsection (7)) no others:

25 " (A) Limiting, or providing methods for the limita-
 26 tion of, the total quantity of any such commodity or product,

1 or of any grade, size, or quality thereof, produced during
2 any specified period or periods, which may be marketed in
3 or transported to any or all markets during any specified
4 period or periods by all handlers thereof.

5 “(B) Allotting, or providing methods for allotting, the
6 amount of such commodity or product, or any grade, size,
7 or quality thereof, which each handler may purchase from
8 or handle on behalf of any and all producers thereof, during
9 any specified period or periods, under a uniform rule based
10 upon the amounts produced or sold by such producers in such
11 prior period as the Secretary determines to be representa-
12 tive, or upon the current production or sales of such pro-
13 ducers, or both, to the end that the total quantity thereof to
14 be purchased or handled during any specified period or
15 periods shall be apportioned equitably among producers.

16 “(C) Allotting, or providing methods for allotting,
17 the amount of any such commodity or product, or any
18 grade, size, or quality thereof, which each handler
19 may market in or transport to any or all markets,
20 under a uniform rule based upon the amounts which each
21 such handler has available for current shipment, or upon the
22 amounts shipped by each such handler in such prior period
23 as the Secretary determines to be representative, or both,
24 to the end that the total quantity of such commodity or
25 product, or any grade, size, or quality thereof, to be mar-
26 keted in or transported to any or all markets during any

1 specified period or periods shall be equitably apportioned
2 among all of the handlers thereof.

3 “(D) Determining, or providing methods for deter-
4 mining, the existence and extent of the surplus of any such
5 commodity or product, or of any grade, size, or quality
6 thereof, and providing for the control and disposition of
7 such surplus, and for equalizing the burden of such surplus
8 elimination or control among the producers and handlers
9 thereof.

10 “(E) Establishing, or providing for the establishment
11 of, reserve pools of any such commodity or product, or of
12 any grade, size, or quality thereof, and providing for the
13 equitable distribution of the net return derived from the sale
14 thereof among the persons beneficially interested therein.

15 “(F) Fixing, or providing methods for fixing, mini-
16 mum prices at which any such commodity or product, or
17 any grade, size or quality thereof, shall be purchased by
18 the first handlers subject to such order: *Provided, That*
19 such first handlers, as a group, purchase or otherwise acquire
20 not less than 50 per centum of the total quantity of the
21 commodity or product covered by such order directly from
22 producers or associations of producers.

23 “TERMS COMMON TO ALL ORDERS

24 “(7) In the case of the agricultural commodities and
25 the products thereof specified in subsection (2) orders shall
26 contain one or more terms and conditions:

1 “(A) Prohibiting unfair methods of competition and
2 unfair trade practices in the handling thereof.

3 “(B) Providing for the selection by the Secretary of
4 Agriculture, or a method for the selection, of an agency or
5 agencies and defining their powers and duties, which, among
6 other things, shall include the powers:

7 “(i) To administer such order in accordance with
8 its terms and provisions;

9 “(ii) To make rules and regulations to effectuate
10 the terms and provisions of such order;

11 “(iii) To receive, investigate, and report to the
12 Secretary of Agriculture complaints of violations of
13 such order; and

14 “(iv) To recommend to the Secretary of Agricul-
15 ture amendments to such order.

16 No person acting as a member of an agency established
17 pursuant to this paragraph (B) shall be deemed to be acting
18 in an official capacity, within the meaning of section 10 (g)
19 of this title, unless such person receives compensation for
20 his personal services from funds of the United States.

21 “(C) Incidental to, and not inconsistent with, the terms
22 and conditions specified in subsections (5), (6), and (7)
23 and necessary to effectuate the other provisions of such
24 order.

1 “ORDERS WITH MARKETING AGREEMENT

2 “(8) Except as provided in subsection (9) of this
3 section, no order issued pursuant to this section shall become
4 effective until the handlers (excluding cooperative associa-
5 tions of producers who are not engaged in processing, dis-
6 tributing, or shipping the commodity or product thereof
7 covered by such order) of not less than 50 per centum of
8 the volume of the commodity or product thereof covered by
9 such order have signed a marketing agreement, entered into
10 pursuant to section 8b of this title, which regulates the han-
11 dling of such commodity or product in the same manner as
12 such order.

13 "ORDERS WITH OR WITHOUT MARKETING AGREEMENT

“(9) (A) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof covered by such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

“(1) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

“(2) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, or by producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market during such period.

“MANNER OF REGULATION AND APPLICABILITY

“(10) No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial

1 or commercial activity specified in, a marketing agreement
2 upon which a hearing has been held.

3 " REGIONAL RULE

4 " (11) (A) No order shall be issued under this section
5 which is applicable to all production areas or marketing
6 areas, or both, of any commodity or product thereof unless
7 the Secretary finds that the issuance of several orders appli-
8 cable to the respective regional production areas or regional
9 marketing areas, or both, as the case may be, of the com-
10 modity or product would not effectively carry out the
11 declared policy of this title.

12 " (B) Except in the case of milk and its products,
13 orders issued under this section shall be limited in their
14 application to the smallest regional production areas or
15 regional marketing areas, or both, as the case may be,
16 which the Secretary finds practicable, consistently with
17 carrying out such declared policy.

18 " (C) All orders issued under this section which are
19 applicable to the same commodity or product thereof shall,
20 so far as practicable, prescribe such different terms, appli-
21 cable to different production areas and marketing areas, as
22 the Secretary finds necessary to give due recognition to the
23 differences in production and marketing of such commodity
24 or product in such areas.

1 “ COOPERATIVE ASSOCIATION REPRESENTATION

2 “(12) Whenever, pursuant to the provisions of this
3 section, the Secretary is required to determine the approval
4 or disapproval of producers with respect to the issuance of
5 any order, or any term or condition thereof, or the termi-
6 nation thereof, the Secretary may consider the approval or
7 disapproval by any cooperative association of producers,
8 bona fide engaged in marketing the commodity or product
9 thereof covered by such order, or in rendering services for
10 or advancing the interests of the producers of such com-
11 modity, as the approval or disapproval of the producers
12 who are members of, stockholders in, or under contract
13 with, such cooperative association of producers.

14 “ RETAILER AND PRODUCER EXEMPTION

15 “(13) (A) No order issued under subsection (9)
16 of this section shall be applicable to any person who sells
17 agricultural commodities or products thereof at retail in
18 his capacity as such retailer, except to a retailer in his
19 capacity as a retailer of milk and its products.

20 “(B) No order issued under this title shall be appli-
21 cable to any producer in his capacity as a producer.

22 “ VIOLATION OF ORDER

23 “(14) Any handler subject to an order issued under
24 this section, or any officer, director, agent, or employee of

1 such handler, who violates any provision of such order
2 (other than a provision calling for payment of a pro rata share
3 of expenses) shall, on conviction, be fined not less than
4 \$50 or more than \$500 for each such violation, and each
5 day during which such violation continues shall be deemed
6 a separate violation: *Provided*, That no person shall be
7 convicted under this title because of any violation of any
8 order or of any obligation imposed in connection there-
9 with, if such violation occurs between the date upon which
10 such person files with the Secretary a petition, with respect
11 to such order or obligation, as provided for in subsection
12 (15), and five days after the Secretary enters a ruling
13 thereon.

14 “ PETITION BY HANDLER AND REVIEW

15 “(15) (A) Any handler subject to an order may file
16 a written petition with the Secretary of Agriculture, stating
17 that any such order or any provision of any such order
18 or any obligation imposed in connection therewith is not
19 in accordance with law and praying for a modification
20 thereof or to be exempted therefrom. He shall thereupon
21 be given an opportunity for a hearing upon such petition,
22 in accordance with regulations made by the Secretary of
23 Agriculture, with the approval of the President. After
24 such hearing, the Secretary shall make a ruling upon the

1 prayer of such petition which shall be final, if in accordance
2 with law.

3 “(B) The District Courts of the United States (includ-
4 ing the Supreme Court of the District of Columbia) in any
5 district in which such handler is an inhabitant, or has his
6 principal place of business, is hereby vested with juris-
7 diction in equity to review such ruling, provided a bill in
8 equity for that purpose is filed within twenty days from
9 the date of the entry of such ruling. Service of process in
10 such proceedings may be had upon the Secretary by deliv-
11 ering to him a copy of the bill of complaint. If the court
12 determines that such ruling is not in accordance with law,
13 it shall remand such proceedings to the Secretary with
14 directions either (1) to make such ruling as the court
15 shall determine to be in accordance with law, or (2) to
16 take such further proceedings as, in its opinion, the law
17 requires. Nothing contained in this subsection (15) shall
18 be construed to prevent, hinder, or delay the United States
19 or the Secretary of Agriculture from pursuing the remedies
20 provided for in section 8a (6) of this title. Any proceed-
21 ings brought pursuant to section 8a (6) of this title (except
22 where brought by way of counterclaim in proceedings insti-
23 tuted pursuant to this subsection (15)) shall abate whenever
24 a final decree has been rendered in proceedings between

1 the same parties, and covering the same subject matter,
2 instituted pursuant to this subsection (15).

3 “TERMINATION OF ORDERS AND MARKETING AGREEMENTS

4 “(16) (A) The Secretary of Agriculture shall, when-
5 ever he finds that any order issued under this section, or
6 any provision thereof, obstructs or does not tend to effectuate
7 the declared policy of this title, terminate or suspend the
8 operation of such order or such provision thereof.

9 “(B) The Secretary shall terminate any marketing
10 agreement entered into under section 8b, or order issued
11 under this section, at the end of the then current marketing
12 period for such commodity, as specified in such marketing
13 agreement or order, whenever he finds that such termination
14 is favored by a majority of the producers who, during a
15 representative period determined by the Secretary, have
16 been engaged in the production for market of the commodity
17 specified in such marketing agreement or order, provided
18 that such majority have during such representative period
19 produced for market more than 50 per centum of the volume
20 of such commodity produced for market during such period,
21 but such termination shall be effective only if announced on
22 or before such date (prior to the end of the then current
23 marketing period) as may be specified in such marketing
24 agreement or order.

1 “(C) The termination or suspension of any order or
2 amendment thereto or provision thereof, shall not be con-
3 sidered an order within the meaning of this section.

4 “ PROVISIONS APPLICABLE TO AMENDMENTS

5 “(17) The provisions of this section, section 8d, and
6 section 8e applicable to orders shall be applicable to amend-
7 ments to orders.”

8 SEC. 6. The Agricultural Adjustment Act, as amended,
9 is further amended by striking out subsection (4) of section
10 8 thereof and adding after section 8c thereof the following
11 new sections:

12 “ BOOKS AND RECORDS

13 “SEC. 8d. (1) All parties to any marketing agree-
14 ment, and all handlers subject to an order, shall severally,
15 from time to time, upon the request of the Secretary, furnish
16 him with such information as he finds to be necessary
17 to enable him to ascertain and determine the extent to
18 which such agreement or order has been carried out or
19 has effectuated the declared policy of this title, and with
20 such information as he finds to be necessary to determine
21 whether or not there has been any abuse of the privilege
22 of exemptions from the antitrust laws. Such information
23 shall be furnished in accordance with forms of reports
24 to be prescribed by the Secretary. For the purpose of

1 ascertaining the correctness of any report made to the
2 Secretary pursuant to this subsection, or for the purpose of
3 obtaining the information required in any such report,
4 where it has been requested and has not been furnished,
5 the Secretary is hereby authorized to examine such
6 books, papers, records, copies of income-tax reports, accounts,
7 correspondence, contracts, documents, or memoranda, as
8 he deems relevant and which are within the control (1) of
9 any such party to such marketing agreement, or any such
10 handler, from whom such report was requested or (2) of
11 any person having, either directly or indirectly, actual or
12 legal control of or over such party or such handler or (3)
13 of any subsidiary of any such party, handler, or person.

14 “(2) Notwithstanding the provisions of section 7, all
15 information furnished to or acquired by the Secretary of
16 Agriculture pursuant to this section shall be kept confiden-
17 tial by all officers and employees of the Department of Agri-
18 culture and only such information so furnished or acquired
19 as the Secretary deems relevant shall be disclosed by them,
20 and then only in a suit or administrative hearing brought at
21 the direction, or upon the request, of the Secretary of Agri-
22 culture, or to which he or any officer of the United States
23 is a party, and involving the marketing agreement or order
24 with reference to which the information so to be disclosed
25 was furnished or acquired. Nothing in this section shall be

1 deemed to prohibit (A) the issuance of general statements
2 based upon the reports of a number of parties to a market-
3 ing agreement or of handlers subject to an order, which
4 statements do not identify the information furnished by any
5 person, or (B) the publication by direction of the Secre-
6 tary, of the name of any person violating any marketing
7 agreement or any order, together with a statement of the
8 particular provisions of the marketing agreement or order
9 violated by such person. Any such officer or employee
10 violating the provisions of this section shall upon conviction
11 be subject to a fine of not more than \$1,000 or to imprison-
12 ment for not more than one year, or to both, and shall be
13 removed from office.

14 “ DETERMINATION OF BASE PERIOD

15 “ SEC. 8e. In connection with the making of any
16 marketing agreement or the issuance of any order, if the
17 Secretary finds and proclaims that, as to any commodity
18 specified in such marketing agreement or order, the pur-
19 chasing power during the base period specified for such
20 commodity in section 2 of this title cannot be satisfactorily
21 determined from available statistics of the Department of
22 Agriculture, the base period, for the purposes of such
23 marketing agreement or order, shall be the post-war period,
24 August 1919–July 1929, or all that portion thereof for
25 which the Secretary finds and proclaims that the purchasing

1 power of such commodity can be satisfactorily determined
2 from available statistics of the Department of Agriculture.”

3 SEC. 7. Subsection (5) of section 8 of the Agricultural
4 Adjustment Act, as amended, is further amended by design-
5 nating said subsection as section 8f, by inserting said section
6 at the end of section 8e, and by striking out the last sentence
7 thereof.

8 SEC. 8. Subsection (1) of section 8a of the Agricul-
9 tural Adjustment Act, as amended, is amended as follows:

10 (a) by striking out the word “handlers” wherever it
11 appears and by inserting in lieu thereof the words “persons
12 engaged in the handling”;

13 (b) by striking out the phrase “or in competition
14 with” and the comma following such phrase in paragraph
15 (B);

16 (c) by inserting the word “directly” before the words
17 “to burden” in paragraph (B);

18 (d) by striking out the words “in any way” in
19 paragraph (B).

20 SEC. 9. Subsection (6) of section 8a of the Agricul-
21 tural Adjustment Act, as amended, is amended by inserting
22 the word “or” after the comma following the word “regula-
23 tion,” and by striking out the words “or license”.

24 SEC. 10. Subsection (7) of section 8a of the Agri-
25 cultural Adjustment Act, as amended, is amended by insert-

1 ing at the end thereof the following new sentence: "When-
2 ever the Secretary, or such officer or employee of the Depart-
3 ment of Agriculture as he may designate for the purpose, has
4 reason to believe that any handler has violated, or is violat-
5 ing, the provisions of any order or amendment thereto issued
6 pursuant to this title, the Secretary shall have power to
7 institute an investigation and, after due notice to such
8 handler, to conduct a hearing in order to determine the
9 facts for the purpose of referring the matter to the Attorney
10 General for appropriate action."

11 SEC. 11. (a) Subsection (a) of section 9 of the Agri-
12 cultural Adjustment Act, as amended, is amended by
13 striking out all of the second sentence preceding the semi-
14 colon and inserting in lieu thereof the following: "When
15 the Secretary of Agriculture determines that any one or
16 more payments authorized to be made under section 8
17 are to be made with respect to any basic agricultural com-
18 modity, he shall proclaim such determination, and a process-
19 ing tax shall be in effect with respect to such commodity
20 from the beginning of the marketing year therefor next
21 following the date of such proclamation".

22 (b) The eighth sentence of such subsection (a) is
23 amended by striking out "rental or benefit payments"
24 and inserting in lieu thereof: "all payments authorized
25 under section 8 which are in effect".

1 SEC. 12. Subsection (b) of section 9 of the Agricul-
2 tural Adjustment Act, as amended, is amended to read as
3 follows:

4 “TAX RATE GENERALLY

5 “(b) (1) The processing tax shall be at such rate as
6 equals the difference between the current average farm
7 price for the commodity and the fair exchange value of the
8 commodity, plus such percentage of such difference, not to
9 exceed 20 per centum, as the Secretary of Agriculture may
10 determine will result in the collection, in any marketing year
11 with respect to which such rate of tax may be in effect pur-
12 suant to the provisions of this title, of an amount of tax
13 equal to (A) the amount of credits or refunds which he
14 estimates will be allowed or made during such period pur-
15 suant to section 15 (c) with respect to the commodity and
16 (B) the amount of tax which he estimates would have been
17 collected during such period upon all processings of such
18 commodity which are exempt from tax by reason of the
19 fact that such processings are done by or for a State, or
20 a political subdivision or an institution thereof, had such
21 processings been subject to tax. If, prior to the time
22 the tax takes effect, or at any time thereafter, the Sec-
23 retary has reason to believe that the tax at such rate, or
24 at the then existing rate, on the processing of the commodity
25 generally or for any designated use or uses, or on the proc-

1 essing of the commodity in the production of any designated
2 product or products thereof for any designated use or uses,
3 will cause or is causing such reduction in the quantity of
4 the commodity or products thereof domestically consumed
5 as to result in the accumulation of surplus stocks of the
6 commodity or products thereof or in the depression of the
7 farm price of the commodity, then the Secretary shall cause
8 an appropriate investigation to be made, and afford due
9 notice and opportunity for hearing to interested parties.
10 If thereupon the Secretary determines and proclaims that
11 any such result will occur or is occurring, then the processing
12 tax on the processing of the commodity generally or for any
13 designated use or uses, or on the processing of the com-
14 modity in the production of any designated product or
15 products thereof for any designated use or uses, shall be
16 at such lower rate or rates as he determines and proclaims
17 will prevent such accumulation of surplus stocks and de-
18 pression of the farm price of the commodity, and the tax
19 shall remain during its effective period at such lower rate
20 until the Secretary, after due notice and opportunity for
21 hearing to interested parties, determines and proclaims that
22 an increase in the rate of such tax will not cause such accu-
23 mulation of surplus stocks or depression of the farm price
24 of the commodity. Thereafter the processing tax shall be
25 at the highest rate which the Secretary determines will not

1 cause such accumulation of surplus stocks or depression of
 2 the farm price of the commodity, but it shall not be higher
 3 than the rate provided in the first sentence of this paragraph.

4 " SPECIFIC TAX RATES

5 "(2) In the case of wheat, cotton, field corn, hogs,
 6 peanuts, tobacco, paper, and jute, and (except as provided
 7 in paragraph (6) of this subsection) in the case of sugarcane
 8 and sugar beets, the tax on the first domestic processing of
 9 the commodity generally or for any particular use, or in the
 10 production of any designated product for any designated use,
 11 shall be levied, assessed, collected, and paid at the rate pre-
 12 scribed by the regulations of the Secretary of Agriculture
 13 in effect on June 1, 1935, during the period from the date
 14 of the adoption of this amendment to December 31, 1937,
 15 both dates inclusive.

16 " SPECIFIC TAX RATE—RICE

17 "(3) For the period from April 1, 1935, to July 31,
 18 1936, both inclusive, the processing tax with respect to rice
 19 shall be levied, assessed, collected, and paid at the rate of
 20 1 cent per pound of rough rice.

21 " ADJUSTMENT OF RATE

22 "(4) In accordance with the formulae and standards
 23 prescribed in this title, (A) any rate of tax prescribed
 24 in paragraphs (2) and (3) of this subsection may be
 25 decreased (including a decrease to zero), to prevent an

1 accumulation of surplus stocks of the commodity or the
2 products thereof, to prevent such reduction in the quantity
3 of the commodity or products thereof domestically consumed
4 as will result in the accumulation of surplus stocks of the com-
5 modity or products thereof, or to prevent depression in the
6 farm price of the commodity, or may be increased, or shall
7 terminate pursuant to proclamation as provided in section
8 9 (a) or pursuant to section 13, and (B) after December 31,
9 1937 (in the case of the commodities specified in para-
10 graph (2) of this subsection), and after July 31, 1936
11 (in the case of rice), rates of tax shall be determined
12 by the Secretary of Agriculture and shall thereafter be
13 effective. If the applicability to any person or circum-
14 stances of any tax under this title the rate of which is fixed
15 in pursuance of this paragraph is finally held invalid by
16 reason of any provision of the Constitution, or is finally held
17 invalid by reason of the Secretary of Agriculture's exercise
18 or failure to exercise any power conferred on him under this
19 title, there shall be levied, assessed, collected, and paid (in
20 lieu of all rates of tax fixed in pursuance of this paragraph
21 with respect to all tax liabilities incurred under this title
22 on or after the effective date of each of the rates of tax
23 fixed in pursuance of this paragraph, respectively) rates of
24 tax fixed under paragraph (2) or (3) and such rates shall
25 be in effect (unless the particular tax is terminated pur-

1 suant to proclamation as provided in section 9 (a) or pur-
 2 suant to section 13) until altered by Act of Congress;
 3 except that, for any period prior to the effective date of
 4 such holding of invalidity, the amount of tax which repre-
 5 sents the difference between tax at the rate fixed in pur-
 6 suance of this paragraph and tax at the rate fixed under
 7 paragraph (2) or (3) shall not be levied, assessed, collected,
 8 or paid.

9 “RICE—SPECIAL RULE

10 “(5) In the case of rice, the weight to which the rate of
 11 tax shall be applied shall be the weight of rough rice when
 12 delivered to a processor, except that, where the producer
 13 processes his own rice, the weight to which the rate of tax
 14 shall be applied shall be the weight of rough rice when
 15 delivered to the place of processing.

16 “SUGAR—SPECIAL RULE

17 “(6) In the case of sugar beets or sugarcane the rate
 18 of tax shall be applied to the direct-consumption sugar,
 19 resulting from the first domestic processing, translated into
 20 terms of pounds of raw value according to regulations to be
 21 issued by the Secretary of Agriculture, and in the event that
 22 the Secretary increases or decreases the rate of tax fixed by
 23 paragraph (2) of this subsection, pursuant to the provisions
 24 of paragraph (4) of this subsection, then the rate of tax to
 25 be so applied shall be the higher of the two following

1 quotients: The difference between the current average farm
 2 price and the fair exchange value (A) of a ton of sugar
 3 beets and (B) of a ton of sugarcane, divided in the case
 4 of each commodity by the average extraction therefrom of
 5 sugar in terms of pounds of raw value (which average
 6 extraction shall be determined from available statistics of
 7 the Department of Agriculture) ; the rate of tax fixed by
 8 paragraph (2) of this subsection or adjusted pursuant to
 9 the provisions of paragraph (4) of this subsection shall in
 10 no event exceed the amount of the reduction by the Presi-
 11 dent on a pound of sugar raw value of the rate of duty in
 12 effect on January 1, 1934, under paragraph 501 of the
 13 Tariff Act of 1930, as adjusted to the treaty of commercial
 14 reciprocity concluded between the United States and the
 15 Republic of Cuba on December 11, 1902, and/or the
 16 provisions of the Act of December 17, 1903, chapter 1.

17 “ WHEAT PREMIUMS

18 “(7) In computing the current average farm price in
 19 the case of wheat, premiums paid producers for protein con-
 20 tent shall not be taken into account.”

21 SEC. 13. Subsection (c) of section 9 of the Agricul-
 22 tural Adjustment Act, as amended, is amended to read as
 23 follows:

24 “(c) For the purposes of part 2 of this title, the fair
 25 exchange value of a commodity shall be the price therefor

1 that will give the commodity the same purchasing power,
2 with respect to articles farmers buy, as such commodity
3 had during the base period specified in section 2; and, in
4 the case of all commodities where the base period is the
5 pre-war period, August 1909 to July 1914, will also reflect
6 interest payments per acre on farm indebtedness secured
7 by real estate and tax payments per acre on farm real
8 estate, as contrasted with such interest payments and tax
9 payments during said base period; and the current average
10 farm price and the fair exchange value shall be ascertained
11 by the Secretary of Agriculture from available statistics of
12 the Department of Agriculture. The rate of tax upon the
13 processing of any commodity, in effect on the date on which
14 this amendment is adopted, shall not be affected by the
15 adoption of this amendment and shall not be required to
16 be adjusted or altered, unless the Secretary of Agriculture
17 finds that it is necessary to adjust or alter any such rate
18 pursuant to section 9 (a) of this title."

19 SEC. 14. Paragraph (5) of subsection (d) of section 9
20 of the Agricultural Adjustment Act, as amended, is hereby
21 repealed.

22 SEC. 15. Subsection (b) of section 10 of the Agri-
23 cultural Adjustment Act, as amended, is amended to read
24 as follows:

1 “(b) (1) The Secretary of Agriculture is authorized
2 to establish, for the more effective administration of the func-
3 tions vested in him by this title, State and local committees,
4 or associations of producers, and to permit cooperative asso-
5 ciations of producers, when in his judgment they are quali-
6 fied to do so, to act as agents of their members and patrons
7 in connection with the distribution of payments authorized to
8 be made under section 8. The Secretary, in the adminis-
9 tration of this title, shall accord such recognition and en-
10 couragement to producer-owned and producer-controlled
11 cooperative associations as will be in harmony with the
12 policy toward cooperative associations set forth in existing
13 Acts of Congress, and as will tend to promote efficient meth-
14 ods of marketing and distribution, but without discrimina-
15 tion against other producers, processors, and handlers.

16 “(2) Each order issued by the Secretary under this
17 title shall provide that each handler subject thereto shall
18 pay to any authority or agency established under such order
19 such handler's pro rata share (as approved by the Secretary)
20 of such expenses as the Secretary may find will necessarily
21 be incurred by such authority or agency, during any period
22 specified by him, for the maintenance and functioning of such
23 authority or agency, other than expenses incurred in receiv-
24 ing, handling, holding, or disposing of any quantity of a
25 commodity received, handled, held, or disposed of by such

1 authority or agency for the benefit or account of persons
2 other than handlers subject to such order. The pro rata
3 share of the expenses payable by a cooperative association
4 of producers shall be computed on the basis of the quantity
5 of the agricultural commodity or product thereof covered
6 by such order which is distributed, processed, or shipped by
7 such cooperative association of producers. Any such author-
8 ity or agency may maintain in its own name, or in the names
9 of its members, a suit against any handler subject
10 to an order for the collection of such handler's pro rata share
11 of expenses. The several District Courts of the United
12 States are hereby vested with jurisdiction to entertain such
13 suits regardless of the amount in controversy."

14 SEC. 16. Subsection (e) of section 10 of the Agri-
15 cultural Adjustment Act, as amended, is amended by strik-
16 ing out "rental or benefit payment" and inserting in lieu
17 thereof "payment authorized to be made under section 8".

18 SEC. 17. Section 10 of the Agricultural Adjustment
19 Act, as amended, is amended by inserting at the end thereof
20 the following new subsection:

21 " (i) The Secretary of Agriculture is authorized, in
22 order to effectuate the declared policy of this title and in order
23 to obtain uniformity in the formulation, administration, and
24 enforcement of Federal and State programs relating to the
25 regulation of the handling of agricultural commodities or

1 products thereof, to confer with and hold joint hearings with
2 the duly constituted authorities of any State, to cooperate with
3 such authorities; to accept and utilize, with the consent of the
4 State, such State and local officers and employees as may be
5 necessary; to avail himself of the records and facilities of such
6 authorities; to issue orders (subject to the provisions of sec-
7 tion 8c) complementary to orders or other regulations issued
8 by such authorities; and to make available to such State
9 authorities the records and facilities of the Department of
10 Agriculture: *Provided*, That information furnished to the
11 Secretary of Agriculture pursuant to section 8d (1) hereof
12 shall be made available only to the extent that such informa-
13 tion is relevant to transactions within the regulatory juris-
14 diction of such authorities, and then only upon a written
15 agreement by such authorities that the information so fur-
16 nished shall be kept confidential by them in a manner similar
17 to that required of Federal officers and employees under the
18 provisions of section 8d (2) hereof.”

19 SEC. 18. The first sentence of subsection (a) of
20 section 12 of the Agricultural Adjustment Act, as amended,
21 is amended by striking out “rental and benefit payments
22 made with respect to reduction in acreage or reduction in
23 production for market under part 2 of this title” and insert-
24 ing in lieu thereof “payments authorized to be made under
25 section 8”.

1 SEC. 19. Section 12 of the Agricultural Adjustment
2 Act, as amended, is amended by adding at the end thereof
3 the following new subsection:

4 “(d) Amounts expended under this title which are
5 expended for payments authorized to be made under section
6 8 and administrative expenses in connection with any
7 basic agricultural commodity shall not be less than a sum
8 equal to the proceeds of the taxes levied under this title
9 with respect to such commodity. For the purposes of this
10 subsection: (1) Amounts collected and expended from
11 taxes the proceeds of which under this title are held for,
12 or paid for use in, any possession of the United States
13 shall not be included; (2) the amount of all refunds and
14 abatements of taxes shall not be included; and (3) hogs and
15 field corn may be considered as one commodity.”

16 SEC. 20. (a) The second sentence of section 13 of the
17 Agricultural Adjustment Act, as amended, is amended by
18 striking out “at the end of three years after the adoption
19 of this amendment” and inserting in lieu thereof “on De-
20 cember 31, 1937”.

21 (b) Subsection (c) of section 16 of the Agricultural
22 Adjustment Act, as amended, is amended by striking out
23 the last sentence thereof.

24 SEC. 21. Subsection (a) of section 15 of the Agricul-
25 tural Adjustment Act, as amended, is amended by striking

1 out the period at the end of the subsection and inserting in
2 lieu thereof a comma and the following: "or shall credit
3 against any tax due and payable under this title the amount
4 of tax which would be refundable. During the period in
5 which any certificate under this section is effective, the
6 provisions of subsection (e) of this section shall be sus-
7 pended with respect to all imported articles of the kind
8 described in such certificate; and notwithstanding the pro-
9 visions of section 21, any compensating taxes, which have
10 heretofore, during the period in which any certificate under
11 this section has been effective, become due and payable
12 upon imported articles of the kind described in such cer-
13 tificate, shall be refunded by the Secretary of the Treasury
14 if the same have been paid, or, if the same have not been
15 paid the amount thereof shall be abated. Notwithstanding
16 the provisions of section 21, the Secretary of the Treasury
17 shall refund any processing tax paid on or before June 12,
18 1934, with respect to such amount of cotton as was used
19 in the manufacture of large cotton bags (as defined in the
20 Certificate of the Secretary of Agriculture, dated June 12,
21 1934) between June 13 and July 7, 1934, both inclusive."

22 SEC. 22. Subsection (c) of section 15 of the Agricul-
23 tural Adjustment Act, as amended, is amended by striking
24 out the next to the last sentence, which reads as follows:
25 "No refund shall be allowed under this section unless

1 claim therefor is filed within six months after delivery of
2 the products to the organization for charitable distribution,
3 or use.”.

4 SEC. 23. Subsection (e) of section 15 of the Agricul-
5 tural Adjustment Act, as amended, is amended by inserting
6 after the words “with respect to domestic processing of
7 such commodity” the following: “into such an article”.

8 SEC. 24. Subsection (a) of section 16 of the Agri-
9 cultural Adjustment Act, as amended, is amended by strik-
10 ing out subdivision (2) thereof and inserting in lieu thereof
11 the following:

12 “(2) Whenever the processing tax is wholly ter-
13 minated, (A) there shall be refunded or credited in the case
14 of a person holding such stocks with respect to which a tax
15 under this title has been paid, or (B) there shall be credited
16 or abated in the case of a person holding such stocks with
17 respect to which a tax under this title is payable, where such
18 person is the processor liable for the payment of such tax,
19 or (C) there shall be refunded or credited when the tax has
20 been paid in the case of a person holding such stocks with
21 respect to which a tax under this title is payable, where such
22 person is not the processor liable for the payment of such tax,
23 a sum in an amount equivalent to the processing tax which
24 would have been payable with respect to the commodity
25 from which processed if the processing had occurred on such

1 date: *Provided*, That in the case of any commodity with
2 respect to which there was any increase, effective prior to
3 June 1, 1934, in the rate of the processing tax, no such
4 refund, credit, or abatement, shall be in an amount which
5 exceeds the equivalent of the initial rate of the processing
6 tax in effect with respect to such commodity.”

7 SEC. 25. The second sentence of subsection (b) of
8 section 16 of the Agricultural Adjustment Act, as amended,
9 is amended to read as follows: “Except as to any article
10 processed wholly or in chief value from cotton or wheat,
11 the tax refund, credit, or abatement provided in subsection
12 (a) of this section shall not apply to the retail stocks of per-
13 sons engaged in retail trade, held on the date the processing
14 tax is wholly terminated.”

15 SEC. 26. Paragraph (1) of subsection (e) of section
16 16 of the Agricultural Adjustment Act, as amended, is
17 amended by inserting after the first word in the first sen-
18 tence a comma and the following: “subsequent to June 26,
19 1934,” and by inserting in the proviso after the word
20 “made”, the following: “in the case of hogs”.

21 SEC. 27. Subsection (a) of section 17 of the Agricul-
22 tural Adjustment Act, as amended, is amended by striking
23 out the first two sentences thereof and inserting in lieu there-
24 of the following: “The consignor named in the bill of lading
25 under which any product (if such product or the commodity

1 from which processed is under this title subject to tax) is
2 exported, or the exporter of such product, if the bill of lading
3 bears the proper disclaimer by the consignor, or the manu-
4 facturer of such product, if the bill of lading bears the proper
5 disclaimer by the consignor and the exporter, shall be
6 entitled, upon the exportation of such product to any for-
7 eign country (or to the Philippine Islands, the Virgin
8 Islands, American Samoa, the Canal Zone, or the island of
9 Guam) to the refund of the amount of tax due and paid
10 under this title with respect to such product so exported, or
11 to a credit against any tax due and payable under this title
12 of the amount of tax which would be refundable under this
13 section with respect to such product so exported.”

14 SEC. 28. Subsection (b) of section 19 of the Agri-
15 cultural Adjustment Act, as amended, is amended by insert-
16 ing in the proviso, after the words “of the payment of”
17 the following: “not exceeding three-fourths of the amount
18 of the”.

19 SEC. 29. The Agricultural Adjustment Act, as
20 amended, is amended by adding after section 20 the
21 following new section:

22 “SEC. 21. (a) No suit or proceeding shall be brought
23 or maintained in, nor shall any judgment or decree be
24 entered by, any court for the recoupment, set-off, refund, or
25 credit of, or on any counterclaim for, any amount of any

1 tax assessed, paid, collected, or accrued under this title
2 prior to the date of the adoption of this amendment. Ex-
3 cept pursuant to a final judgment or decree entered prior
4 to the date of the adoption of this amendment, no recoup-
5 ment, set-off, refund, or credit of, or counterclaim for, any
6 amount of any tax, interest, or penalty assessed, paid, col-
7 lected, or accrued under this title prior to the date of the
8 adoption of this amendment shall be made or allowed. The
9 provisions of this subsection shall not apply to (1) any
10 overpayment of tax which results from an error in the com-
11 putation of the tax, or (2) duplicate payments of any tax.
12 or (3) any refund or credit under subsection (a) or (c)
13 of section 15 or under section 17.

14 “(b) No suit, action, or proceeding (including pro-
15 bate, administration, receivership, and bankruptcy proceed-
16 ings) shall be brought or maintained in any court if such
17 suit, action, or proceeding is for the purpose or has the effect
18 (1) of preventing or restraining the assessment or collec-
19 tion of any tax imposed or the amount of any penalty or
20 interest accrued under this title on or after the date of the
21 adoption of this amendment, or (2) of obtaining a declara-
22 tory judgment under the Federal Declaratory Judgments
23 Act in connection with any such tax or such amount of any
24 such interest or penalty. In probate, administration, receiv-
25 ership, bankruptcy, or other similar proceedings, the claim

1 of the United States for any such tax or such amount of
2 any such interest or penalty, in the amount assessed by the
3 Commissioner of Internal Revenue, shall be allowed and
4 ordered to be paid, but the right to claim the refund or credit
5 thereof and to maintain such claim pursuant to the provisions
6 of law made applicable by section 19 may be reserved in
7 the court's order.

8 “(c) The taxes imposed under this title, as deter-
9 mined, prescribed, proclaimed and made effective by the
10 proclamations and certificates of the Secretary of Agricul-
11 ture and or of the President by the regulations of the
12 Secretary with the approval of the President prior to the
13 date of the adoption of this amendment, are hereby legalized
14 and ratified, and the assessment, levy, collection, and accrual
15 of all such taxes prior to said date are hereby legalized and
16 ratified and confirmed as fully to all intents and purposes as
17 if each such tax had been made effective and the rate thereof
18 fixed specifically on May 12, 1933, by Act of Congress.
19 All such taxes which have accrued and remain unpaid on
20 the date of the adoption of this amendment shall be assessed
21 and collected pursuant to section 19, and to the provisions
22 of law made applicable thereby. Nothing in this section
23 shall be construed to import illegality to any act, determina-
24 tion, proclamation, certificate, or regulation of the Secretary

1 of Agriculture or of the President done or made prior to
2 the date of the adoption of this amendment.

3 “(d) No refund or credit shall be made or allowed
4 of any amount of any tax which accrued on or after the date
5 of the adoption of this amendment under this title (includ-
6 ing any overpayment of such tax), unless (1) the claimant
7 establishes to the satisfaction of the Commissioner of
8 Internal Revenue, (A) that he has not included such amount
9 in the price of the article with respect to which it was im-
10 posed or of any article processed from the commodity with
11 respect to which it was imposed, and that he has not col-
12 lected from the vendee any part of such amount, or (B)
13 that he has repaid such amount to the producer or the
14 ultimate purchaser of the article, and (C) in the case of
15 hogs that such amount has not been deducted from the price
16 paid to the producer, or (2) the claimant files with the
17 Commissioner of Internal Revenue the written consent of
18 such producer and ultimate purchaser to the allowance of
19 the credit or refund. The provisions of this subsection shall
20 not apply to any refund under section 15 (a), section 16,
21 or section 17.

22 “(e) No refund or credit shall be made or allowed of
23 the amount of any tax, under section 15, section 16, or
24 section 17, unless, within one year after the right to such re-
25 fund or credit has accrued, a claim for such refund or credit

1 (conforming to such regulations as the Commissioner of
2 Internal Revenue, with the approval of the Secretary of
3 the Treasury, may prescribe) is filed by the person entitled
4 to such refund or credit, except that if the right to any
5 such refund or credit accrued prior to the date of the
6 adoption of this amendment, then such one year period
7 shall be computed from the date of this amendment. No
8 interest shall be allowed or paid, or included in any judg-
9 ment, with respect to any such claim for refund or credit.

10 “(f) The provisions of section 3226, Revised Statutes,
11 as amended, are hereby extended to apply to any suit for
12 the recovery of any amount of any tax which accrued, on
13 or after the date of the adoption of this amendment, under
14 this title, and to any suit for the recovery of any amount of
15 tax which results from an error in the computation of the
16 tax or from duplicate payments of any tax.

17 “(g) Whenever in this title a refund of any tax is
18 authorized to be made to any person other than the person
19 required to pay the tax with respect to which an applica-
20 tion for refund is made, upon statement under oath by the
21 applicant for refund that he has no knowledge, information
22 or belief that such tax has not in fact been paid, then for
23 the purpose of such refund to said applicant such tax shall
24 be deemed to have been due from and paid by the person
25 liable therefor. Any other provision of the law notwith-

1 standing, the Comptroller General of the United States is
2 authorized and directed, without review of the fact of the
3 payment of the tax, to certify for payment refunds authorized
4 under this subsection in the amounts scheduled to him by
5 the Commissioner of Internal Revenue. Whoever makes
6 any false statement under oath in connection with applying
7 for or securing such refund of any tax shall be guilty of a
8 misdemeanor and upon conviction thereof shall be punished
9 by a fine of not more than \$1,000 or by imprisonment not
10 exceeding six months, or both."

11 SEC. 30. The Agricultural Adjustment Act, as
12 amended, is amended by inserting after section 21 the
13 following:

14 "IMPORTS

15 "SEC. 22. (a) Whenever the President has reason to
16 believe that any one or more articles are being imported
17 or are likely to be imported into the United States under
18 such conditions and in sufficient quantities to render ineffec-
19 tive or materially interfere with any program or operation
20 undertaken under this title, he shall cause an immediate
21 investigation to be made by the United States Tariff Com-
22 mission, which shall give precedence to investigations under
23 this subsection, to determine such facts. Such investigation
24 shall be made after such notice and hearing and subject to
25 such regulations as the President shall specify.

1 “(b) If, after such investigation and report to him of
2 findings and recommendations made in connection therewith,
3 the President finds the existence of such facts, he shall by
4 order direct that the entry into the United States of such
5 article or articles shall, for such time as may be specified
6 by him, be permitted subject to (1) such terms and condi-
7 tions, (2) such limitations on the total quantities thereof
8 which may be imported, or (3) the payment of such com-
9 pensating taxes as he finds necessary to prescribe in order
10 that the entry of such article or articles will not render
11 or tend to render ineffective or materially interfere with
12 such program or operation undertaken under this title.
13 Any compensating tax imposed under this section shall be
14 in addition to any tax imposed under section 15 (e) and
15 the provisions of such section shall apply thereto.

16 “(c) Any decision of the President as to facts under
17 this section shall be final.

18 “(d) Upon information of any order of the President
19 under subsection (b), the Secretary of the Treasury shall
20 permit entry of any article or articles specified therein only
21 in conformity with such order.

22 “(e) After investigation, report, and finding in the
23 manner provided in the case of an original order, any order
24 or provision thereof may be suspended or revoked by the
25 President whenever he finds that the circumstances requir-

1 ing the order or provision no longer exist, or may be modi-
2 fied by the President whenever he finds that changed cir-
3 cumstances require such modification to carry out the
4 provisions of this section.”

5 SEC. 31. There is authorized to be appropriated for
6 each fiscal year an amount equal to 30 per centum of the
7 gross receipts from duties collected under the customs laws
8 during the period January 1 to December 31, both inclu-
9 sive, preceding the beginning of such fiscal year. Sums
10 appropriated in pursuance of such authorization shall be
11 maintained in a separate fund and shall be used by the
12 Secretary of Agriculture only to: (1) Encourage the ex-
13 portation of major agricultural commodities and products
14 thereof by the payment of benefits in connection with the
15 exportation thereof or of indemnities for losses incurred in
16 connection with such exportation, (2) encourage the domes-
17 tic consumption of such commodities or products by diverting
18 them, by the payment of benefits or indemnities or by
19 other means, from the normal channels of trade and com-
20 merce; (3) purchase or lease, on behalf of the United
21 States, submarginal agricultural and grazing lands; and (4)
22 finance adjustments in the quantity planted or produced
23 for market of agricultural commodities. The amounts appro-
24 priated in pursuance of this section shall be expended for
25 such of the above-specified purposes, and at such times, in

1 such manner, and in such amounts as the Secretary of Agri-
2 culture finds will tend to eliminate unprofitable agricultural
3 and grazing lands, bring about the utilization of only such
4 lands as can be profitably utilized, increase the exporta-
5 tion of agricultural commodities and products thereof, and
6 increase the domestic consumption of agricultural commodi-
7 ties and products thereof: *Provided*, That no part of the
8 funds authorized to be appropriated by this section shall be
9 expended pursuant to (3) or (4) hereof unless the Secretary
10 of Agriculture determines that the expenditure of such part
11 pursuant to clauses (1) and (2) is not necessary to effectuate
12 the purposes of this section.

13 SEC. 32. The Secretary of Agriculture is authorized
14 to use as much as he finds advisable of the funds appro-
15 priated by the second paragraph of Public Resolution Num-
16 bered 27, Seventy-third Congress, approved May 25, 1934,
17 to carry out section 6 of the Act entitled "An Act to amend
18 the Agricultural Adjustment Act so as to include cattle
19 and other products as basic agricultural commodities, and
20 for other purposes", approved April 7, 1934, for experi-
21 mentation and efforts to eradicate Bang's disease in cattle.
22 Such funds shall be available to carry out such section 6 and
23 for the purposes for which funds are made available by this
24 section until December 31, 1937, and may be used for all
25 necessary expenses in connection therewith, including the

1 employment of persons and means in the District of Colum-
2 bia and elsewhere.

3 SEC. 33. Nothing contained in this Act shall invalidate
4 any marketing agreement or license in existence on the date
5 of the enactment hereof, or any provision thereof, or any
6 act done pursuant thereto, either before or after the enact-
7 ment of this Act, nor shall anything contained in this Act
8 impair any remedy provided for on the date of the enactment
9 thereof for the enforcement of any such marketing agreement
10 or license.

Passed the House of Representatives June 18, 1935.

Attest:

SOUTH TRIMBLE,

Clerk.

AN ACT

To amend the Agricultural Adjustment Act,
and for other purposes.

MAY 13 (calendar day, JUNE 19), 1935

Read twice and referred to the Committee on
Agriculture and Forestry

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JUNE 20), 1935

Referred to the Committee on Agriculture and Forestry and ordered to be printed

Mr. ROBINSON submitted the following

AMENDMENTS

Intended to be proposed by Mr. POPE to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

- 1 On page 10, line 10, after the comma following the
- 2 word "tobacco" insert "poultry and poultry products,".
- 3 On page 14, at the end of line 19, insert "poultry
- 4 and poultry products,".

Calendar No. 1058

74TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ No. 1011

AMEND THE AGRICULTURAL ADJUSTMENT ACT, AND FOR OTHER PURPOSES

MAY 13 (calendar day, JULY 3), 1935.—Ordered to be printed

Mr. SMITH, from the Committee on Agriculture and Forestry,
submitted the following

R E P O R T

[To accompany H. R. 8492]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, having considered the same, recommend that the bill do pass with amendments.

GENERAL STATEMENT

The amendments to the Agricultural Adjustment Act contained in the bill H. R. 8492 are needed in order to carry out two principal purposes. The first is to permit the agricultural adjustment program to contribute its full share toward recovery by supplementing the present provisions of the act so as to enable it to operate effectively in achieving its objectives. The second is to insure that the program will be carried out within the limits of the powers given Congress under the Constitution, and to make certain that the authority conferred upon the Secretary of Agriculture under the Agricultural Adjustment Act will conform to the principle that power cannot be delegated by Congress to an executive officer unless adequate standards and guides are prescribed by Congress to govern the exercise of such power.

The primary objective set forth in the declaration of policy in the Agricultural Adjustment Act is to secure fair exchange value for farm products. This objective is, in itself, a worthy one from the standpoint of economics and social justice to farmers, and is of real national importance in the recovery program. By restoring and sustaining farm buying power, the Agricultural Adjustment Act can contribute effectively to the general recovery of business.

The proposed amendments will permit a more flexible program by permitting the use of different plans with reference to different commodities, and thus enabling each plan to be fitted to the particular commodity. Desirable flexibility in the agricultural program is furnished by those provisions of the bill which will add to the power of the Secretary of Agriculture to make rental or benefit payments in connection with production or acreage adjustment, the powers to provide for payments for expansion of markets, removal of quantities of agricultural commodities from the normal channels of trade and commerce, and payments on the domestically consumed part of production. Any one or more of these plans may be carried out independently or in combination with acreage or production adjustment.

Of real importance in the agricultural program which the proposed amendments are intended to make possible is the plan which has been described and is generally known as the "ever normal granary." The Government is authorized to acquire basic agricultural commodities which have been pledged as security for Government loans, and with them to make payments "in kind" to producers who cooperate in the adjustment programs. Adequate reserves of food and fiber can in this manner be maintained, and fluctuations in price can be smoothed out.

Section 4 of the bill contains a rewording of the power to make rental and benefit payments conferred upon the Secretary by section 8 (1) of the present act, as well as a further grant of authority, already mentioned, to provide for the removal of agricultural commodities from the normal channels of trade, for expansion of markets, and payments on the domestically consumed part of production. All of these powers have been subjected to congressionally declared standards. As a prerequisite to the exercise of any of them with respect to any commodity, the Secretary must determine that the current farm price of such commodity is below the parity level or is likely to be below the parity level, and that the exercise of such power would tend to raise the price of the commodity toward parity. Upon the basis of such a finding, it is made a mandatory duty of the Secretary to undertake the exercise of such of the powers conferred by section 8 as are administratively practicable and best calculated to effectuate the declared policy. Similarly, the Secretary is directed to cease exercising such powers after the end of the marketing year current at the time when he determines that the circumstances described above no longer exist. These provisions make it clear beyond doubt that the exercise or nonexercise of the powers conferred by section 8 is to be determined by the existence or nonexistence of certain definite circumstances, the existence of which the Secretary is required to find as a condition precedent to the exercise of his powers, and the nonexistence of which terminates his authority further to exercise them.

The provisions of the present act which relate to marketing agreements and licenses are of vital importance to 2,000,000 or more farmers. These provisions have been extensively revised in the proposed amendments, and the word "order" has been substituted for "license" in order more accurately to describe the nature of the regulatory power conferred. The producers of fruits and vegetables and other commodities which have not been named in the act as "basic" commodities are forced to rely for the most part upon marketing agreements and orders in order to achieve the goal set forth in the

declaration of policy. The operations of cooperative marketing associations will be reenforced by these sections, which will assure the cooperation of processors and distributors in programs intended to raise farm prices. The marketing agreements and licenses which have been issued and entered into pursuant to the Agricultural Adjustment Act have contained a great variety of provisions in order to adapt each particular program to the peculiar problems and circumstances presented in a given area by a particular commodity. The essential purpose of these agreements and orders has, however, always been to raise producer prices.

The proposed amendments, insofar as they relate to marketing agreements and orders, are primarily intended to implement and spell out in more detail and with greater freedom from ambiguity the powers which were intended to be conferred in the original act. The present language of the statute is subject to misconstruction which has given rise to obstacles in connection with the enforcement of marketing agreements and licenses and has seriously endangered their successful operation. Under the proposed amendments, it is made clear that the Secretary must issue an order whenever the handlers of 50 percent by volume of the commodity to be covered in the order have signed a marketing agreement regulating the handling of such commodity in the same manner as the proposed order, or, failing the signature of such handlers, whenever the Secretary, with the approval of the President, finds that two-thirds by volume or number of the producers of the commodity covered by the order favor its issuance and that its issuance is the only practical means of advancing the interest of such producers pursuant to the declared policy. The orders can be made applicable only to specified commodities, and can contain only such terms and conditions as are expressly authorized in the proposed amendments. Furthermore, the amendments contain provisions intended to safeguard the exercise of and prevent abuses in the application of the regulatory power conferred upon the Secretary. Specific example of producers, and, except in the case of milk and its products, a partial exemption of retailers from the power to issue orders, has been provided for.

A congressional policy that orders shall be limited in their application to the smallest practicable region, and that they shall contain different terms applicable to different areas, has been carefully spelled out. These and other restrictive provisions are, in the opinion of the committee, adequately drawn to guard against any fear that the regulatory power is so broad as to subject its exercise to the risk of abuse.

The sections of the bill which deal with the imposition of processing taxes have been altered in several important particulars. These taxes, while levied upon processors, have been passed on to the consumer and actually paid by him. Consequently, it has been found desirable to guard against the possibility of recovery of taxes accrued to or paid by the processors prior to the date of the adoption of these amendments, should such taxes for any reason be held invalid, by withdrawing the consent of the United States to be sued, and withdrawing jurisdiction from all courts to entertain such suits. The taxes heretofore collected are validated by congressional ratification of all prior acts, and the rates of tax now in effect for various of the basic commodities are continued in full force and effect until Decem-

ber 31, 1937, subject to a provision authorizing the Secretary to raise or lower such rates in accordance with certain standards. Further amendments of a perfecting nature to the tax provisions of the act have also been incorporated.

Recognition of the desirability of stimulating the export trade in agricultural commodities is afforded by the provision authorizing the imposition of a processing tax not only in order to finance the making of rental and benefit payments to producers for engaging in adjustment programs but also for financing payments for the expansion of domestic and foreign markets. Expansion of domestic markets is in the interest of a fuller utilization of our agricultural resources. The current depression has revealed more than ever the existence of areas of substandard consumption of farm products in this country. Even in normal times the low-income groups could consume more farm products than has been the case in the past. Expansion of domestic markets will serve to build up the low-consuming areas within our own population to a level adequate for the maintenance of health, and to bring about a permanently larger volume of consumption so as to require a minimum of restriction of our agricultural production.

The bill also contains in sections 33 to 36, inclusive, certain necessary technical changes to be made in part 1 of the Agricultural Adjustment Act, which deals with cotton option contracts. It also contains amendments to the Bankhead Cotton Control Act which extend the operation of that act through and including the crop year 1937-38, and validate the allotment of 10,500,000 bales as the allotment for the crop-year 1935-36. The last 12 sections of the bill embody the provisions of the bill H. R. 8677, introduced by Mr. Kerr, which extends the operation of the Kerr Tobacco Act until April 30, 1939, and makes various perfecting changes in the language of that act.

An exposition of each of the important features of the bill is set forth below with appropriate headings.

PARITY PRICE

The declaration of policy in the Agricultural Adjustment Act has as its objective the reestablishment of prices paid to farmers at a level that will give agricultural commodities a current purchasing power equivalent to that of the base period. Section 1 (a) of the bill amends this provision of the act to provide that, in the case of all commodities for which the base period is the pre-war period (August 1909 to July 1914), such prices will also reflect current interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate as contrasted with such payments during the base period. This provision is intended to give the Agricultural Adjustment Administration a more adequate standard for determining parity prices. The present method of calculation is composed of an index of prices for goods which farmers buy in relation to the pre-war level and does not cover expenditures for taxes and for debt service. At the present time, taxes per acre and mortgage interest per acre are probably about 160 to 170 percent of the pre-war level. The combination of these two items, together with the index of prices paid by farmers, may be expected to give parity standards approximately 5 percent higher than at present. The corresponding amendment to section 9 (c) of the act, which defines

parity price, is made by section 13 of the bill. It is there provided that this amendment shall not affect the rates of any processing taxes now in effect, and shall not require their adjustment until the Secretary finds such adjustment necessary in accordance with standards prescribed in the act.

DECLARATION OF POLICY—CONSUMER'S INTEREST

Certain changes have been made by section 1 (b) of the bill to the declaration of policy contained in section 2 of the present act in order more clearly to delimit the scope of the Secretary's authority under that section. Subsection (3) of the declaration of policy in the present act, which was inserted in order to protect consumers against unwarrantably rapid or excessive price increases, is ambiguously worded and has met with some criticism from the courts as being a vague and unintelligible standard, from which the Secretary can derive no adequate guide in the exercise of his powers. This language has, accordingly, been reworded to make it clear that the act confers no authority upon the Secretary to utilize his powers with the purpose of maintaining farm prices above the parity level.

RENTAL AND BENEFIT PAYMENTS AND NEW PROGRAMS

Section 2 of the bill contains a new provision, revising section 8 (1) of the Agricultural Adjustment Act, which confers the power to make rental or benefit payments, and designating the new provision as section 8. The new provision adds the authority to make (1) payments in connection with the removal of any basic agricultural commodity or product thereof from the normal channels of trade and commerce; (2) payments to expand domestic or foreign commerce for any basic agricultural commodity and products thereof; and (3) payments in connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

These powers are added to the powers to make rental or benefit payments contained in the present law, and the new payments which are authorized in the bill may be made independently or in combination with acreage or production adjustment. The addition of the new powers will, it is believed, provide an adequate basis for a comprehensive farm-relief plan which will be sufficiently adaptable to meet the needs of each of the particular basic commodities, as well as to meet changed conditions in their production and consumption. This provision of the act has also been amended by striking out the word "reduction" and substituting the word "adjustment." In connection with many of the commodity benefit programs, it has frequently been found desirable to require a larger reduction in acreage from the base period during the first year covered by such programs than is required during the second or later years. Thus, while the agreements with reference to the later years require a reduction in acreage in comparison to that which obtained during the base period, they allow an increase in acreage over that which is permitted during the first year of the reduction program. However, it has been contended by some that the use of the word "reduction" in section 8 (1) requires that any agreements entered into under that section shall provide for a reduction in acreage from that which obtained during the preceding year. Under such an interpretation of

the act, the Agricultural Adjustment Administration would be restricted to a program of continual reduction and would not be authorized to pay benefits in connection with a program which permitted an increase in acreage over immediately preceding years. To make plain the power of the Secretary of Agriculture to permit adjustments in acreage upward where the policy of the act so requires, it is proposed to eliminate the word "reduction" and to substitute therefor the word "adjustment."

The provisions of section 8 have been rewritten for the further purpose of making certain that, in the exercise of the powers conferred under that section the Secretary of Agriculture is bound by definite rules laid down by Congress, acts only in pursuance of findings of fact made after investigation, and puts into effect action set forth in the statute and determined on the basis of the finding made by him. These provisions of the bill thus conform in every respect to the requirements laid down in the *Schechter case*. Before exercising any of the powers granted with respect to any commodity, the Secretary must determine that the current average farm price of the commodity is, at the time of such determination, below the fair exchange value thereof, or that the average farm price of the commodity, for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, is likely to be less than its fair exchange value. The Secretary must undertake an investigation concerning the existence of these circumstances whenever he has reason to believe that they exist. If he finds, upon the basis of the investigation, that they do exist, he is directed to undertake the exercise of such of the powers conferred by section 8 as are administratively practicable and best calculated to effectuate the declared policy. The Secretary is directed to cease exercising such powers after the end of the marketing year current when he determines, after investigation, that the circumstances described above no longer exist, except (as provided in the committee amendment) insofar as the exercise of any of such powers is necessary to carry out obligations assumed by him prior to his proclamation discontinuing the exercise of the powers.

Section 3 of the bill makes important changes in section 12 (b) of the Agricultural Adjustment Act, which sets forth the purposes for which the proceeds of processing taxes may be used. First, a technical amendment is made to make certain that the payments made under such section 12 (b) are for the purpose of effectuating the policy of the Agricultural Adjustment Act. Second, the funds available under section 12 (b) may be used for the acquisition of any agricultural commodity pledged as security for a loan made by any Federal agency, which loan was conditioned upon the borrower agreeing to cooperate with a program of production or marketing adjustment adopted under the act. (See "Ever-normal granary".) Third, the purposes for which processing tax proceeds may be used have been grouped together and treated generally as payments authorized under section 8. The authority to use tax proceeds for administrative expenses and refunds of taxes is not disturbed.

The necessary technical amendments to the present act to include the new payments along with rental or benefit payments wherever such payments are dealt with in the present act are made by sections 11, 17, and 20.

Section 11 (a) amends the section 9 (a) of the Agricultural Adjustment Act, which provides that when the Secretary determines that rental or benefit payments are to be made a processing tax is automatically imposed. This amendment provides that when the Secretary determines that payments for any one or more of the purposes specified in section 8 (rental or benefit payments, payments for expansion of domestic or foreign markets, payments for removal of basic commodities, or their products, and payments in connection with the production of that part of a basic commodity required for domestic consumption) are to be made, a processing tax shall automatically be in effect with respect to such commodity from the beginning of the marketing year next following the proclamation. The effect of the amendment is to add the new purposes authorized by the amendment made by section 2 of the bill to the purposes for which processing taxes shall be imposed, to forbid such payments unless there is an accompanying processing tax, and to provide that the tax is imposed following the Secretary's declaration that any particular payment is to be made.

Section 11 (b) amends section 9 (a) of the Agricultural Adjustment Act so as to terminate the processing tax levied to make payments for the purposes outlined in the preceding paragraph at the end of the marketing year current at the time of a proclamation that all such payments which are in effect are to be terminated.

Section 17 amends section 10 (e) of the Agricultural Adjustment Act, which provides that neither the determination of the amount of, nor the making of, any rental or benefit payment is subject to the review of any governmental officer, except the Secretary of Agriculture and the Secretary of the Treasury, by extending the provision to apply to the determination and making of payments for expansion of domestic or foreign markets, removal of surpluses, or payments on the portion required for domestic consumption.

Section 20 specifically authorizes the use of the remainder of the \$100,000,000 fund appropriated under section 12 (a) of the Agricultural Adjustment Act for any of the payments authorized by the new section 8 which, as indicated above, include payments for acreage or production adjustment of basic commodities, payments for expansion of domestic or foreign markets, payments to remove quantities of basic agricultural commodities and their products, and payments on the portion required for domestic consumption. This provision is complementary to the provisions of section 3 of the bill which authorizes payments out of processing tax receipts for such purposes.

Nothing in the provisions of the bill dealing with rental or benefit payments or conferring power to make the new payments which are authorized by the bill changes the voluntary character of the present act in its effort to reestablish farm prices by these methods.

EVER-NORMAL GRANARY

The authorization for payments in kind to enable the Secretary of Agriculture to put into operation the "ever-normal granary" is contained in section 2 of the bill, which amends section 8 of the present act. The bill (sec. 8 (6)) further provides that no payment in kind may be made in a commodity other than the one with respect to which the payment is being made, but hogs and field corn may be considered

a single commodity for this purpose. Thus, wheat may not be used to make rental or benefit payments in carrying out the cotton or tobacco program, but may be used in connection with the wheat program. A committee amendment makes it clear that a producer cannot be required to accept payment in kind unless he consents thereto.

Under section 3 of the bill, which amends section 12 (a) of the Agricultural Adjustment Act, the necessary changes are made in order that the proceeds of processing taxes may be available for the acquisition of the commodities to be used in making such payments in kind.

MARKETING AGREEMENTS AND ORDERS

Section 5 of the bill eliminates the present licensing section (sec. 8 (3)) of the Agricultural Adjustment Act, and in lieu thereof authorizes the Secretary of Agriculture to issue orders covering the marketing and distribution of specific agricultural commodities. Because the provisions of the present law for administrative revocation have been eliminated in the proposed bill, the term "license" has been discarded, and the term "order", in general usage with respect to administrative regulations, such as those of the Interstate Commerce Commission and of the Federal Trade Commission, has been substituted. To eliminate questions of improper delegation of legislative authority raised by the decision in *Schechter et al. v. United States*, the provisions relating to orders enumerate the commodities to which orders issued by the Secretary of Agriculture may be applicable, prescribe fully the administrative procedure to be followed by the Secretary in issuing, enforcing, and terminating orders, and specify the terms which may be included in orders dealing with the enumerated commodities. The powers to be exercised under the proposed bill are confined within the limitations upon the Federal authority over interstate commerce as expressed by the Supreme Court in the *Schechter case* and other cases. A comparison of the proposed provisions and the present law, and a detailed discussion of the proposed provisions with respect to orders, is set forth below.

First. Orders may be issued by the Secretary of Agriculture applicable to those engaged in the handling of milk, wool and mohair, fruits (including pecans and walnuts but not including apples), tobacco, vegetables (except vegetables for canning), soybeans, hops, package and queen bees, poultry, and naval stores as included under the Naval Stores Act, and applicable to those engaged in the handling of products of all of the enumerated commodities except naval stores. Under the present section 8 (3) of the Agricultural Adjustment Act there is no restriction upon the number or type of agricultural commodities concerning which licenses may be issued.

The scope of orders under the proposed section 8c is limited to the regulation of the handling of the specified commodities in the current of interstate or foreign commerce or to the handling thereof which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities or products thereof. Section 8 (2) of the Agricultural Adjustment Act now authorizes the Secretary of Agriculture to enter into marketing agreements with processors and others engaged in the handling of any agricultural commodity or product thereof "in competition with" interstate or foreign com-

merce. This phrase has been omitted from the proposed section 8c (1) of the bill which deals with orders, as well as from the proposed section 8b, which deals with marketing agreements, because the proposed language makes it clear that the full extent of the Federal power over interstate and foreign commerce and no more is intended to be vested in the Secretary of Agriculture in connection with orders.

Second. Specific provisions governing the Secretary of Agriculture in determining when to issue and in issuing orders are included in the proposed bill in paragraphs (8) and (9) of section 8c. Orders may not become effective until the handlers of not less than 50 percent of the volume of the commodity to be covered by the proposed order have signed a marketing agreement which regulates the handlers in the same manner as the proposed order. But when such a marketing agreement has been signed, if the Secretary finds that the issuance of an order would tend to effectuate the declared policy with respect to the commodity and transactions covered in the order, the Secretary must issue an order. Without such consent of the handlers to be covered thereby, a proposed order may become effective only if the Secretary of Agriculture, with the approval of the President, finds (1) that the failure of the requisite number of handlers to sign a marketing agreement, upon which a hearing has been held, tends to prevent the effectuation of the declared policy; (2) that the issuance of the proposed order is the only practicable means of carrying out the declared policy; and (3) that the issuance of the proposed order is approved or favored by at least two-thirds, by number or volume, of those producing the commodity for market. But, if the Secretary finds that these facts exist, he must issue an order, notwithstanding the failure of the required number of handlers to sign the marketing agreement. An order issued without such consent of the handlers to be covered thereby may not, except in the case of milk and its products, be applicable to any person selling agricultural commodities at retail in his capacity as a retailer, nor may it in any case be applicable to any producer in his capacity as a producer.

So that proper recognition may be given to local differences which may exist in production or marketing methods or conditions, orders are required to be limited in their application to the smallest practicable regional production or marketing areas, and orders applicable to the same commodity or product are required to prescribe such terms applicable to different production or marketing areas as will recognize local production and marketing differences. Orders relating to milk and its products are exempted from the requirement that they be limited in their application to the smallest practicable regional production or marketing areas.

Prior to the issuance of any order, the Secretary of Agriculture is required to give notice of and an opportunity for hearing upon the provisions of a proposed order. Only those terms may be included in an order which the Secretary finds from the evidence introduced at the hearing will effectuate the declared policy of title 1.

Third. Subsection (5) of the proposed section 8c states specifically the terms which may be included in orders relating to milk and its products. These terms follow the methods employed by cooperative associations of producers prior to the enactment of the Agricultural Adjustment Act and the provisions of licenses issued pursuant to the present section 8 (3) of the Agricultural Adjustment Act. Such orders

may contain provisions classifying milk in accordance with the purpose for which it is used, and may fix, or provide a method for fixing, minimum prices which shall be paid by handlers to producers for milk in each use classification. This provision makes it possible to take into consideration, in orders dealing with milk, the difference in value between milk sold for consumption in fluid form and that used in the manufacture of such products as butter, evaporated milk, etc.

Minimum prices fixed in such orders are required to be uniform as to all handlers, subject to adjustments for differences in the grade or quality of the milk delivered, for differences in transportation costs from the place at which delivery is made to the handler or the distributing or processing plant, and for volume, market, and production differentials customarily applied by handlers. The volume differential is a differential which is paid when the operations of several country plants are consolidated into one plant. The inconvenience which is caused to producers by closing up plants to which they have been delivering and requiring that all of their milk be handled by one plant, is compensated by an additional payment to the producers. The production differential is the differential which is paid to a producer, to compensate him for keeping his farm and milk qualified for a city market even though his milk may actually be going into manufactured use. It is necessary to keep this supply of reserve milk available for periods in which consumption of fluid milk goes up. The effect is that the producers are paid for keeping their farms in the same condition as if they were shipping milk into the city every day. The production differential is a payment to the farmer for performing this function in the market. The market differential is a differential which is given to the producer to compensate him for delivering his milk to a city market instead of to a country plant. These differentials vary with the markets and cannot be qualified as a "location" differential, because of the fact that location is usually determined on the distance from a primary market whereas market differentials are usually paid in secondary markets.

The authority conferred with respect to price-fixing deals only with prices to be paid by handlers; fixing of prices at which milk and its products may be sold by handlers is not permitted in the proposed bill.

The validity of State legislation fixing minimum prices at which milk may be purchased from producers was sustained in *Nebbia v. New York* (291 U. S. 502), and *Hegeman Farms Corporation v. Baldwin* (293 U. S. 163) against an attack upon the ground that such legislation violated the due-process clause of the fourteenth amendment. Since the requirements of due process under the fourteenth amendment and under the fifth amendment are identical (*Heiner v. Donnan*, 285 U. S. 312, 326), the price-fixing provisions authorized to be included in orders issued under the proposed section 8c conform to the requirements of due process under the fifth amendment. That regulations fixing the price at which an agricultural commodity may be purchased are proper exercises of the Federal power over interstate commerce is established by such decisions as *Lemke v. Farmers' Grain Co.* (258 U. S. 50), and *Baldwin v. Seelig* (55 Sup. Ct. Rep., 497).

Alternative methods of distributing the total dollar value of all milk sold in the market among the producers supplying the market are provided. Uniform prices are required to be paid to all producers and associations of producers for all milk delivered by them irrespec-

tive of the use to which such milk is put by the particular handler to whom any producer or association of producers sells its milk. / An alternative provision may be included, requiring instead the payment of uniform prices by each handler to all producers and associations of producers delivering milk to him, but, except in the case of orders covering manufactured milk products only, such a provision may not be included unless the Secretary finds that its inclusion is approved or favored by three-fourths of the producers by number or by volume of production.

In order to eliminate, so far as possible, violent seasonal fluctuations in the available milk supply with their attendant disturbing effect upon returns to producers, and to encourage a uniform volume of production throughout the year, an adjustment in payments to producers upon the basis of their production records during a representative period may be included in such orders, in addition to the adjustments described above. Milk orders may also provide a method for adjustments among handlers so that the payments for milk made by each handler shall equal the value of the milk to the handler in the use classification to which it is devoted by him.

To prevent assaults upon the price structure by the sporadic importation of milk from new producing areas, while permitting the orderly and natural expansion of the area supplying any market by the introduction of new producers or new producing areas, orders may provide that for the first 3 months of regular delivery, payments shall be made to producers not theretofore selling milk in the area covered by the order at the price fixed for the lowest use classification. This is the only limitation upon the entry of new producers—wherever located—into a market, and it can remain effective only for the specified 3-month period. Provisions for market information, for verification of weights, for sampling and testing milk, and for insuring that producers will be paid for milk purchased from them may also be included in milk orders.

A specific provision is included in this proposed subsection safeguarding the right of cooperative marketing associations qualified under the Capper-Volstead Act to make distribution of the proceeds of milk sold by them to their members in accordance with the contracts between the cooperatives and their members.

Fourth. Subsection (6) of the proposed section 8c enumerates the provisions which may be included in orders relating to the handling of fruits, pecans, walnuts, tobacco, soybeans, hops, package and queen bees, and vegetables, and the products of each of them, and relating to the handling of naval stores. Like the provisions which may be included in orders relating to milk, these provisions embody methods which have been employed by cooperative associations and in licenses issued under the present section 8 (3) of the Agricultural Adjustment Act. In these commodities the chief obstacle to the attainment of the declared policy is the existence of market supplies far in excess of quantities sufficient to meet an effective consumer demand. Therefore, it is provided that orders dealing with the handling of these commodities may limit, or provide methods for the limitation of, the total quantity of any such commodity, or any grade, size, or quality thereof, which may be marketed or transported to market by handlers during any specified period. They may also allot, or provide methods for allotting, the amount of any such commodity which each handler

may purchase from producers. So that the total quantity to be handled may be equitably allotted among producers, any such allotment is required to be made in accordance with a uniform rule based upon the amounts of the commodity produced or sold by producers during a representative period to be determined by the Secretary of Agriculture, or upon the current production or sales. The validity of regulations allotting the supply of a commodity sufficient to meet the consumer demand was sustained in *Champlin Refining Co. v. Corporation Commission* (286 U. S. 210).

Such orders may also allot, or provide methods for allotting, the amount of such commodity, or of any grade, size, or quality thereof, which each handler may market or transport to markets. To secure a just allotment among all handlers of the commodity, allotments to individual handlers are required to be made in accordance with a uniform rule based upon the amount of the commodity which individual handlers have available for current shipment, or upon the volume of shipments made by such a handler during a representative period to be determined by the Secretary.

Such orders may also contain provisions determining, or providing methods for the determination of, the extent of the surplus of any of the enumerated commodities, or of any grade, size, or quality thereof, providing for the control and distribution of such surplus, and for equalization of the burden of the surplus among producers and handlers. In this manner supplies of a commodity above the amount required to satisfy an effective consumer demand may be diverted for relief and charitable purposes.

To prevent violent seasonal fluctuations in price caused by excessive market offerings immediately following the harvesting season, such orders may also establish, or provide for the establishment of, reserve pools of any such commodity which will be disposed of from time to time as market conditions warrant, and for the equitable distribution of returns from reserve pools among the persons beneficially interested in them. If the handlers who are subject to an order regulating any of the enumerated commodities purchase not less than 50 percent of the total quantity of the product directly from producers, orders regulating the handling of such commodities may fix, or provide methods for fixing, minimum prices at which any such commodity, or any grade, size, or quality thereof may be purchased by such handlers. Pursuant to a committee amendment, if not less than 50 percent of the volume of a commodity is sold by associations of producers, or for the account of producers or by producers who are also handlers, orders regulating the handling of such commodity may fix, or provide methods for fixing, minimum prices at which such commodity or product or any grade, size, or quality thereof may be sold by the first handler thereof. Considerations similar to those stated above with reference to the validity of provisions fixing the price at which milk may be purchased from producers thereof, support the validity of price-fixing provisions with respect to orders relating to the handling of these commodities.

Fifth. Subsection (7) of the proposed section 8c states specifically the provisions which may be included in orders dealing with the handling of any agricultural commodity within the scope of section 8c. These are the only provisions which may be including in orders covering wool and mohair. Terms prohibiting unfair methods of

competition and unfair trade practices may be included, and the Secretary of Agriculture may select, or provide a method of selecting, agencies to administer the orders and may specify the powers and duties of such agencies. Unless they receive compensation for personal services from funds of the United States, persons acting as members of such agencies are exempted from the provisions of section 10 (g) of the Agricultural Adjustment Act which prohibit speculation in agricultural commodities and stocks on the part of those acting in any official capacity in the administration of the act. A committee amendment authorizes the inclusion of provisions requiring filing of the prices at which sales are made by handlers, except in the case of milk and cream to be sold for consumption in fluid form.

Sixth. Subsection (12) of the proposed section 8c provides that whenever the Secretary of Agriculture is required to determine the fact of approval or disapproval of producers with respect to the issuance, provisions, or termination of any order, he shall consider the approval or disapproval of any bona fide cooperative association as the approval or disapproval of its members, stockholders, or contracting producers.

Seventh. Section 16 of the bill adds a new paragraph to section 10 (b) of the act. The new paragraph provides that orders shall provide that each handler shall pay to the agency established under the order that handler's pro rata share of the administrative expenses incurred by the agency, but no payment is required to be made for any part of the expenses of the authority incurred in receiving, handling, holding, or disposing of commodities for the benefit of persons other than handlers subject to such order. The provision also authorizes a suit by the agency in its own name to collect such expenses and authorizes the district courts to entertain such suits.

Eighth. A new section (8d) is inserted in lieu of subsection (4) of section 8 of the original act which enables the Secretary to secure information with respect to the operation of marketing agreements and orders. Parties to marketing agreements and orders are required, on request of the Secretary, to furnish him with such information as he finds necessary in order to determine the extent to which the agreement or order has been carried out or has effectuated the policy of the act and with information to enable him to determine if there has been abuse of the privilege of antitrust exemptions. To ascertain the correctness of a report furnished, or to secure the information when not furnished, the Secretary may examine books, records, etc., which he deems relevant. He may examine such data if it is within the control of the person from whom requested or within the control of any person having actual or legal control of the person from whom requested, or any subsidiary of any person from whom requested, or of any subsidiary of the person controlling the person from whom the information is requested. The information secured is required to be kept confidential by persons in the Department of Agriculture. So much of it as the Secretary deems relevant may be disclosed in a suit or administrative hearing to which the Secretary or some other officer of the United States is a party if the suit or hearing involves the agreement or order with respect to which the information was furnished or acquired. General statements may be issued which do not identify the information furnished by any person and, by direction of the Secretary, the name of any person violating an

agreement or order, together with the provision violated, may be disclosed. Officers or employees of the Department violating the subsection are subject to fine and imprisonment and removal from office.

Ninth. Section 8e authorizes the Secretary to use as a base period, for the purposes of any marketing agreement or order, the post-war period (August 1919 to July 1929) or all that portion thereof for which the Secretary can satisfactorily determine the purchasing power of a commodity from available statistics of the Department, if he finds and proclaims that, as to that commodity, the purchasing power during the pre-war period cannot be satisfactorily determined from available statistics of the Department.

Tenth. The penalty for violation of a license issued pursuant to the present section 8 (3) of the Agricultural Adjustment Act is revocation of the license and a fine of not more than \$1,000 per day for each day on which business is done without a license. Subsection (14) of the proposed section 8c eliminates the penalty of revocation and fixes a penalty of not less than \$50 nor more than \$500 for each violation of an order.

Specific provision is made for administrative and judicial review of orders. No similar provision is contained in the present act. It is provided that any handler may file a petition with the Secretary of Agriculture alleging that an order or any provision of an order or any obligation imposed in connection with an order is not in accordance with law. After holding a hearing upon the petition, the Secretary is to make an order with reference to the validity or invalidity of the order in its application to the petition which shall be final if in accordance with law. The petitioner may then, if he desires, file a bill in equity in the Federal courts in order to obtain a review of the Secretary's order, and, if the courts finally determine that the order is not in accordance with law, the proceedings are to be remanded to the Secretary with directions to enter such order or take such further proceedings as in the opinion of the court are required by law.

During the period while any such petition is pending before the Secretary and until notice of the Secretary's ruling is given to the petitioner, the penalties imposed by the act for violation of an order cannot be imposed upon the petitioner if the court finds that the petition was filed in good faith and not for delay. The Secretary may, nevertheless, during this period proceed to obtain an injunction against the petitioner pursuant to section 8a (6) of the Agricultural Adjustment Act. But whenever, in proceedings brought by the handler to review the Secretary's order, a final decree is entered by the district court, then any separate injunction proceedings which may have been instituted by the Secretary against the handler pursuant to section 8a (6) shall abate. When, however, a handler has instituted proceedings in equity to review the Secretary's order, and the Secretary files a counterclaim (i.e., a cross bill for injunctive relief) in such proceedings, then upon the rendition of a final decree the counterclaim will not abate, and the respective parties may appeal, pursuant to the applicable Federal statutes, relating to appeals from final decrees, from the final decree rendered by the district court upon both the bill to review the Secretary's order and the counterclaim. It is believed that these provisions establish an equitable and expeditious procedure for testing the validity of orders, without hampering the Government's power to enforce compliance with their terms.

Eleventh. Subsection (16) of the proposed section 8c provides that the Secretary shall terminate any order, or any provision thereof, whenever he finds that such order or provision obstructs or does not tend to effectuate the declared policy. In addition, he is required to terminate any marketing agreement or order at the end of the then current marketing season, whenever he finds that such termination is favored by a majority of the producers which majority has, during a representative period, produced for market more than 50 percent of the total volume of the commodity which was produced for market in the specified production area, or sold or consumed in the specified marketing area, during such period.

Twelfth. Section 5 of the bill eliminates the present section 8 (3) of the Agricultural Adjustment Act. Therefore no additional licenses may be issued. It is provided by the proposed section 38, however, that nothing in the bill shall invalidate any existing marketing agreement or license or any act done pursuant thereto, or impair any remedy for the enforcement thereof.

COOPERATION WITH STATES

Section 18 adds to the section of the present act which gives the Secretary of Agriculture miscellaneous powers a new subsection which is designed to provide for cooperation between the Secretary and State agencies. This power probably exists under the present law, but it is deemed advisable to make specific provision for it. The new subsection directs the Secretary, upon the request of duly constituted State authorities, to confer and hold joint hearings with State authorities, and authorizes him, whether or not such request has been made, to cooperate with, avail himself of the services, records, and facilities of duly constituted State and Territorial authorities, and to issue orders under the provisions of section 8 (c) of the act complementary to orders or other regulations issued by the State authorities. This authorization is to carry out the declared policy of the title and looks to securing voluntary uniformity in the formulation, administration, and enforcement of State and Federal programs relating to the regulation of the production, handling, marketing, and sale of agricultural commodities and their products.

The Secretary is also authorized to make available to the State authorities records and facilities of the Department of Agriculture. Information furnished to the Secretary pursuant to the books and records section inserted in the present act by the bill is to be made available to such authorities only to the extent that such information is relevant to transactions within their jurisdiction. The authorities are required to agree that the information so furnished them shall be kept confidential in a manner similar to that required of Federal officers and employees under the books and records provisions.

Notwithstanding the authorization of cooperation contained in this section, there is nothing in it to permit or require the Federal Government to invade the field of the States, for the limitations of the act and the Constitution forbid Federal regulation in that field, and this provision does not indicate the contrary. Nor is there anything in the provision to force States to cooperate. Each sovereignty operates in its own sphere but can exert its authority in conformity rather than in conflict with that of the other.

TAX PROVISIONS

Rates of processing tax

The important amendments to the processing-tax provisions of the act relating to rates of the tax are contained in section 12 of the bill.

Section 9 (b) of the present law provides for a processing-tax rate equal to the difference between the current average farm price for the commodity and its fair exchange value. Since the tax upon articles delivered to any organization for charitable distribution or use is refundable under section 15 (c) of the act, and since processings by or for a State or its political subdivisions in certain cases are exempt from tax, the total proceeds of the tax and hence the amount available for rental or benefit payments are at present reduced to the extent of such exemptions and such refunds. The bill eliminates this reduction through an amendment to section 9 (b) which permits the addition to the tax rate of an amount sufficient to make up for charitable refunds and the exemption of processings by a State or its political subdivisions. Such addition cannot, however, exceed 20 percent of the difference between the current average farm price for the commodity and the fair exchange value.

Section 9 (b) of the present law also contains a provision allowing the Secretary of Agriculture, when he finds that the effect of the tax is to cause such a reduction in domestic consumption as to cause an accumulation of surplus stocks of a commodity or its products, or a depression in the farm price, to set a rate which will prevent such consequences. Although it is clear that Congress intended to provide for such a reduction in the rate of tax even when the existing rate is higher or lower than the difference between the current average farm price and the fair exchange value, or in the event that these circumstances continued even after one such reduction, the language at present used does not explicitly state that such adjustments are permissible. The proposed amendment to section 9 (b) expressly authorizes reductions under these circumstances, and also empowers the Secretary to increase a rate of tax which has been theretofore reduced. An increase in rate is, of course, contingent upon the Secretary's finding that such increase will not cause a recurrence of stock accumulations or price depressions. After such a finding the processing tax is to be at the highest rate which will not cause such accumulation of stocks or depression in price, but it cannot be higher than the difference between the current average farm price and the fair exchange value.

Section 12 of the proposed bill also (1) fixes the rate of the processing tax on wheat, cotton, field corn, hogs, peanuts, tobacco, paper, jute, and (subject to the provisions of paragraph (8)) on sugar beets and sugarcane, by adopting the rates of tax prescribed by regulations of the Secretary of Agriculture in effect on the date of the adoption of the bill; (2) fixes the rate of tax for rice at the rate specified in the present law; (3) fixes the rate of tax on rye, effective August 1, 1935, at the rate of 30 cents per bushel of 56 pounds, and (4) fixes a rate of tax on flaxseed and barley, whenever the tax becomes effective by proclamation of the Secretary of Agriculture pursuant to section 9 (a) of the act, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. Section 16 of the original

act, which provides for floor stocks taxes, is expressly made inapplicable in the case of rye, flaxseed, and barley. The bill as it passed the House did not contain the provisions with respect to rye, flaxseed, and barley, and adopted the rates of tax prescribed by regulations of the Secretary in effect on June 1, 1935. The rates so specifically fixed are to remain in effect until December 31, 1937 (in the case of rice, July 31, 1936), unless increased or decreased under certain new provisions contained in section 9 (b) (6) or terminated. By virtue of the enactment of rates of tax at present in effect, until such rates are adjusted, any possible contention that Congress has invalidly delegated legislative power to the Secretary of Agriculture to fix the rate of tax is obviated.

Since the rates of tax which are specifically fixed in the amendments may require adjustment, provision is made that the Secretary of Agriculture may raise or lower these rates. Accordingly, the proposed new section 9 (b) (6) directs the Secretary (1) to reduce such rates (including a reduction to zero) if he finds that such reduction is necessary in order to prevent such reduction in the quantity of a commodity or its products which is domestically consumed as will result in the accumulation of surplus stocks or depression of the farm price of the commodity; (2) to reduce the rate of tax to a rate which equals 20 percent of the fair exchange value of any commodity, if the average farm price of such commodity, during the 2 months immediately preceding and the first 10 months of any marketing year, is equal to or exceeds by 20 percent or less the fair exchange value of such commodity, and (3) to reduce the rate of tax to a rate which equals 10 percent of the fair exchange value of any commodity, if the average farm price of such commodity, during the 2 months immediately preceding and the first 10 months of any marketing year, exceeds by more than 20 percent the fair exchange value of such commodity. The only significant change is with respect to the power to decrease rates of tax, numbered (2) and (3) above, which was not contained in the bill as it passed the House. The new section 9 (b) (6) also authorizes the Secretary to increase these rates in accordance with the formula now contained in section 9 (b) of the act. It is further provided that these taxes, the rate of which is specified in the amendments, shall terminate at the end of the marketing year current at the time when the Secretary proclaims that all payments authorized under section 8 which are in effect are to be discontinued with respect to the commodity in question, or pursuant to section 13 of the act which provides for termination of the whole act by the President or for termination of any provisions of the act by the President with respect to any basic agricultural commodity if he finds that the act or any of its provisions are not needed to carry out the declared policy. In the case of a rate of tax specifically fixed in the bill or a rate of tax adjusted by the Secretary in accordance with new section 9 (b) (6), the tax does not automatically terminate with the attainment of parity any more than the tax terminates under the present law under such circumstances.

At the end of the period for which the rates of tax are specifically fixed in the bill (July 1, 1936, in the case of rice and Dec. 31, 1937, in the case of other commodities), the rates of tax are to be determined by the Secretary of Agriculture in accordance with the standards already contained in the act which are applicable to processing taxes generally.

In any case in which a rate of tax which is determined by the Secretary in pursuance of the new section 9 (b) (6) is held invalid by reason of the Constitution or by reason of any exercise or failure to exercise power by the Secretary of Agriculture, all the rates of tax which are specifically fixed in the bill are to become effective at once. These rates are to be effective as of the date when the adjusted rate was first made applicable. In any such case in which the adjusted rate is declared invalid, if that rate is lower than the rate expressly fixed in the bill, the difference is not to be collected from the taxpayer for the prior period. In case the rate expressly fixed is lower than the adjusted rate the taxpayer is entitled to a refund of the difference, subject to the new limitations of the bill limiting refunds to cases in which the tax is absorbed by the taxpayer.

Other provisions of section 12 which are not discussed above are merely formal reenactments of the present law with technical and perfecting changes.

Returns

Section 31 (d) adds a new subsection (d) to section 19 of the original act, providing that a return may be required to be filed and the tax due thereon paid in the collection district in which the processing was done or the liability was incurred. It is also provided that information returns may be required to be filed so that the Commissioner of Internal Revenue may determine who is liable for the tax. This Provision was not contained in the bill as it passed the House.

Compensating tax on rayon or other synthetic yarn

Section 15 of the proposed bill imposes a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate which is then in effect on cotton. This is in effect a compensating tax. This provision is not contained in the bill as it passed the House.

Floor stocks

The present act provides that there shall be no floor stocks refunds in the case of sugar beets and sugarcane or the products thereof upon the termination of the act. It appears that when the tax is terminated sugar which has paid a processing tax will have to compete with sugar which has been processed after termination and thus has not paid a processing tax and this will undoubtedly cause numerous hardships to persons having large stocks on hand and will possibly disrupt the market for sugar. The amendments proposed in section 21 (b), section 28, and section 29 (a) will permit payment of floor stocks refunds upon sugar held upon the date upon which the tax on sugar beets and sugarcane is terminated. The bill as it passed the House provided for a refund or credit as to all articles processed from sugarcane and sugar beets. Such a provision would be impossible of administration, and there do not exist the same reasons for such broad application of the refund provision as exist with respect to sugar.

In the case of hogs the processing tax originally took effect at the rate of 50 cents per hundred pounds and it was at this rate that the floor stocks taxes were paid. When the tax on hogs was subsequently

increased up to the present rate of \$2.25, the Flannagan amendment (sec. 16 (e)) had not been enacted and hence no floor stocks adjustment was made upon the increase in rate. The proviso as it now reads in section 16 (e) (1) was put in so that the holders of hog products would not, in the event of a decrease in the rate, receive floor stocks refunds or credits until the rate had been reduced below the original 50-cent rate upon which they paid floor stocks taxes.

It was not intended that this proviso should affect any other commodity than hogs. However, under the wording of the proviso it applies to other commodities. Thus, in the case of burley tobacco, the original October 1, 1933, rate of 2 cents was increased on October 1, 1934, to 6.1 cents and was subsequently reduced on February 1, 1935, as to the burley used in chewing tobacco, to a rate of 2.5 cents. Due to the language in this proviso, no refund of floor stocks could be made with respect to this burley, although such a result was not intended when the section was enacted. Section 26 of the bill amends section 16 (e) of the act to limit the provision to the case of hogs and thus confine its operation to the circumstances to which it was originally intended to relate.

In the present act section 16 (b) provides that no refund or abatement shall be made with respect to retail stocks upon termination of a tax. It appears that if no such refund or abatement is made on retail stocks upon the termination of the tax this will cause considerable hardship since all of the goods on hand upon which a tax has been paid will be entering competition with newly processed goods not subject to tax. The amendment proposed in section 25 is designed to give a floor tax refund to retailers when the tax wholly terminates. The provision is limited, however, to the case of flour processed from wheat and cotton, for it was on articles processed from these commodities only that any substantial amount of floor stocks tax was paid by retailers when the tax went on. The bill as it passed the House provided for refunds on all articles processed from wheat.

Section 16 (a) (2) of the present law provides that upon termination of the tax there shall be an abatement as to floor stocks upon which the tax has not been paid. In the case of floor stocks a holder other than the processor has presumably paid the tax to the processor, and the processor should not receive an abatement of the tax in such a case. Section 27 of the bill so provides.

In the case of hogs, the processing tax was increased before section 16 (e) became effective and hence, there was no floor-stocks tax adjustment made when the increase took effect. In the case of the final termination of the processing tax with respect to hogs, it is desirable that the refund of floor-stocks taxes upon the termination shall not be at a rate of tax exceeding that rate which was in effect at the time of the imposition of the processing tax and at which rate the floor-stocks tax upon hog products was paid. Section 27 of the bill amends section 16 (e) of the act so that in such a case the refund of the floor-stocks tax will not exceed the rate at which the floor-stocks tax was paid.

Section 29 (b) provides that no refund, credit, or abatement is to be made under section 16, unless claim therefor be filed within 60 days after the right thereto accrued, and that no such claim shall be allowed for an amount less than \$10. These two restrictions are in accordance with those contained in various tax laws since 1894. Unless claim is filed shortly after inventories are made, it is impossible to check the

correctness of the inventories, and since inventories must be made on the date of termination of the processing tax, it is no hardship to require that the claims based thereon be filed within 60 days thereafter. It is uneconomic for both taxpayers and the Government to prepare and file, or to receive and audit, claims for less than \$10.

Miscellaneous Tax Provisions

Section 15 (a) provides that upon a certification by the Secretary of Agriculture to the Secretary of the Treasury that the processing tax is preventing the use of a commodity in connection with the manufacture of low-value products, there may be such suspension or refund of the taxes paid or payable as will prevent the reduction in consumption caused thereby. Since the provision does not provide for credits, a processor who is entitled to a remission of taxes, which under its terms are already owing, would have to pay the tax and then await a refund. The amendment to section 15 (a) made by section 22 of the bill allows him to receive a credit instead of being limited to the former more cumbersome process.

Section 15 (a) is further amended by section 22 of the bill to entitle importers of products which have been found to be low-value products to a remission of the compensating tax which they are obligated to pay in all cases where the processing tax has been suspended with respect to the domestic product. This remedies the inadequacy evidenced by a Bureau of Internal Revenue ruling that there is no authority under the act, as it now stands, to refund compensating taxes paid upon imported cotton bags, even though a certificate has issued directing a refund of the tax paid on the cotton used in the manufacture of such bags. It seems clear that Congress did not intend to have imported products bear a compensating tax in cases where similar domestic products are not liable to the processing tax. The bill, in addition, provides for the refund of such compensating taxes as have already been paid, and abatement of amount where the taxes have not yet been paid.

Section 22 of the bill also contains a provision to take care of a situation with respect to large cotton bags which has caused a great deal of complaint on the part of the manufacturers of these products. On June 12, 1934, when the Secretary issued his first certificate under section 15 (a), effective June 13, 1934, with respect to the amount of cotton used in the manufacture of large cotton bags, that section of the act only permitted an abatement or refund of taxes assessed or paid after the date of the certificate. Subsequent to June 12, 1934, and before the issuance of the second certificate on July 7, 1934, some large cotton bags were manufactured from cotton materials on which the tax was paid prior to June 13, 1934.

In the meantime, on June 26, 1934, the Flannagan amendment was passed, greatly expanding the scope of the measures which the Secretary could undertake pursuant to section 15 (a), and among other things permitting the refund of taxes paid prior to the date of certification.

The result was that with respect to some bags manufactured between June 13 and July 7, 1934, both inclusive, the tax paid on the amount of cotton used in the manufacture of those bags was subject to refund and with respect to others it was not subject to refund.

Section 22 of the bill in specific terms seeks to remedy the inequitable result to large cotton-bag manufacturers caused by the wording of section 15 (a) before it was revised by the Flannagan amendment.

Section 17 (a) of the present act, which deals with exportations, provides for a refund only. Section 30 of the bill provides that a credit may be allowed in the case of exported articles processed wholly or partly from a taxed commodity. In addition, this paragraph permits the consignor named in a bill of lading to name the shipper or the person liable for the tax as the one to whom the refund or credit shall be allowed, under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

Section 19 (b) of the present law provides for an extension of not exceeding 180 days of time within which taxes covered by any return shall be paid. Where a processor obtains such a 6 months' extension and where products processed by him are subsequently exported or delivered to charity, the exporter or person delivering to charity frequently has to wait a substantial length of time for his refund due to the fact that the tax has not been paid. The processor, of course, has collected the tax from his vendee. It has been suggested that this situation might be remedied by requiring that a processor pay with his return a proportion of the tax from which refunds could be made by exporters and persons delivering to charity. The proposed amendment to section 19 (b) contained in section 31 of the bill will require that one-fourth of the tax be paid at the time of the filing of the return, and it is estimated that this one-fourth will be sufficiently large to permit the prompt payment of refunds. Section 31 of the bill also amends the Department of Agriculture Appropriations Act, 1936, so as to make the provisions relating to cotton similar in this respect to the amended provisions with respect to other commodities.

The situation has so changed during the last week that it is believed that the proposed new subsection (g) to section 21, contained in the bill as it passed the House, which subsection presumes the payment of the processing tax for the purpose of a refund, upon a statement by the applicant that he has no knowledge that the tax has not been paid, is inadvisable. In view of the number of taxpayers resisting collection of processing taxes, the effect of which is indeterminable at the present moment, such a presumption would result in a substantial loss of revenue.

Section 15 (e) of the present act requires clarification in one important particular. It provides, broadly, that compensating taxes be levied upon articles imported into the United States for which processing taxes are in effect, and specifies that the amount of the compensating tax be equal to the amount in effect with respect to the "domestic processing of such commodity." Since it is possible under the act to have more than one rate of tax in effect on the processing of any commodity, depending upon the use for which the specific processing prepares the commodity, the provision is verbally defective, although the legislative intent seems clear. Where one or more distinct processing tax rates are in effect with respect to any one commodity, the schedule of compensating tax should be similarly diversified in accordance with the specific use of which the commodity has been put or the article created. Section 26 of the bill accordingly specifies that the rate of the compensating tax be equivalent to the

rate in effect "with respect to domestic processing of such commodity into such an article."

Section 15 (d) of the present Act provides that a compensating tax may be made effective when, pursuant to investigation and after due notice and opportunity for hearing, it is found that payment of the processing tax is causing or will cause to processors disadvantages in competition from competing commodities by reason of excessive shifts in consumption. Section 25 amends the act so that compensating taxes may become effective when such disadvantages are found to be caused or will be caused to producers. This provision was not in the bill as it passed the House.

Section 23 amends section 15 (b) of the act by authorizing the Secretary of Agriculture to exempt from the payment of the tax levied on the ginning of cotton by the Bankhead Cotton Act an amount of lint cotton not in excess of 110 pounds, produced by or for a producer and retained for domestic use in his household. This provision was not in the bill as it passed the House.

Section 14 strikes out the provision of section 9 of the Agricultural Adjustment Act which defines the processing of peanuts to mean the cleaning, polishing, grading, shelling, crushing, or other processing thereof. The effect of the repeal of this provision is to apply the residual definition of processing contained in section 9 (d) (8) in such cases. That provides that processing means any manufacturing or other processing involving a change in the form of the commodity or its preparation for distribution or use as defined by regulations of the Secretary of Agriculture and in prescribing such regulations the Secretary is to give due weight to the customs of the industry.

Section 20 (a) amends section 13 of the present act so that the termination of the taxes on sugar beets and sugarcane is postponed, and the powers vested in the President and the Secretary of Agriculture with respect to sugar beets and sugarcane are extended from May 9, 1937, to December 31, 1937.

Certain refunds prohibited

Section 32 of the bill proposes to add to the act a new section (sec. 21 (a)) which prohibits the bringing of suits for the recovery, refund, or credit of any taxes paid under the act prior to the adoption of the amendment, or for damages on account of their collection. This section also takes away from courts jurisdiction with respect to such suits. This latter provision was not in the bill as it passed the House. It is further provided that except pursuant to a final judgment or decree entered prior to the adoption of the amendment no refund or credit of any taxes paid or accrued prior to the adoption of the amendment shall be made or allowed. However, it is specifically provided that the foregoing provisions shall not apply to (1) overpayments resulting from errors in computations of the tax; (2) duplicate payments of the tax; (3) refunds or credits under subsection (a) or (c) of section 15, or under section 17 of the act, and (4) refunds or credits of taxes paid with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930. (The subdivision numbered "4" was not in the bill as it passed the House.) The practical effect of this provision will be to prevent any refunds of taxes already collected upon the ground that the act or the actions of the Secretary

thereunder are illegal. The justification for such a provision denying refunds is found in the fact that the taxes paid have been passed on to the consumer. The constitutional basis for such a provision is found in the power of the United States at any time to assert its sovereign right not to be sued, and the power of Congress to determine the jurisdiction of the courts.

Section 32 also proposes to add a new subsection 21 (d), prohibiting refunds or credits of any tax under this title accruing subsequent to the date of this amendment, unless the claimant establishes that he has neither passed the tax on, nor passed it back to the producer, or that he has repaid it. This provision, however, does not apply to refunds on low-value products, nor to floor stocks, nor export refunds. This provision is aimed to deny refunds to those who have not themselves borne the tax. In the event that section 21 (a) is held invalid the provisions of section 21 (d) will apply in the case of taxes which accrued prior to the effective date of this bill. The application of section 21 (d), in this contingency, does not appear in the bill as it passed the House.

Injunctions and Declaratory Judgments

Section 32 contains a proposed new section to the act (sec. 21 (b)), which specifically denies the right to enjoin or restrain, or to maintain any action which will have the effect of restraining, the collection of any tax under the act imposed after the date of adoption of the amendment, or to obtain a declaratory judgment in connection with any such tax. The purpose of this amendment is to prevent the difficulties and embarrassments to the administration of the act which such actions cause and to confine the taxpayer to the usual and orderly procedure of paying the tax and then suing for refund.

Validation of Taxes

Section 32 of the bill adds a new subsection (sec. 21 (c)) specifically legalizing and ratifying the assessment and collection of all taxes prior to the date of the adoption of this amendment. The effect of this ratification is to give to all of the taxes which have been levied and collected precisely the same effect as if each such tax had been specifically fixed in the Agricultural Adjustment Act on May 12, 1933. The provision carries with it the validation of all proclamations and certificates of the Secretary of Agriculture or the President and of all regulations adopted by the Secretary of Agriculture with the approval of the President. The purpose of this amendment is to make Congress itself the enactor of the tax rate, and thereby meet any possible contention that the initial exercise of power by the Secretary of Agriculture or by the President involved the unlawful delegation of legislative power. Legislative precedent for such a provision is found in the ratification of the unauthorized imposition of the Philippine tariff. This act of Congress was held to be constitutional in the case of *United States v. Heinszen* (1907) (206 U. S. 307).

Limitations

Section 32 of the bill also contains two new sections (sec. 21 (e) and (f)), establishing a limitation of time of 1 year for the filing of

claims for refunds under sections 15, 16, and 17, and making the provisions of section 3226, Revised Statutes, applicable to all suits to recover taxes which accrued subsequent to the date of the amendment. In the event that section 21 (a) is held invalid, the provisions of section 21 (f) will apply in the case of taxes which accrued prior to the effective date of this bill. The application of section 21 (f), in this contingency, does not appear in the bill as it passed the House. The present provision of section 15 (c), which allows only a 6-month period of limitation, is stricken out by section 24 of the bill as the new provision will be applicable to charitable as well as other refunds.

AMENDMENTS TO PART I OF THE AGRICULTURAL ADJUSTMENT ACT

(Cotton option contracts)

Sections 33 through 36, inclusive, of the bill H. R. 8492 contain certain technical amendments to title I of the Agricultural Adjustment Act, which deals with cotton option contracts, and under which the "cotton pool" was established. Section 33 of the bill amends section 7 of the act, which at present requires the Secretary to sell all cotton held by him by March 1, 1936. This mandatory requirement is a distinctly bearish influence on the market, as knowledge by the trade that the vast quantity of cotton held in the "pool" must be sold by March 1, 1936, will prompt the trade to refrain from buying until the time when this cotton will be dumped on the market. Section 7 removes this requirement, and authorizes the Secretary to sell cotton held or acquired by him at his discretion, so that he may watch market conditions and feed this cotton into consumption without undue market disturbance. Section 35 of the bill embodies a correlative amendment which makes the sum of \$100,000,000 made available in section 4 (b) of the act, and which is now available only until March 1, 1936, available until the cotton acquired by the Secretary shall have been finally marketed by any agency which he may have established or may establish to handle cotton acquired by him. This amendment will make this sum available until the cotton now held in the "pool" is finally marketed.

Section 33 of the bill further amends section 7 of the act so as clearly to state the power of the Secretary to enter into transferable option contracts, and to validate transfers made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, provided such transfers were made in good faith and are free from evidence of fraud or speculation by the assignees. This provision will entitle bona fide assignees of cotton option contracts to obtain the benefit of their provisions.

Section 34 of the bill repeals section 7 of the act, which also authorizes the Secretary to enter into option contracts. The powers which the Secretary enjoys under section 7 have made unnecessary resort to section 6, and since it is now wholly useless it should be repealed.

Section 36 of the bill amends section 4 (f) of the act so as explicitly to authorize the use of funds derived from the sale of cotton held by the Secretary of Agriculture in order to meet administrative and other expenses in connection with the handling of such cotton.

AMENDMENTS TO BANKHEAD COTTON ACT

Section 40 of the bill extends the operation of the Bankhead Cotton Act, subject to the provisions now contained in it for termination by proclamation of the President or by failure by the Secretary of Agriculture to find that two-thirds of the producers favor its continuance, through the crop year 1937-38. It further provides that, in ascertaining the sentiment of the producers with respect to the crop year 1936-37 and the crop year 1937-38, the vote in favor of the continuance of the act by two-thirds of the producers who actually vote shall be deemed a sufficient basis for the Secretary's finding and for continuance of the act. Subsection (c) of section 40 constitutes a ratification by Congress of the action of the Secretary of Agriculture in ascertaining and proclaiming under subsections (a) and (b) of section 3 of the act, 10,500,000 bales as the national allotment for the crop year 1935-36, and ratifies all apportionments and other actions taken pursuant to such allotment.

Section 41 of the bill adds a new subsection to section 17 of the Bankhead Cotton Act authorizing the appropriation for administrative expenses under the act to be made available to the Secretary of Agriculture in order to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this act with respect to cotton harvested and ginned during any crop year when the above-mentioned act is in effect, and who applies to the Secretary therefor, compensation at the rate of 25 cents per bale of such cotton ginned by such person.

AMENDMENTS TO KERR TOBACCO ACT

Sections 42 through 53 of the bill amend the so-called "Kerr-Smith Tobacco Act."

Sections 42 and 44 of the bill amend the title and declared policy of that act so as to make clear that it is intended to raise revenue.

Section 43 adds definitions of two types of tobacco mentioned in the amendments which are not mentioned in the original act.

Section 45 of the bill amends section 3 (d) of the act so as to extend its operation until April 30, 1939, and so as to validate by congressional action the operation of the act in the crop year 1935-36. Section 45 also contains a revision of the referendum provision contained in section 3 (b) of the act under which the votes cast in each county will be weighted in proportion to the tobacco acreage in such county. Within the county, however, all persons who have the right to sell or receive a share of the profits derived from the sale of tobacco produced by them, or produced on land owned or leased by them, cast votes of equal weight regardless of the amount of tobacco land owned or farmed by them.

Section 46 of the bill amends section 5 (a) of the act so as to authorize the issuance of tax-exempt warrants to persons who cooperate in the adjustment program but who, because of religious or moral scruples, are unwilling or unable to become contracting producers, and who are therefore ineligible to receive warrants under the present language of section 5 (a).

Section 47 of the bill amends section 5 (b) of the act, which in its present form authorizes the issuance in any county of warrants cover-

ing an amount of tobacco not in excess of 6 percent of the amount of tobacco covered by warrants issued to contracting producers in the county, to persons engaged in the production of tobacco who cannot secure an equitable allotment under section 5 (a). This section has been redrafted in order to provide standards to guide the Secretary in issuing warrants under this section, and thereby to eliminate the danger of legal attack upon this provision as an unconstitutional delegation of authority. The proposed amendment also reduces the percentage available to 3 percent, and makes this amount available for allotment without regard to county lines.

Section 48 of the bill amends section 5 (d) of the act so as to void any warrant, upon demand in writing for its return by the Secretary, if he determines that the person to whom such warrant was issued has failed to comply, during the crop year during which the warrant was issued, with any provision of any agreement entered into by such person pursuant to the Agricultural Adjustment Act.

Section 49 of the bill amends section 8 of the act so that returns and information made to the Secretary of the Treasury shall be made available to the Secretary of Agriculture.

Section 50 of the bill amends section 9 of the act by adding to it a subsection which empowers authorized agents of the Secretary of Agriculture to administer oaths in connection with the execution of forms required by regulations issued pursuant to the act.

Section 51 of the bill amends section 10 (a) of the act so as to make available the revenue collected under the act for use in connection with adjustment programs entered into under the Agricultural Adjustment Act.

Section 52 of the bill amends section 11 (a) of the act by extending the period allowed for filing claims for refunds of taxes from 6 months to 1 year.

Section 53 of the bill amends section 14 of the act so as to direct the Secretary of Agriculture not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary within 30 days of the proclamation by the Secretary that the act is to be in effect during the succeeding crop year.

MISCELLANEOUS

Section 16 adds a provision to section 10 (b) of the Agricultural Adjustment Act which authorizes the Secretary of Agriculture to utilize the services of States and local committees and associations of producers and permits the Secretary to utilize cooperative associations of producers in connection with the distribution of rental or benefit payments or payments for expansion of domestic or foreign markets. As reworded in the bill, this section will also require the Secretary to accord such recognition and encouragement to cooperative associations owned or controlled by producers as will be in harmony with the policy toward them set forth in existing acts of Congress and will tend to promote efficient methods of marketing and distribution. It is not intended by this language to discriminate against other handlers, processors, or dealers, but it has been found from experience that the participation by local committees and associations of producers has been of material value in administering the program.

Section 7 of the bill amends subsection (5) of section 8 of the original act by designating it as section 8f, and by striking out the last sentence, which contains a provision for revocation of licenses.

Sections 8 and 9 of the bill amend section 8a of the original act by altering the definition of interstate commerce to conform to the new language with respect to marketing agreements and orders, and by making two technical changes necessitated by other provisions of the amendments.

Section 37 makes certain existing appropriations available to the Secretary of Agriculture for use by him in scientific experimentation and efforts to eradicate Bang's disease in cattle. Under the Jones-Connally Cattle Act passed last year and the appropriation in pursuance of it, the Secretary was authorized to spend money to eradicate this disease and to eradicate tuberculosis in cattle. The proposed section provides that the Secretary shall use as much as he deems advisable of the remainder of that fund for experiments in developing cures of or prevention of infection by Bang's disease. The appropriation was originally available until December 31, 1935, and by this new section is made available for the original purpose as well as for the new purpose specified in the section until December 31, 1937.

Section 39 provides that no cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government, unless the association handles the products or supplies of bona fide cotton-producing members in an amount at least equal in value to the products or supplies of persons other than such bona-fide members which are dealt in by such association.

SAVING CLAUSE

Section 38 of H. R. 8492 declares that nothing contained in the amendatory bill shall be construed to invalidate any marketing agreement or license in effect upon the date of enactment of the bill, or impair any remedy provided for on the date of the enactment of the bill for the enforcement of any marketing agreement or license, or invalidate any act done pursuant to any marketing agreement or license, either before or after the enactment of the bill. This will enable the Secretary to continue to administer licenses and agreements now in effect without fear of legal prejudice as a result of enactment of the amendatory bill. Section 38 further provides that nothing contained in the bill shall invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of the bill, or subsequent to its enactment in connection with a program initiated under such section prior to the enactment of the bill, or any acts done or changes in the terms and conditions of any such agreements which the Secretary finds necessary or desirable in order to complete or terminate any such program pursuant to the declared policy of the Agricultural Adjustment Act.

Calendar No. 1058

74TH CONGRESS
1ST SESSION

H. R. 8492

[Report No. 1011]

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JUNE 19), 1935

Read twice and referred to the Committee on Agriculture and Forestry

MAY 13 (calendar day, JULY 3), 1935

Reported by Mr. SMITH, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the first sentence of subsection (1) of section 2 of
4 the Agricultural Adjustment Act, as amended, is amended
5 by striking out the first word and inserting in lieu thereof the
6 following: "Through the exercise of the powers conferred
7 upon the Secretary of Agriculture under this title, to", and
8 by inserting before the period at the end thereof a semicolon
9 and the following: "and, in the case of all commodities for
10 which the base period is the pre-war period, August 1909

1 to July 1914, will also reflect current interest payments per
2 acre on farm indebtedness secured by real estate and tax
3 payments per acre on farm real estate, as contrasted with
4 such interest payments and tax payments during the base
5 period ”.

6 (b) Section 2 of the Agricultural Adjustment Act,
7 as amended, is amended by striking out subsections (2) and
8 (3) and inserting in lieu thereof the following:

9 “(2) To protect the interest of the consumer by (a)
10 approaching the level of prices which it is declared to be
11 the policy of Congress to establish in subsection (1) of this
12 section by gradual correction of the current level at as rapid
13 a rate as the Secretary of Agriculture deems to be in the
14 public interest and feasible in view of the current consump-
15 tive demand in domestic and foreign markets, and (b)
16 authorizing no action under this title which has for its pur-
17 pose the maintenance of prices to farmers above the level
18 which it is declared to be the policy of Congress to establish
19 in subsection (1) of this section.”

20 SEC. 2. Section 8 of the Agricultural Adjustment Act,
21 as amended, is amended by striking out everything pre-
22 ceding subsection (2) and inserting in lieu thereof the
23 following:

24 “(1) Whenever the Secretary of Agriculture has
25 reason to believe that:

1 “(a) The current average farm price for any
 2 basic agricultural commodity is less than,~~or is likely~~
 3 ~~during the current or next succeeding marketing year~~
 4 for such commodity to be less than, *the fair exchange*
 5 ~~value thereof, and the fair exchange value thereof, or~~
 6 *the average farm price of such commodity is likely to*
 7 *be less than the fair exchange value thereof for the*
 8 *period in which the production of such commodity*
 9 *during the current or next succeeding marketing year*
 10 *is normally marketed, and*

11 “(b) The conditions of and factors relating to
 12 the production, marketing, and consumption of such
 13 commodity are such that the exercise of any one or
 14 more of the powers conferred upon the Secretary under
 15 subsections (2) and (3) of this section would tend to
 16 effectuate the declared policy of this title, ~~and that the~~
 17 ~~exercise of any one or more of such powers would be~~
 18 administratively practicable,

19 he shall cause an immediate investigation to be made to
 20 determine such facts. If, upon the basis of such investiga-
 21 tion, the Secretary finds the existence of such facts, he shall
 22 *proclaim such determination and shall* exercise such one or
 23 more of the powers conferred upon him under subsections
 24 (2) and (3) of this section as he finds, upon the basis of
 25 such investigation, administratively practicable and best
 26 calculated to effectuate the declared policy of this title.

1 “(2) Subject to the provisions of subsection (1) of
2 this section, the Secretary of Agriculture shall provide,
3 through agreements with producers or by other voluntary
4 methods,

5 “(a) For such adjustment in the acreage or in
6 the production for market, or both, of any basic agri-
7 cultural commodity, as he finds, upon the basis of the
8 investigation made pursuant to subsection (1) of this
9 section, will tend to effectuate the declared policy of
10 this title, and to make such adjustment program prac-
11 ticable to operate and administer, and

12 “(b) For rental or benefit payments in connec-
13 tion with such agreements or methods in such amounts
14 as he finds, upon the basis of such investigation, to be
15 fair and reasonable and best calculated to effectuate
16 the declared policy of this title and to make such pro-
17 gram practicable to operate and administer, to be paid
18 out of any moneys available for such payments or,
19 *subject to the consent of the producer*, to be made in
20 quantities of one or more basic agricultural commodities
21 acquired by the Secretary pursuant to this title.

22 “(3) Subject to the provisions of subsection (1) of
23 this section, the Secretary of Agriculture shall make pay-
24 ments, out of any moneys available for such payments,
25 in such amounts as he finds, upon the basis of the investiga-

tion made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

“(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

“(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

“(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

“(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

“(a) The current average farm price for such commodity is not less than, ~~and is not likely during the current or next succeeding marketing year for such commodity to be less than, the fair exchange value thereof, or the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or~~

1 “ (b) The conditions of and factors relating to the
 2 production, marketing, and consumption of such com-
 3 modity are such that none of the powers conferred in
 4 subsections (2) and (3), and no combination of such
 5 powers, would, if exercised, tend to effectuate the
 6 declared policy of this title ~~or that the exercise thereof~~
 7 ~~would not be administratively practicable,~~
 8 he shall cause an immediate investigation to be made to
 9 determine such facts. If, upon the basis of such investi-
 10 gation, the Secretary finds the existence of such facts, he
 11 *shall proclaim such determination, and shall not exercise any*
 12 *of such powers with respect to such commodity after the*
 13 *end of the marketing year current at the time when such*
 14 *finding proclamation is made and prior to a new finding*
 15 *proclamation under subsection (1) of this section, except*
 16 *insofar as the exercise of such power is necessary to carry*
 17 *out obligations of the Secretary assumed, prior to the date of*
 18 *such proclamation made pursuant to this subsection, in con-*
 19 *nection with the exercise of any of the powers conferred upon*
 20 *him under subsections (2) or (3) of this section.*

21 “ (5) In the course of any investigation required to be
 22 made under subsection (1) or subsection (4) of this section,
 23 the Secretary of Agriculture shall hold one or more hear-
 24 ings, and give due notice and opportunity for interested
 25 parties to be heard,

1 “(6) No payment under this title made in an agri-
2 cultural commodity acquired by the Secretary in pursuance
3 of this title shall be made in a commodity other than that
4 in respect of which the payment is being made. For the
5 purposes of this subsection, hogs and field corn may be
6 considered as one commodity.

7 “(7) In the case of sugar beets or sugarcane, in the
8 event that it shall be established to the satisfaction of the Sec-
9 retary of Agriculture that returns to growers or producers,
10 under the contracts for the 1933-1934 crop of sugar beets
11 or sugarcane, entered into by and between the processors
12 and producers and/or growers thereof, were reduced by
13 reason of the payment of the processing tax, and/or the
14 corresponding floor stocks tax, on sugar beets or sugarcane,
15 in addition to the foregoing rental or benefit payments, the
16 Secretary of Agriculture shall make such payments, repre-
17 senting in whole or in part such tax, as the Secretary deems
18 fair and reasonable, to producers who agree, or have agreed,
19 to participate in the program for reduction in the acreage
20 or reduction in the production for market, or both, of sugar
21 beets or sugarcane.

22 “(8) In the case of rice, the Secretary of Agriculture,
23 in exercising the power conferred upon him by subsection
24 (2) of this section to provide for rental or benefit payments,
25 is directed to provide in any agreement entered into by him

1 with any rice producer pursuant to such subsection, upon
2 such terms and conditions as the Secretary determines will
3 best effectuate the declared policy of this title, that the
4 producer may pledge for production credit in whole or in
5 part his right to any rental or benefit payments under the
6 terms of such agreement and that such producer may
7 designate therein a payee to receive such rental or benefit
8 payments.

9 “(9) Under regulations of the Secretary of Agricul-
10 ture requiring adequate facilities for the storage of any non-
11 perishable agricultural commodity on the farm, inspection
12 and measurement of any such commodity so stored, and the
13 locking and sealing thereof, and such other regulations as
14 may be prescribed by the Secretary of Agriculture for the
15 protection of such commodity and for the marketing thereof,
16 a reasonable percentage of any benefit payment may be
17 advanced on any such commodity so stored. In any such
18 case, such deduction may be made from the amount of the
19 benefit payment as the Secretary of Agriculture determines
20 will reasonably compensate for the cost of inspection and
21 sealing but no deduction may be made for interest.”

22 SEC. 3. The first sentence of subsection (b) of section
23 12 of the Agricultural Adjustment Act, as amended, is
24 amended to read as follows: “In addition to the foregoing,
25 for the purpose of effectuating the declared policy of this

1 title, a sum equal to the proceeds derived from all taxes
2 imposed under this title is hereby appropriated to be
3 available to the Secretary of Agriculture for (1) the acqui-
4 tion of any agricultural commodity pledged as security for
5 any loan made by any Federal agency, which loan was
6 conditioned upon the borrower agreeing or having agreed
7 to cooperate with a program of production adjustment or
8 marketing adjustment adopted under the authority of this
9 title, and (2) the following purposes under part 2 of this
10 title: Administrative expenses, payments authorized to be
11 made under section 8, and refunds on taxes.”

12 SEC. 4. Subsection (2) of section 8 of the Agricul-
13 tural Adjustment Act, as amended, is amended by desig-
14 nating said subsection as section 8b, by inserting said section
15 at the end of section 8a, and by amending the first sentence
16 thereof to read as follows: “In order to effectuate the
17 declared policy of this title, the Secretary of Agriculture
18 shall have the power, after due notice and opportunity for
19 hearing, to enter into marketing agreements with processors,
20 producers, associations of producers, and ~~others~~, *others* en-
21 gaged in the handling of any agricultural commodity or
22 product thereof, *only* in the current of interstate or foreign
23 commerce, or so as directly to burden, obstruct, or affect,
24 interstate or foreign commerce in such commodity or
25 product thereof.”

1 SEC. 5. The Agricultural Adjustment Act, as amended,
2 is amended by striking out section 8(3) thereof and by
3 adding after section 8b, the following new section:

4 " ORDERS

5 “SEC. 8c. (1) The Secretary of Agriculture shall,
6 subject to the provisions of this section, issue, and from time
7 to time amend, orders applicable to processors, associations
8 of producers, and ~~others~~, *others* engaged in the handling of
9 any agricultural commodity or product thereof specified in
10 subsection (2) of this section. Such persons are referred
11 to in this title as ‘handlers’. Such orders shall regulate, in
12 the manner hereinafter in this section provided, ~~the han-~~
13 ~~dling of such agricultural commodity, or product thereof,~~
14 ~~only in the current of interstate or foreign commerce, or~~
15 ~~so as directly to burden, obstruct, or affect, interstate or~~
16 ~~foreign commerce in such commodity or product thereof~~
17 *only such handling of such agricultural commodity, or*
18 *product thereof, as is in the current of interstate or foreign*
19 *commerce, or as directly burdens, obstructs, or affects, inter-*
20 *state or foreign commerce in such commodity or product*
21 *thereof.*

22 "COMMODITIES TO WHICH APPLICABLE

23 “(2) Orders issued pursuant to this section shall be
24 applicable only to the following agricultural commodities and

1 the products thereof (except products of naval stores), or
 2 to any regional, or market classification of any such com-
 3 modity or product: Milk, *wool and mohair*, fruits (including
 4 pecans and walnuts but not including apples ~~and not includ-~~
 5 ~~ing fruits for canning~~), tobacco, vegetables (not including
 6 vegetables for canning), *soybeans, hops, package bees and*
 7 *queen bees, poultry*, and naval stores as ~~defined~~ *included* in
 8 the Naval Stores Act *and standards established thereunder*
 9 *(including refined or partially refined oleoresin)*. ~~As used~~
 10 ~~in this section, the term 'vegetables' includes soybeans.~~

11 " NOTICE AND HEARING

12 "(3) Whenever the Secretary of Agriculture has
 13 reason to believe that the issuance of an order will tend to
 14 effectuate the declared policy of this title with respect to
 15 any commodity or product thereof specified in subsection
 16 (2) of this section, he shall give due notice of and an
 17 opportunity for a hearing upon a proposed order.

18 " FINDING AND ISSUANCE OF ORDER

19 "(4) After such notice and opportunity for hearing,
 20 the Secretary of Agriculture shall issue an order if he finds,
 21 and sets forth in such order, upon the evidence introduced
 22 at such hearing (in addition to such other findings as
 23 may be specifically required by this section) that the issuance
 24 of such order and all of the terms and conditions thereof
 25 will tend to effectuate the declared policy of this title with
 26 respect to such commodity.

1 "TERMS—MILK AND ITS PRODUCTS

2 " (5) In the case of milk and its products, orders issued
3 pursuant to this section shall contain one or more of the
4 following terms and conditions, and (except as provided
5 in subsection (7)) no others:

6 " (A) Classifying milk in accordance with the form in
7 which ~~it is ultimately used or consumed~~ *or the purpose for*
8 *which it is used*, and fixing, or providing a method for
9 fixing, minimum prices for each such use classification
10 which all handlers shall pay, and the time when payments
11 shall be made, for milk purchased from producers or as-
12 sociations of producers. Such prices shall be uniform
13 as to all handlers, subject only to adjustments for (1)
14 volume, market, and production differentials customarily
15 applied by the handlers subject to such order, (2) the
16 grade or quality of the milk purchased, and (3) the loca-
17 tions at which delivery of such milk, or any use classification
18 thereof, is made to such handlers.

19 " (B) Providing:

20 " (i) for the payment to all producers and associa-
21 tions of producers delivering milk to the same handler
22 of uniform prices for all milk delivered by them: *Pro-*
23 *vided*, That, except in the case of orders covering milk
24 products only, such provision is approved or favored by
25 at least three-fourths of the producers who, during a

1 representative period determined by the Secretary of
2 Agriculture, have been engaged in the production for
3 market of milk covered in such order or by producers
4 who, during such representative period, have produced
5 at least three-fourths of the volume of such milk pro-
6 duced for market during such period; the approval
7 required hereunder shall be separate and apart from
8 any other approval or disapproval provided for by this
9 section; or

10 “(ii) for the payment to all producers and asso-
11 ciations of producers delivering milk to all handlers
12 of uniform prices for all milk so delivered, irrespective
13 of the uses made of such milk by the individual handler
14 to whom it is delivered;

15 subject, in either case, only to adjustments for (a) volume,
16 market, and production differentials customarily applied by
17 the handlers subject to such order, (b) the grade or quality
18 of the milk delivered, (c) the locations at which delivery
19 of such milk is made, and (d) a further adjustment,
20 equitably to apportion the total value of the milk ~~sold~~ *pur-*
21 *chased* by any handler, or by all handlers, among producers
22 and associations of producers, on the basis of their production
23 of milk during a representative period of time.

24 “(C) In order to accomplish the purposes set forth in
25 paragraphs (A) and (B) of this subsection (5), provid-

1 ing a method for making adjustments in payments, as among
2 handlers (including producers who are also handlers), to
3 the end that the total sums paid by each handler shall equal
4 the value of the milk purchased by him at the prices fixed
5 in accordance with paragraph (A) hereof.

6 ~~“(D) In order to accomplish the purposes set forth in~~
7 ~~paragraph (A) of this subsection (5), providing that all~~
8 ~~handlers shall pay the price specified in such order for milk~~
9 ~~utilized for manufacturing purposes for all milk delivered to~~
10 ~~them by producers who were not, upon the effective date of~~
11 ~~such order, regularly selling milk for consumption in the~~
12 ~~area covered thereby, for the period of ninety days from~~
13 ~~and after the commencement of deliveries by such producers,~~
14 ~~respectively.~~

15 ~~“(E) Providing for the verification of weights, sam-~~
16 ~~pling, and testing of, and security for the payment for,~~
17 ~~milk purchased.~~

18 *“(D) Providing that, in the case of all milk pur-*
19 *chased by handlers from any producer who was not, upon*
20 *the effective date of such order, regularly selling milk for*
21 *consumption in the area covered thereby, payments to such*
22 *producer, for the period beginning with the first regular*
23 *delivery by such producer and continuing for three full*
24 *calendar months from the first day of the next succeeding*

1 month, shall be made at the price for the lowest use classi-
2 fication specified in such order.

3 “(E) Providing for market information to and the
4 verification of weights, sampling, and testing of milk pur-
5 chased from producers, and for making appropriate deduc-
6 tions therefor from payments to producers, except as to
7 producers for whom such services are being rendered by a
8 cooperative marketing association, qualified as provided in
9 paragraph (F) of this subsection (5), and assurance of,
10 and security for the payment by handlers for, milk pur-
11 chased.

12 “(F) Nothing contained in this subsection (5) is in-
13 tended or shall be construed to prevent a cooperative market-
14 ing association qualified under the provisions of the Act of
15 Congress of February 18, 1922, as amended, known as the
16 ‘Capper-Volstead Act’, engaged in making collective sales
17 or marketing of milk or its products for the producers
18 thereof, from blending the net proceeds of all of its sales
19 in all markets in all use classifications, and making distri-
20 bution thereof to its producers in accordance with the con-
21 tract between the association and its producers: *Provided*,
22 That it shall not sell milk or its products to any handler
23 for use or consumption in any market at prices less than
24 the prices fixed pursuant to paragraph (A) of this sub-
25 section (5) for such milk.

1 “(G) No marketing agreement or order applicable
 2 to milk and its products in any marketing area shall pro-
 3 hibit the marketing in that area of any milk or product
 4 thereof produced in any production area in the United
 5 States.

6 “TERMS—OTHER COMMODITIES

7 “(6) In the case of fruits (including pecans and wal-
 8 nuts but not including apples ~~and not including fruits~~
 9 ~~for canning~~) and their products, tobacco and its products,
 10 vegetables (not including vegetables for canning) and their
 11 products, *soybeans and their products, hops and their*
 12 *products, package bees and their products and queen bees*
 13 *and their products, poultry and its products*, and naval
 14 stores as ~~defined~~ *included* in the Naval Stores Act *and*
 15 *standards established thereunder (including refined or*
 16 *partially refined oleoresin)*, orders issued pursuant to this
 17 section shall contain one or more of the following terms and
 18 conditions, and (except as provided in subsection (7)) no
 19 others:

20 “(A) Limiting, or providing methods for the limita-
 21 tion of, the total quantity of any such commodity or product,
 22 or of any grade, size, or quality thereof, produced during
 23 any specified period or periods, which may be marketed in
 24 or transported to any or all markets during any specified
 25 period or periods by all handlers thereof.

1 “(B) Allotting, or providing methods for allotting, the
2 amount of such commodity or product, or any grade, size,
3 or quality thereof, which each handler may purchase from
4 or handle on behalf of any and all producers thereof, during
5 any specified period or periods, under a uniform rule based
6 upon the amounts produced or sold by such producers in such
7 prior period as the Secretary determines to be representa-
8 tive, or upon the current production or sales of such pro-
9 ducers, or both, to the end that the total quantity thereof to
10 be purchased or handled during any specified period or
11 periods shall be apportioned equitably among producers.

12 “(C) Allotting, or providing methods for allotting,
13 the amount of any such commodity or product, or any
14 grade, size, or quality thereof, which each handler
15 may market in or transport to any or all markets,
16 under a uniform rule based upon the amounts which each
17 such handler has available for current shipment, or upon the
18 amounts shipped by each such handler in such prior period
19 as the Secretary determines to be representative, or both,
20 to the end that the total quantity of such commodity or
21 product, or any grade, size, or quality thereof, to be mar-
22 keted in or transported to any or all markets during any
23 specified period or periods shall be equitably apportioned
24 among all of the handlers thereof.

1 “(D) Determining, or providing methods for deter-
2 mining, the existence and extent of the surplus of any such
3 commodity or product, or of any grade, size, or quality
4 thereof, and providing for the control and disposition of
5 such surplus, and for equalizing the burden of such surplus
6 elimination or control among the producers and handlers
7 thereof.

8 “(E) Establishing, or providing for the establishment
9 of, reserve pools of any such commodity or product, or of
10 any grade, size, or quality thereof, and providing for the
11 equitable distribution of the net return derived from the sale
12 thereof among the persons beneficially interested therein.

13 “(F) Fixing, or providing methods for fixing, mini-
14 mum prices at which any such commodity or product, or
15 any grade, size or quality thereof, shall be purchased by
16 the ~~first~~ handlers subject to such order: *Provided, That*
17 such ~~first~~ handlers, as a group, purchase or otherwise acquire
18 not less than 50 per centum of the total quantity of the
19 commodity or product covered by such order directly from
20 producers or associations of producers.

21 “(G) *Fixing, or providing methods for fixing, mini-*
22 *mum prices at which any such commodity or product thereof,*
23 *or any grade, size, or quality thereof, shall be sold by the*
24 *first handler thereof: Provided, That no such minimum*
25 *prices shall be fixed, unless not less than 50 per centum of*

1 *the volume of such commodity or product is sold by an*
 2 *association or associations of producers, or otherwise for the*
 3 *account of producers, and/or by producers who are also*
 4 *handlers.*

5 "TERMS COMMON TO ALL ORDERS

6 "(7) In the case of the agricultural commodities and
 7 the products thereof specified in subsection (2) orders shall
 8 contain one or more *of the following* terms and conditions:

9 "(A) Prohibiting unfair methods of competition and
 10 unfair trade practices in the handling thereof.

11 "(B) *Providing that (except for milk and cream to*
 12 *be sold for consumption in fluid form) such commodity or*
 13 *product thereof, or any grade, size, or quality thereof shall*
 14 *be sold by the handlers thereof only at prices filed by such*
 15 *handlers in the manner provided in such order.*

16 ~~"(B)~~ (C) Providing for the appointment or selec-
 17 tion by the Secretary of Agriculture, or a method for the
 18 appointment or selection, of an agency or agencies and
 19 defining their powers and duties, which, ~~among other~~
 20 ~~things,~~ shall include *only* the powers:

21 "(i) To administer such order in accordance with
 22 its terms and provisions;

23 "(ii) To make rules and regulations to effectuate
 24 the terms and provisions of such order;

1 “(iii) To receive, investigate, and report to the
2 Secretary of Agriculture complaints of violations of
3 such order; and

4 “(iv) To recommend to the Secretary of Agricul-
5 ture amendments to such order.

6 No person acting as a member of an agency established
7 pursuant to this paragraph (B) shall be deemed to be acting
8 in an official capacity, within the meaning of section 10 (g)
9 of this title, unless such person receives compensation for
10 his personal services from funds of the United States.

11 “~~(C)~~ (D) Incidental to, and not inconsistent with,
12 the terms and conditions specified in subsections (5), (6),
13 and (7) and necessary to effectuate the other provisions
14 of such order.

15 “ORDERS WITH MARKETING AGREEMENT

16 “(8) Except as provided in subsection (9) of this
17 section, no order issued pursuant to this section shall become
18 effective until the handlers (excluding cooperative associa-
19 tions of producers who are not engaged in processing, dis-
20 tributing, or shipping the commodity or product thereof
21 covered by such order) of not less than 50 per centum of
22 the volume of the commodity or product thereof covered by
23 such order *which is produced or marketed within the pro-*
24 *duction or marketing area defined in such order* have signed
25 a marketing agreement, entered into pursuant to section 8b

1 of this title, which regulates the handling of such commodity
2 or product in the same manner as such order.

3 “ ORDERS WITH OR WITHOUT MARKETING AGREEMENT

4 “ (9) ~~(A)~~ Any order issued pursuant to this section
5 shall become effective in the event that, notwithstanding the
6 refusal or failure of handlers (excluding cooperative associa-
7 tions of producers who are not engaged in processing, dis-
8 tributing, or shipping the commodity or product thereof
9 covered by such order) of more than 50 per centum
10 of the volume of the commodity or product thereof covered
11 by such order *which is produced or marketed within the*
12 *production or marketing area defined in such order* to sign
13 a marketing agreement relating to such commodity or
14 product thereof, on which a hearing has been held, the
15 Secretary of Agriculture, with the approval of the President,
16 determines:

17 “ ~~(1)~~ (A) That the refusal or failure to sign a market-
18 ing agreement (upon which a hearing has been held) by the
19 handlers (excluding cooperative associations of producers
20 who are not engaged in processing, distributing, or shipping
21 the commodity or product thereof covered by such order)
22 of more than 50 per centum of the volume of the commodity
23 or product thereof specified therein *which is produced or*
24 *marketed within the production or marketing area specified*
25 *therein* tends to prevent the effectuation of the declared

1 policy of this title with respect to such commodity or prod-
 2 uct, and

3 “~~(2)~~ (B) That the issuance of such order is the only
 4 practical means of advancing the interests of the producers of
 5 such commodity pursuant to the declared policy, and is
 6 approved or favored by at least two-thirds of the producers
 7 who, during a representative period determined by the Sec-
 8 retary, have been engaged in the production for market
 9 of the commodity specified in such marketing agreement or
 10 order, or by producers who, during such representative
 11 period, have produced for market at least two-thirds of the
 12 volume of such commodity produced for market during such
 13 period. favored:

14 “(i) By at least two-thirds of the producers who,
 15 during a representative period determined by the Sec-
 16 retary, have been engaged, within the production area
 17 specified in such marketing agreement or order, in the
 18 production for market of the commodity specified
 19 therein, or who, during such representative period,
 20 have been engaged in the production of such commodity
 21 for sale or consumption in the marketing area specified
 22 in such marketing agreement, or order, or

23 “(ii) By producers who, during such representa-
 24 tive period, have produced for market at least two-
 25 thirds of the volume of such commodity produced for

1 *market within the production area specified in such*
 2 *marketing agreement or order, or who, during such*
 3 *representative period, have produced at least two-thirds*
 4 *of the volume of such commodity sold or consumed*
 5 *within the marketing area specified in such marketing*
 6 *agreement or order.*

7 “MANNER OF REGULATION AND APPLICABILITY

8 “(10) No order shall be issued under this section
 9 unless it regulates the handling of the commodity or product
 10 covered thereby in the same manner as, and is made appli-
 11 cable only to persons in the respective classes of industrial
 12 or commercial activity specified in, a marketing agreement
 13 upon which a hearing has been held.

14 “REGIONAL ~~RULE~~ APPLICATION

15 “(11) (A) No order shall be issued under this section
 16 which is applicable to all production areas or marketing
 17 areas, or both, of any commodity or product thereof unless
 18 the Secretary finds that the issuance of several orders appli-
 19 cable to the respective regional production areas or regional
 20 marketing areas, or both, as the case may be, of the com-
 21 modity or product would not effectively carry out the
 22 declared policy of this title.

23 “(B) Except in the case of milk and its products,
 24 orders issued under this section shall be limited in their

1 application to the smallest regional production areas or
2 regional marketing areas, or both, as the case may be,
3 which the Secretary finds practicable, consistently with
4 carrying out such declared policy.

5 “(C) All orders issued under this section which are
6 applicable to the same commodity or product thereof shall,
7 so far as practicable, prescribe such different terms, appli-
8 cable to different production areas and marketing areas, as
9 the Secretary finds necessary to give due recognition to the
10 differences in production and marketing of such commodity
11 or product in such areas.

12 “COOPERATIVE ASSOCIATION REPRESENTATION

13 “(12) Whenever, pursuant to the provisions of this
14 section, the Secretary is required to determine the approval
15 or disapproval of producers with respect to the issuance of
16 any order, or any term or condition thereof, or the termi-
17 nation thereof, the Secretary ~~may~~ *shall* consider the approval
18 or disapproval by any cooperative association of producers,
19 bona fide engaged in marketing the commodity or product
20 thereof covered by such order, or in rendering services for
21 or advancing the interests of the producers of such com-
22 modity, as the approval or disapproval of the producers
23 who are members of, stockholders in, or under contract
24 with, such cooperative association of producers.

1 “RETAILER AND PRODUCER EXEMPTION

2 “(13) (A) No order issued under subsection (9)
3 of this section shall be applicable to any person who sells
4 agricultural commodities or products thereof at retail in
5 his capacity as such retailer, except to a retailer in his
6 capacity as a retailer of milk and its products.

7 “(B) No order issued under this title shall be appli-
8 cable to any producer in his capacity as a producer.

9 “VIOLATION OF ORDER

10 “(14) Any handler subject to an order issued under
11 this section, or any officer, director, agent, or employee of
12 such handler, who violates any provision of such order
13 (other than a provision calling for payment of a pro rata share
14 of expenses) shall, on conviction, be fined not less than
15 \$50 or more than \$500 for each such violation, and each
16 day during which such violation continues shall be deemed
17 a separate violation: *Provided, That no person shall be*
18 *convicted under this title because of any violation of any*
19 *order or of any obligation imposed in connection there-*
20 *with; if such violation occurs between the date upon which*
21 *such person files with the Secretary a petition, with respect*
22 *to such order or obligation, as provided for in subsection*
23 *(15); and five days after the Secretary enters a ruling*
24 *thereon That if the court finds that a petition pursuant to*
25 *subsection (15) of this section was filed and prosecuted by*

1 *the defendant in good faith and not for delay, no penalty*
 2 *shall be imposed under this subsection for such violations as*
 3 *occurred between the date upon which the defendant's petition*
 4 *was filed with the Secretary, and the date upon which notice*
 5 *of the Secretary's ruling thereon was given to the defendant*
 6 *in accordance with regulations prescribed pursuant to sub-*
 7 *section (15).*

8 "PETITION BY HANDLER AND REVIEW

9 "(15) (A) Any handler subject to an order may file
 10 a written petition with the Secretary of Agriculture, stating
 11 that any such order or any provision of any such order
 12 or any obligation imposed in connection therewith is not
 13 in accordance with law and praying for a modification
 14 thereof or to be exempted therefrom. He shall thereupon
 15 be given an opportunity for a hearing upon such petition,
 16 in accordance with regulations made by the Secretary of
 17 Agriculture, with the approval of the President. After
 18 such hearing, the Secretary shall make a ruling upon the
 19 prayer of such petition which shall be final, if in accordance
 20 with law.

21 "(B) The District Courts of the United States (includ-
 22 ing the Supreme Court of the District of Columbia) in any
 23 district in which such handler is an inhabitant, or has his
 24 principal place of business, ~~is~~ *are* hereby vested with juris-

1 diction in equity to review such ruling, provided a bill in
2 equity for that purpose is filed within twenty days from
3 the date of the entry of such ruling. Service of process in
4 such proceedings may be had upon the Secretary by deliver-
5 ing to him a copy of the bill of complaint. If the court
6 determines that such ruling is not in accordance with law,
7 it shall remand such proceedings to the Secretary with
8 directions either (1) to make such ruling as the court
9 shall determine to be in accordance with law, or (2) to
10 take such further proceedings as, in its opinion, the law
11 requires. ~~Nothing contained in this subsection (15) shall~~
12 ~~be construed to prevent, hinder, or delay the United States~~
13 ~~or the Secretary of Agriculture from pursuing the remedies~~
14 ~~provided for in section 8a (6) of this title.~~ *The pendency*
15 *of proceedings instituted pursuant to this subsection (15)*
16 *shall not impede, hinder, or delay the United States or the*
17 *Secretary of Agriculture from obtaining relief pursuant to*
18 *section 8a (6) of this title.* Any proceedings brought
19 pursuant to section 8a (6) of this title (except where
20 brought by way of counterclaim in proceedings instituted
21 pursuant to this subsection (15)) shall abate whenever
22 a final decree has been rendered in proceedings between
23 the same parties, and covering the same subject matter,
24 instituted pursuant to this subsection (15).

1 " TERMINATION OF ORDERS AND MARKETING AGREEMENTS

2 " (16) (A) The Secretary of Agriculture shall, when-
 3 ever he finds that any order issued under this section, or
 4 any provision thereof, obstructs or does not tend to effectuate
 5 the declared policy of this title, terminate or suspend the
 6 operation of such order or such provision thereof.

7 " (B) The Secretary shall terminate any marketing
 8 agreement entered into under section 8b, or order issued
 9 under this section, at the end of the then current marketing
 10 period for such commodity, as specified in such marketing
 11 agreement or order, whenever he finds that such termination
 12 is favored by a majority of the producers who, during a
 13 representative period determined by the Secretary, have
 14 been engaged in the production for market of the commodity
 15 specified in such marketing agreement or order ~~provided~~
 16 ~~that such majority have during such representative period~~
 17 ~~produced for market more than 50 per centum of the volume~~
 18 ~~of such commodity produced for market during such period~~
 19 *within the production area specified in such marketing agree-*
 20 *ment or order, or who, during such representative period,*
 21 *have been engaged in the production of such commodity for*
 22 *sale or consumption within the marketing area specified in*
 23 *such marketing agreement or order: Provided, That such*
 24 *majority have, during such representative period, produced*
 25 *for market more than 50 per centum of the volume of such*

1 commodity produced for market within the production area
 2 specified in such marketing agreement or order, or have,
 3 during such representative period, produced more than 50
 4 per centum of the volume of such commodity sold or con-
 5 sumed in the marketing area specified in such marketing
 6 agreement or order, but such termination shall be effective
 7 only if announced on or before such date (prior to the end
 8 of the then current marketing period) as may be specified
 9 in such marketing agreement or order.

10 “(C) The termination or suspension of any order or
 11 amendment thereto or provision thereof, shall not be con-
 12 sidered an order within the meaning of this section.

13 “PROVISIONS APPLICABLE TO AMENDMENTS

14 “(17) The provisions of this section, section 8d, and
 15 section 8e applicable to orders shall be applicable to amend-
 16 ments to orders: *Provided, That notice of a hearing upon*
 17 *a proposed amendment to any order issued pursuant to*
 18 *section 8(c), given not less than three days prior to the*
 19 *date fixed for such hearing, shall be deemed due notice*
 20 *thereof.”*

21 SEC. 6. The Agricultural Adjustment Act, as amended,
 22 is further amended by striking out subsection (4) of section
 23 8 thereof and adding after section 8c thereof the following
 24 new sections:

1

" BOOKS AND RECORDS

2 " SEC. 8d. (1) All parties to any marketing agree-
3 ment, and all handlers subject to an order, shall severally,
4 from time to time, upon the request of the Secretary, furnish
5 him with such information as he finds to be necessary
6 to enable him to ascertain and determine the extent to
7 which such agreement or order has been carried out or
8 has effectuated the declared policy of this title, and with
9 such information as he finds to be necessary to determine
10 whether or not there has been any abuse of the privilege
11 of exemptions from the antitrust laws. Such information
12 shall be furnished in accordance with forms of reports
13 to be prescribed by the Secretary. For the purpose of
14 ascertaining the correctness of any report made to the
15 Secretary pursuant to this subsection, or for the purpose of
16 obtaining the information required in any such report,
17 where it has been requested and has not been furnished,
18 the Secretary is hereby authorized to examine such
19 books, papers, records, copies of income-tax reports, accounts,
20 correspondence, contracts, documents, or memoranda, as
21 he deems relevant and which are within the control (1) of
22 any such party to such marketing agreement, or any such
23 handler, from whom such report was requested or (2) of
24 any person having, either directly or indirectly, actual or

1 legal control of or over such party or such handler or (3)
2 of any subsidiary of any such party, handler, or person.

3 “(2) Notwithstanding the provisions of section 7, all
4 information furnished to or acquired by the Secretary of
5 Agriculture pursuant to this section shall be kept confiden-
6 tial by all officers and employees of the Department of Agri-
7 culture and only such information so furnished or acquired
8 as the Secretary deems relevant shall be disclosed by them,
9 and then only in a suit or administrative hearing brought at
10 the direction, or upon the request, of the Secretary of Agri-
11 culture, or to which he or any officer of the United States
12 is a party, and involving the marketing agreement or order
13 with reference to which the information so to be disclosed
14 was furnished or acquired. Nothing in this section shall be
15 deemed to prohibit (A) the issuance of general statements
16 based upon the reports of a number of parties to a market-
17 ing agreement or of handlers subject to an order, which
18 statements do not identify the information furnished by any
19 person, or (B) the publication by direction of the Secre-
20 tary, of the name of any person violating any marketing
21 agreement or any order, together with a statement of the
22 particular provisions of the marketing agreement or order
23 violated by such person. Any such officer or employee
24 violating the provisions of this section shall upon conviction

1 be subject to a fine of not more than \$1,000 or to imprison-
2 ment for not more than one year, or to both, and shall be
3 removed from office.

4 " DETERMINATION OF BASE PERIOD

5 " SEC. 8e. In connection with the making of any
6 marketing agreement or the issuance of any order, if the
7 Secretary finds and proclaims that, as to any commodity
8 specified in such marketing agreement or order, the pur-
9 chasing power during the base period specified for such
10 commodity in section 2 of this title cannot be satisfactorily
11 determined from available statistics of the Department of
12 Agriculture, the base period, for the purposes of such
13 marketing agreement or order, shall be the post-war period,
14 August 1919-July 1929, or all that portion thereof for
15 which the Secretary finds and proclaims that the purchasing
16 power of such commodity can be satisfactorily determined
17 from available statistics of the Department of Agriculture."

18 SEC. 7. Subsection (5) of section 8 of the Agricultural
19 Adjustment Act, as amended, is further amended by design-
20 ating said subsection as section 8f, by inserting said section
21 at the end of section 8e, and by striking out the last sentence
22 thereof.

23 SEC. 8. Subsection (1) of section 8a of the Agricul-
24 tural Adjustment Act, as amended, is amended as follows:

1 (a) by striking out the word “handlers” wherever it
2 appears and by inserting in lieu thereof the words “persons
3 engaged in the handling”;

4 (b) by striking out the phrase “or in competition
5 with” and the comma following such phrase in paragraph
6 (B);

7 (c) by inserting the word “directly” before the words
8 “to burden” in paragraph (B);

9 (d) by striking out the words “in any way” in
10 paragraph (B).

11 SEC. 9. Subsection (6) of section 8a of the Agricul-
12 tural Adjustment Act, as amended, is amended by inserting
13 the word “or” after the comma following the word “regula-
14 tion,” and by striking out the words “or license”.

15 SEC. 10. Subsection (7) of section 8a of the Agri-
16 cultural Adjustment Act, as amended, is amended by insert-
17 ing at the end thereof the following new sentence: “When-
18 ever the Secretary, or such officer or employee of the Depart-
19 ment of Agriculture as he may designate for the purpose, has
20 reason to believe that any handler has violated, or is violat-
21 ing, the provisions of any order or amendment thereto issued
22 pursuant to this title, the Secretary shall have power to
23 institute an investigation and, after due notice to such
24 handler, to conduct a hearing in order to determine the

1 facts for the purpose of referring the matter to the Attorney
2 General for appropriate action.”

3 SEC. 11. (a) Subsection (a) of section 9 of the Agri-
4 cultural Adjustment Act, as amended, is amended by
5 striking out all of the second sentence preceding the semi-
6 colon and inserting in lieu thereof the following: “When
7 the Secretary of Agriculture determines that any one or
8 more payments authorized to be made under section 8
9 are to be made with respect to any basic agricultural com-
10 modity, he shall proclaim such determination, and a process-
11 ing tax shall be in effect with respect to such commodity
12 from the beginning of the marketing year therefor next
13 following the date of such proclamation”.

14 (b) The eighth sentence of such subsection (a) is
15 amended by striking out “rental or benefit payments”
16 and inserting in lieu thereof: “all payments authorized
17 under section 8 which are in effect”.

18 SEC. 12. Subsection (b) of section 9 of the Agricul-
19 tural Adjustment Act, as amended, is amended to read as
20 follows:

21 “TAX RATE GENERALLY

22 “(b) (1) The processing tax shall be at such rate as
23 equals the difference between the current average farm
24 price for the commodity and the fair exchange value of the
25 commodity, plus such percentage of such difference, not to

1 exceed 20 per centum, as the Secretary of Agriculture may
2 determine will result in the collection, in any marketing year
3 with respect to which such rate of tax may be in effect pur-
4 suant to the provisions of this title, of an amount of tax
5 equal to (A) the amount of credits or refunds which he
6 estimates will be allowed or made during such period pur-
7 suant to section 15 (c) with respect to the commodity and
8 (B) the amount of tax which he estimates would have been
9 collected during such period upon all processings of such
10 commodity which are exempt from tax by reason of the
11 fact that such processings are done by or for a State, or
12 a political subdivision or an institution thereof, had such
13 processings been subject to tax. If, prior to the time
14 the tax takes effect, or at any time thereafter, the Sec-
15 retary has reason to believe that the tax at such rate, or
16 at the then existing rate, on the processing of the commodity
17 generally or for any designated use or uses, or on the proc-
18 essing of the commodity in the production of any designated
19 product or products thereof for any designated use or uses,
20 will cause or is causing such reduction in the quantity of
21 the commodity or products thereof domestically consumed
22 as to result in the accumulation of surplus stocks of the
23 commodity or products thereof or in the depression of the
24 farm price of the commodity, then the Secretary shall cause
25 an appropriate investigation to be made, and afford due

1 notice and opportunity for hearing to interested parties.
2 If thereupon the Secretary determines and proclaims that
3 any such result will occur or is occurring, then the processing
4 tax on the processing of the commodity generally or for any
5 designated use or uses, or on the processing of the com-
6 modity in the production of any designated product or
7 products thereof for any designated use or uses, shall be
8 at such lower rate or rates as he determines and proclaims
9 will prevent such accumulation of surplus stocks and de-
10 pression of the farm price of the commodity, and the tax
11 shall remain during its effective period at such lower rate
12 until the Secretary, after due notice and opportunity for
13 hearing to interested parties, determines and proclaims that
14 an increase in the rate of such tax will not cause such accu-
15 mulation of surplus stocks or depression of the farm price
16 of the commodity. Thereafter the processing tax shall be
17 at the highest rate which the Secretary determines will not
18 cause such accumulation of surplus stocks or depression of
19 the farm price of the commodity, but it shall not be higher
20 than the rate provided in the first sentence of this paragraph.

21 " SPECIFIC TAX RATES

22 "(2) In the case of wheat, cotton, field corn, hogs,
23 peanuts, tobacco, paper, and jute, and (except as provided
24 in paragraph ~~(6)~~ (8) of this subsection) in the case of
25 sugarcane and sugar beets, the tax on the first domestic

1 processing of the commodity generally or for any particular
 2 use, or in the production of any designated product for any
 3 designated use, shall be levied, assessed, collected, and paid
 4 at the rate prescribed by the regulations of the Secretary of
 5 Agriculture in effect on June 1, 1935, during the period
 6 ~~from the date of the adoption of this amendment~~ *the date of*
 7 *the adoption of this amendment, during the period from such*
 8 *date to December 31, 1937, both dates inclusive.*

9 "SPECIFIC TAX RATE—RICE

10 "(3) For the period from April 1, 1935, to July 31,
 11 1936, both inclusive, the processing tax with respect to rice
 12 shall be levied, assessed, collected, and paid at the rate of
 13 1 cent per pound of rough rice.

14 "SPECIFIC TAX RATE—MARKETING YEAR—FLOOR

15 STOCKS—RYE

16 "(4) For the period from August 1, 1935, to Decem-
 17 ber 1, 1937, both inclusive, the processing tax with respect
 18 to rye shall be levied, assessed, collected, and paid at the
 19 rate of 30 cents per bushel of fifty-six pounds. In the
 20 case of rye, the first marketing year shall be considered to
 21 be the period commencing August 1, 1935, and ending June
 22 30, 1936. Subsequent marketing years shall commence
 23 on July 1 and end on June 30 of the succeeding year. The
 24 provisions of section 16 of this title shall not apply in the
 25 case of rye.

1 "SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND
2 BARLEY

3 “(5) If at any time prior to December 31, 1937, any
4 tax with respect to flaxseed, or barley becomes effective pur-
5 suant to proclamation as provided in subsection (a) of this
6 section, such tax shall be levied, assessed, collected, and paid
7 during the period from the date upon which such tax
8 becomes effective to December 31, 1937, both inclusive, in
9 the case of flaxseed at the rate of 35 cents per bushel of
10 fifty-six pounds, and in the case of barley at the rate of
11 25 cents per bushel of forty-eight pounds. The provisions
12 of section 16 of this title shall not apply in the case of
13 flaxseed and barley.

14 "ADJUSTMENT OF RATE

15 “(4) In accordance with the formulae and standards
16 prescribed in this title, ~~(A)~~ any rate of tax prescribed
17 in paragraphs ~~(2)~~ and ~~(3)~~ of this subsection may be
18 decreased ~~(including a decrease to zero)~~, to prevent an
19 accumulation of surplus stocks of the commodity or the
20 products thereof, to prevent such reduction in the quantity
21 of the commodity or products thereof domestically consumed
22 as will result in the accumulation of surplus stocks of the
23 commodity or products thereof, or to prevent depression in
24 the farm price of the commodity, or may be increased, or
25 shall terminate pursuant to proclamation as provided in sec-

1 tion 9 (a) or pursuant to section 13, and (B) after Decem-
 2 ber 31, 1937 (in the case of the commodities specified in
 3 paragraph (2) of this subsection), and after July 31, 1936
 4 (in the case of rice), rates of tax shall be determined
 5 by the Secretary of Agriculture and shall thereafter be
 6 effective. If the applicability to any person or circum-
 7 stances of any tax under this title the rate of which is fixed
 8 in pursuance of this paragraph is finally held invalid by
 9 reason of any provision of the Constitution, or is finally held
 10 invalid by reason of the Secretary of Agriculture's exercise
 11 or failure to exercise any power conferred on him under this
 12 title, there shall be levied, assessed, collected, and paid (in
 13 lieu of all rates of tax fixed in pursuance of this paragraph
 14 with respect to all tax liabilities incurred under this title
 15 on or after the effective date of each of the rates of tax
 16 fixed in pursuance of this paragraph, respectively) rates of
 17 tax fixed under paragraph (2) or (3) and such rates shall
 18 be in effect (unless the particular tax is terminated pur-
 19 suant to proclamation as provided in section 9 (a) or pur-
 20 suant to section 13) until altered by Act of Congress;
 21 except that, for any period prior to the effective date of
 22 such holding of invalidity, the amount of tax which repre-
 23 sents the difference between tax at the rate fixed in pur-
 24 suance of this paragraph and tax at the rate fixed under

1 paragraph ~~(2)~~ or ~~(3)~~ shall not be levied, assessed, collected,
2 or paid.

3 “(6) (A) Any rate of tax which is prescribed in para-
4 graph (2), (3), (4), or (5) of this subsection on the process-
5 ing of any commodity, shall be decreased (including a de-
6 crease to zero) in accordance with the formulae, standards,
7 and requirements of paragraph (1) of this subsection, in
8 order to prevent such reduction in the quantity of such com-
9 modity or the products thereof domestically consumed as
10 will result in the accumulation of surplus stocks of such
11 commodity or the products thereof or in the depression of
12 the farm price of the commodity.

13 “(B) If the average farm price of any commodity, the
14 rate of tax on the processing of which is prescribed in para-
15 graph (2), (3), (4), or (5) of this subsection, during the
16 two months immediately preceding and the first ten months
17 of any marketing year—

18 “(i) is equal to, or exceeds by 20 per centum or
19 less, the fair exchange value thereof, the rate of such
20 tax shall be reduced, at the beginning of the next suc-
21 ceeding marketing year, to such rate as equals 20 per
22 centum of the fair exchange value thereof.

23 “(ii) exceeds by more than 20 per centum the
24 fair exchange value thereof, the rate of such tax shall
25 be reduced, at the beginning of the next succeeding mar-

1 *keting year, to such rate as equals 10 per centum of*
2 *the fair exchange value thereof.*

3 *“(C) Any rate of tax which has been decreased pur-*
4 *suant to this paragraph (6) shall remain at such decreased*
5 *rate until further decreased pursuant to this paragraph (6),*
6 *or until increased pursuant to this paragraph (6) or para-*
7 *graph (1) of this subsection.*

8 *“(D) In accordance with the formulae, standards, and*
9 *requirements prescribed in this title, any rate of tax pre-*
10 *scribed in paragraphs (2), (3), (4), or (5) of this sub-*
11 *section may be increased.*

12 *“(E) Any tax, the rate of which is prescribed in*
13 *paragraphs (2), (3), (4), and (5) of this subsection,*
14 *shall terminate pursuant to proclamation as provided in*
15 *section 9 (a) of this title or pursuant to section 13 of this*
16 *title. Any such tax with respect to any basic commodity*
17 *which terminates pursuant to proclamation as provided in*
18 *section 9 (a) of this title shall again become effective at*
19 *the rate prescribed in paragraphs (2), (3), (4), or (5)*
20 *of this subsection from the beginning of the marketing year*
21 *for such commodity next following the date of a new proc-*
22 *lamation by the Secretary as provided in section 9 (a) of*
23 *this title, if such marketing year begins prior to December*
24 *31, 1937, and shall remain at such rate until altered pur-*
25 *suant to the provisions of section 9 of this title.*

1 “(F) After December 31, 1937 (in the case of the
2 commodities specified in paragraphs (2), (4), and (5) of
3 this subsection), and after July 31, 1936 (in the case of
4 rice), rates of tax shall be determined by the Secretary of
5 Agriculture in accordance with the formulae, standards,
6 and requirements prescribed in this title, and shall, subject
7 to such formulae, standards, and requirements, thereafter be
8 effective.

9 “(G) If the applicability to any person or circum-
10 stances of any tax, the rate of which is fixed in pursuance
11 of this paragraph (6), is finally held invalid by reason of
12 any provision of the Constitution, or is finally held invalid
13 by reason of the Secretary of Agriculture’s exercise or fail-
14 ure to exercise any power conferred on him under this title,
15 there shall be levied, assessed, collected, and paid (in lieu
16 of all rates of tax fixed in pursuance of this paragraph (6)
17 with respect to all tax liabilities incurred under this title on
18 or after the effective date of each of the rates of tax fixed
19 in pursuance of this paragraph (6)), rates of tax fixed
20 under paragraphs (2), (3), (4), or (5), and such rates
21 shall be in effect (unless the particular tax is terminated
22 pursuant to proclamation, as provided in section 9 (a) or
23 pursuant to section 13) until altered by Act of Congress;
24 except that, for any period prior to the effective date of
25 such holding of invalidity, the amount of tax which repre-

1 *sents the difference between the tax at the rate fixed under*
 2 *paragraphs (2), (3), (4), and (5) shall not be levied,*
 3 *assessed, collected, or paid.*

4 “ RICE—SPECIAL RULE

5 “~~(5)~~ (7) In the case of rice, the weight to which the
 6 rate of tax shall be applied shall be the weight of rough rice
 7 when delivered to a processor, except that, where the pro-
 8 ducer processes his own rice, the weight to which the rate
 9 of tax shall be applied shall be the weight of rough rice when
 10 delivered to the place of processing.

11 “ SUGAR—SPECIAL RULE

12 “~~(6)~~ (8) In the case of sugar beets or sugarcane the
 13 rate of tax shall be applied to the direct-consumption sugar,
 14 resulting from the first domestic processing, translated into
 15 terms of pounds of raw value according to regulations to be
 16 issued by the Secretary of Agriculture, and in the event that
 17 the Secretary increases or decreases the rate of tax fixed by
 18 paragraph (2) of this subsection, pursuant to the provisions
 19 of paragraph ~~(4)~~ (6) of this subsection, then the rate of tax
 20 to be so applied shall be the higher of the two following
 21 quotients: The difference between the current average farm
 22 price and the fair exchange value (A) of a ton of sugar
 23 beets and (B) of a ton of sugarcane, divided in the case
 24 of each commodity by the average extraction therefrom of
 25 sugar in terms of pounds of raw value (which average

1 extraction shall be determined from available statistics of
 2 the Department of Agriculture) ; the rate of tax fixed by
 3 paragraph (2) of this subsection or adjusted pursuant to
 4 the provisions of paragraph ~~(4)~~ (6) of this subsection shall
 5 in no event exceed the amount of the reduction by the
 6 President on a pound of sugar raw value of the rate of duty
 7 in effect on January 1, 1934, under paragraph 501 of the
 8 Tariff Act of 1930, as adjusted to the treaty of commercial
 9 reciprocity concluded between the United States and the
 10 Republic of Cuba on December 11, 1902, and/or the
 11 provisions of the Act of December 17, 1903, chapter 1.

12 " WHEAT PREMIUMS

13 "~~(7)~~ (9) In computing the current average farm price
 14 in the case of wheat, premiums paid producers for protein
 15 content shall not be taken into account."

16 SEC. 13. Subsection (c) of section 9 of the Agricul-
 17 tural Adjustment Act, as amended, is amended to read as
 18 follows:

19 "(c) For the purposes of part 2 of this title, the fair
 20 exchange value of a commodity shall be the price therefor
 21 that will give the commodity the same purchasing power,
 22 with respect to articles farmers buy, as such commodity
 23 had during the base period specified in section 2; and, in
 24 the case of all commodities where the base period is the
 25 pre-war period, August 1909 to July 1914, will also reflect

1 interest payments per acre on farm indebtedness secured
2 by real estate and tax payments per acre on farm real
3 estate, as contrasted with such interest payments and tax
4 payments during said base period; and the current average
5 farm price and the fair exchange value shall be ascertained
6 by the Secretary of Agriculture from available statistics of
7 the Department of Agriculture. The rate of tax upon the
8 processing of any commodity, in effect on the date on which
9 this amendment is adopted, shall not be affected by the
10 adoption of this amendment and shall not be required to
11 be adjusted or altered, unless the Secretary of Agriculture
12 finds that it is necessary to adjust or alter any such rate
13 pursuant to section 9 (a) of this title."

14 SEC. 14. Paragraph (5) of subsection (d) of section 9
15 of the Agricultural Adjustment Act, as amended, is hereby
16 repealed.

17 *SEC. 15. Section 9 of the Agricultural Adjustment Act,*
18 *as amended, is amended by adding at the end thereof the*
19 *following new subsection:*

20 *"(g) There shall be levied, assessed, collected and paid*
21 *(during any period after the date of the adoption of this*
22 *amendment when a processing tax is in effect with respect*
23 *to cotton) a processing tax on the first domestic processing*
24 *of any material which results in the production of rayon*
25 *or other synthetic yarn, at the rate of 125 per centum of the*

1 *per pound rate of the processing tax which is then in effect*
 2 *on cotton.*

3 *“(1) The tax shall be measured by the yield in*
 4 *pounds of finished rayon or other synthetic yarn.*

5 *“(2) The term ‘first domestic processing of any*
 6 *material which results in the production of rayon or*
 7 *other synthetic yarn’ means that amount and degree*
 8 *of manufacturing or other processing of such material*
 9 *from the spinnerette up to the point where the rayon*
 10 *or other synthetic yarn is in form either to be packaged*
 11 *and sold as such, or to be used in further manufactur-*
 12 *ing or other processing.*

13 *“(3) The term ‘rayon or other synthetic yarn’*
 14 *means yarn suitable for commercial winding of a*
 15 *denier size exceeding one hundred and twelve deniers.*
 16 *The term ‘rayon yarn’ shall not be deemed to include*
 17 *rayon ropes of more than five hundred filaments.*

18 *(4) The provisions of paragraph (1) of subsec-*
 19 *tion (a) of section 16 shall not apply in the case of*
 20 *rayon or other synthetic yarn, or the products thereof.”*

21 SEC. ~~15~~ 16. Subsection (b) of section 10 of the Agri-
 22 cultural Adjustment Act, as amended, is amended to read
 23 as follows:

24 *“(b) (1) The Secretary of Agriculture is authorized*
 25 *to establish, for the more effective administration of the func-*

1 tions vested in him by this title, State and local committees,
2 or associations of producers, and to permit cooperative asso-
3 ciations of producers, when in his judgment they are quali-
4 fied to do so, to act as agents of their members and patrons
5 in connection with the distribution of payments authorized to
6 be made under section 8. The Secretary, in the adminis-
7 tration of this title, shall accord such recognition and en-
8 couragement to producer-owned and producer-controlled
9 cooperative associations as will be in harmony with the
10 policy toward cooperative associations set forth in existing
11 Acts of Congress, and as will tend to promote efficient meth-
12 ods of marketing and distribution,—but without discrimina-
13 tion against other producers, processors, and handlers.

14 “(2) Each order issued by the Secretary under this
15 title shall provide that each handler subject thereto shall
16 pay to any authority or agency established under such order
17 such handler's pro rata share (as approved by the Secretary)
18 of such expenses as the Secretary may find will necessarily
19 be incurred by such authority or agency, during any period
20 specified by him, for the maintenance and functioning of such
21 authority or agency, other than expenses incurred in receiv-
22 ing, handling, holding, or disposing of any quantity of a
23 commodity received, handled, held, or disposed of by such
24 authority or agency for the benefit or account of persons
25 other than handlers subject to such order. The pro rata

1 share of the expenses payable by a cooperative association
 2 of producers shall be computed on the basis of the quantity
 3 of the agricultural commodity or product thereof covered
 4 by such order which is distributed, processed, or shipped by
 5 such cooperative association of producers. Any such author-
 6 ity or agency may maintain in its own name, or in the names
 7 of its members, a suit against any handler subject
 8 to an order for the collection of such handler's pro rata share
 9 of expenses. The several District Courts of the United
 10 States are hereby vested with jurisdiction to entertain such
 11 suits regardless of the amount in controversy."

12 SEC. 16 17. Subsection (e) of section 10 of the Agri-
 13 cultural Adjustment Act, as amended, is amended by strik-
 14 ing out "rental or benefit payment" and inserting in lieu
 15 thereof "payment authorized to be made under section 8".

16 SEC. 17 18. Section 10 of the Agricultural Adjustment
 17 Act, as amended, is amended by inserting at the end thereof
 18 the following new subsection:

19 "(i) The Secretary of Agriculture ~~is authorized~~ *upon*
 20 *the request of the duly constituted authorities of any State*
 21 *is directed*, in order to effectuate the declared policy
 22 of this title and in order to obtain uniformity in the
 23 formulation, administration, and enforcement of Federal
 24 and State programs relating to the regulation of the han-
 25 dling of agricultural commodities or products thereof, to

1 confer with and hold joint hearings with the duly constituted
 2 authorities of any State, *and is authorized* to cooperate with
 3 such authorities; to accept and utilize, with the consent of the
 4 State, such State and local officers and employees as may be
 5 necessary; to avail himself of the records and facilities of such
 6 authorities; to issue orders (subject to the provisions of sec-
 7 tion 8c) complementary to orders or other regulations issued
 8 by such authorities; and to make available to such State
 9 authorities the records and facilities of the Department of
 10 Agriculture: *Provided*, That information furnished to the
 11 Secretary of Agriculture pursuant to section 8d (1) hereof
 12 shall be made available only to the extent that such informa-
 13 tion is relevant to transactions within the regulatory juris-
 14 diction of such authorities, and then only upon a written
 15 agreement by such authorities that the information so fur-
 16 nished shall be kept confidential by them in a manner similar
 17 to that required of Federal officers and employees under the
 18 provisions of section 8d (2) hereof."

19 *SEC. 19. Section 11 of the Agricultural Adjustment*
 20 *Act, as amended, is amended by striking out the word "flax"*
 21 *and inserting in lieu thereof the word "flaxseed".*

22 ~~SEC. 18~~ 20. The first sentence of subsection (a) of
 23 section 12 of the Agricultural Adjustment Act, as amended,
 24 is amended by striking out "rental and benefit payments
 25 made with respect to reduction in acreage or reduction in

1 production for market under part 2 of this title ” and insert-
 2 ing in lieu thereof “ payments authorized to be made under
 3 section 8 ”.

4 SEC. 19. Section 12 of the Agricultural Adjustment
 5 Act, as amended, is amended by adding at the end thereof
 6 the following new subsection:

7 “(d) Amounts expended under this title which are
 8 expended for payments authorized to be made under section
 9 8 and administrative expenses in connection with any
 10 basic agricultural commodity shall not be less than a sum
 11 equal to the proceeds of the taxes levied under this title
 12 with respect to such commodity. For the purposes of this
 13 subsection: (1) Amounts collected and expended from
 14 taxes the proceeds of which under this title are held for,
 15 or paid for use in, any possession of the United States
 16 shall not be included; (2) the amount of all refunds and
 17 abatements of taxes shall not be included; and (3) hogs and
 18 field corn may be considered as one commodity.”

19 SEC. 20 21. (a) The second sentence of section 13 of
 20 the Agricultural Adjustment Act, as amended, is amended by
 21 striking out “ at the end of three years after the adoption
 22 of this amendment ” and inserting in lieu thereof “ on De-
 23 cember 31, 1937 ”.

24 (b) Subsection (c) of section 16 of the Agricultural
 25 Adjustment Act, as amended, is amended by striking out
 26 the last sentence thereof.

1 SEC. 21 22. Subsection (a) of section 15 of the Agricul-
2 tural Adjustment Act, as amended, is amended by striking
3 out the period at the end of the subsection and inserting in
4 lieu thereof a comma and the following: "or shall credit
5 against any tax due and payable under this title the amount
6 of tax which would be refundable. During the period in
7 which any certificate under this section is effective, the
8 provisions of subsection (e) of this section shall be sus-
9 pended with respect to all imported articles of the kind
10 described in such certificate; and notwithstanding the pro-
11 visions of section 21, any compensating taxes, which have
12 heretofore, during the period in which any certificate under
13 this section has been effective, become due and payable
14 upon imported articles of the kind described in such cer-
15 tificate, shall be refunded by the Secretary of the Treasury
16 if the same have been paid, or, if the same have not been
17 paid the amount thereof shall be abated. Notwithstanding
18 the provisions of section 21, the Secretary of the Treasury
19 shall refund *or credit* any processing tax paid on or before
20 June 12, 1934, with respect to such amount of cotton as was
21 used in the manufacture of large cotton bags (as defined in
22 the Certificate of the Secretary of Agriculture, dated June 12,
23 1934) between June 13 and July 7, 1934, both inclusive."

24 SEC. 23. Subsection (b) of section 15 of the Agricul-
25 tural Adjustment Act, as amended, is amended by adding

1 *at the end of said subsection the following new sentence:*
 2 *“The Secretary of Agriculture is authorized to exempt by*
 3 *regulation from the payment of the tax on the ginning of*
 4 *cotton as levied under authority of the Act approved April*
 5 *21, 1934, an amount of lint cotton not in excess of one hun-*
 6 *dred and ten pounds, produced by or for any producer and*
 7 *retained for domestic use in his household.”*

8 SEC. 22 24. Subsection (c) of section 15 of the Agricul-
 9 tural Adjustment Act, as amended, is amended by striking
 10 out the next to the last sentence, which reads as follows:
 11 “No refund shall be allowed under this section unless
 12 claim therefor is filed within six months after delivery of
 13 the products to the organization for charitable distribution,
 14 or use.”

15 SEC. 25. The first sentence of subsection (d) of section
 16 15 of the Agricultural Adjustment Act, as amended, is
 17 amended by adding after the word “processors” the words
 18 “or producers”.

19 SEC. 23 26. Subsection (e) of section 15 of the Agricul-
 20 tural Adjustment Act, as amended, is amended by inserting
 21 after the words “with respect to domestic processing of
 22 such commodity” the following: “into such an article”.

23 SEC. 24 27. Subsection (a) of section 16 of the Agri-
 24 cultural Adjustment Act, as amended, is amended by strik-

1 ing out subdivision (2) thereof and inserting in lieu thereof
2 the following:

3 “(2) Whenever the processing tax is wholly ter-
4 minated, (A) there shall be refunded or credited in the case
5 of a person holding such stocks with respect to which a tax
6 under this title has been paid, or (B) there shall be credited
7 or abated in the case of a person holding such stocks with
8 respect to which a tax under this title is payable, where such
9 person is the processor liable for the payment of such tax,
10 or (C) there shall be refunded or credited ~~when~~ (*but not*
11 *before* the tax has been ~~paid~~ *paid*) in the case of a person
12 holding such stocks with respect to which a tax under this
13 title is payable, where such person is not the processor
14 liable for the payment of such tax, a sum in an amount
15 equivalent to the processing tax which would have been
16 payable with respect to the commodity from which
17 processed if the processing had occurred on such date:
18 *Provided*, That in the case of any commodity with re-
19 spect to which there was any increase, effective prior to
20 June 1, 1934, in the rate of the processing tax, no such
21 refund, credit, or abatement, shall be in an amount which
22 exceeds the equivalent of the initial rate of the processing
23 tax in effect with respect to such commodity.”

24 SEC. 25 28. The second sentence of subsection (b) of
25 section 16 of the Agricultural Adjustment Act, as amended,

1 is amended to read as follows: “ Except *as to flour pro-*
 2 *cessed from wheat and* as to any article processed wholly
 3 or in chief value from cotton ~~or wheat~~, the tax refund,
 4 credit, or abatement provided in subsection (a) of this
 5 section shall not apply to the retail stocks of persons
 6 engaged in retail trade, *nor to any article (except sugar)*
 7 *processed wholly or in chief value from sugar beets, sugar-*
 8 *cane, or any product thereof, nor to any article (except*
 9 *flour) processed wholly or in chief value from wheat, held*
 10 *on the date the processing tax is wholly terminated.”*

11 SEC. 26 29. (a) Paragraph (1) of subsection (e) of
 12 section 16 of the Agricultural Adjustment Act, as amended,
 13 is amended by inserting after the first word in the first
 14 sentence a comma and the following: “ subsequent to June
 15 26, 1934,” and by inserting in the proviso after the word
 16 “ made ”, the following: “ in the case of hogs ”; and by
 17 inserting at the end of such paragraph the following: “ In
 18 the case of wheat the provisions of this paragraph shall apply
 19 to flour only; in the case of sugarcane and sugar beets the
 20 provisions of this paragraph shall apply to sugar only.

21 (b) Section 16 of the Agricultural Adjustment Act,
 22 as amended, is amended by adding at the end thereof the
 23 following new subsection:

24 “ (f) No refund, credit, or abatement of the amount
 25 of any tax shall be made or allowed under this section,

1 unless, within sixty days after the right to such refund,
 2 credit or abatement accrued, a claim for such refund, credit
 3 or abatement (conforming to such regulations as the Com-
 4 missioner of Internal Revenue, with the approval of the
 5 Secretary of the Treasury, may prescribe) is filed by the
 6 person entitled to such refund, credit, or abatement, and no
 7 such claim shall be allowed for an amount less than \$10."

8 SEC. 27 30. Subsection (a) of section 17 of the Agri-
 9 cultural Adjustment Act, as amended, is amended by striking
 10 out the first two sentences thereof and inserting in lieu there-
 11 of the following: "The consignor named in the bill of lading
 12 under which any product (if such product or the commodity
 13 from which processed is under this title subject to tax) is
 14 exported, or the exporter of such product, if the bill of lading
 15 bears the proper disclaimer by the consignor, or the manu-
 16 facturer of such product, if the bill of lading bears the proper
 17 disclaimer by the consignor and the exporter, shall be
 18 entitled, upon the exportation of such product to any for-
 19 eign country (or to the Philippine Islands, the Virgin
 20 Islands, American Samoa, the Canal Zone, or the island of
 21 Guam) to the refund of the amount of tax due and paid
 22 under this title with respect to such product so exported, or
 23 to a credit against any tax due and payable under this title
 24 of the amount of tax which would be refundable under this
 25 section with respect to such product so exported."

1 *“ Upon the exportation to any foreign country (and/or*
 2 *to the Philippine Islands, the Virgin Islands, American*
 3 *Samoa, the Canal Zone, and the island of Guam) of any*
 4 *product processed wholly or partly from a commodity with*
 5 *respect to which product or commodity a tax has been paid*
 6 *or is payable under this title, the tax due and payable or due*
 7 *and paid shall be credited or refunded. Under regulations*
 8 *prescribed by the Commissioner of Internal Revenue, with*
 9 *the approval of the Secretary of the Treasury, the credit*
 10 *or refund shall be allowed to the consignor named in the bill*
 11 *of lading under which the product is exported or to the*
 12 *shipper or to the person liable for the tax provided the con-*
 13 *signor waives any claim thereto in favor of such shipper or*
 14 *person liable for the tax.”*

15 SEC. ~~28~~ 31. (a) Subsection (b) of section 19 of the
 16 Agricultural Adjustment Act, as amended, is amended by
 17 inserting in the proviso, after the words “ of the payment
 18 of ” the following: “ not exceeding three-fourths of the
 19 amount of the ”.

20 (b) Section 2 of the Department of Agriculture Appro-
 21 priation Act, 1936, is amended by striking out the first word
 22 “ The ” and inserting in lieu thereof the following: “ Seventy-
 23 five per centum of the ”.

1 (c) Section 19 of the Agricultural Adjustment Act, as
 2 amended, is amended by adding at the end thereof the fol-
 3 lowing new subsection:

4 “(d) Under regulations made by the Commissioner
 5 of Internal Revenue, with the approval of the Secretary of
 6 the Treasury, any person required pursuant to the provi-
 7 sions of this title to file a return may be required to file such
 8 return and pay the tax shown to be due thereon to the col-
 9 lector of internal revenue for the district in which the process-
 10 ing was done or the liability was incurred. Whenever the
 11 Commissioner of Internal Revenue deems it necessary, he
 12 may require any person or class of persons handling or
 13 dealing in any commodity or product thereof, with respect
 14 to which a tax is imposed under the provisions of this title,
 15 to make a return, render under oath such statements, or to
 16 keep such records, as the Commissioner deems sufficient to
 17 show whether or not such person, or any other person, is
 18 liable for the tax.”

19 SEC. ~~20~~ 32. The Agricultural Adjustment Act, as
 20 amended, is amended by adding after section 20 the
 21 following new section:

22 “SEC. 21. (a) ~~No suit or proceeding shall be brought~~
 23 ~~or maintained in, nor shall any judgment or decree be~~
 24 ~~entered by, any court for the recoupment, set-off, refund, or~~

1 ~~credit of, or on any counterclaim for, any amount of any~~
2 ~~tax assessed, paid, collected, or accrued under this title~~
3 ~~prior to the date of the adoption of this amendment. No~~
4 *Federal or State court shall have jurisdiction to entertain a*
5 *suit or proceeding against the United States or any collector*
6 *of internal revenue or other internal-revenue officer or any*
7 *person who has been such a collector or officer or the personal*
8 *representative of any such collector, officer, or person (nor*
9 *shall any such suit or proceeding be brought or maintained in,*
10 *nor shall any judgment or decree be entered by, any such*
11 *court) (1) for the recoupment, set-off, recovery, refund, or*
12 *credit of, or on any counterclaim for, any amount of any*
13 *tax, interest, or penalty, assessed, paid, collected, or accrued*
14 *under this title prior to the date of the adoption of this*
15 *amendment or (2) for damages for the collection thereof.*
16 Except pursuant to a final judgment or decree entered prior
17 to the date of the adoption of this amendment, no *recovery,*
18 *recoupment, set-off, refund, or credit of, or counterclaim for,*
19 *any amount of any tax, interest, or penalty assessed, paid,*
20 *collected, or accrued under this title prior to the date of the*
21 *adoption of this amendment shall be made or allowed. The*
22 *provisions of this subsection shall not apply to (1) any*
23 *overpayment of tax which results from an error in the com-*
24 *putation of the tax, or (2) duplicate payments of any tax.*
25 *or (3) any refund or credit under subsection (a) or (c)*

1 of section 15, *under paragraph (1) of subsection (e) of*
 2 *section 16, or under section 17 of this title, or (4) any refund*
 3 *or credit to the processor of any tax paid by him with respect*
 4 *to articles exported pursuant to the provisions of section 317*
 5 *of the Tariff Act of 1930.*

6 “(b) No suit, action, or proceeding (including pro-
 7 bate, administration, receivership, and bankruptcy proceed-
 8 ings) shall be brought or maintained in any court if such
 9 suit, action, or proceeding is for the purpose or has the effect
 10 (1) of preventing or restraining the assessment or collec-
 11 tion of any tax imposed or the amount of any penalty or
 12 interest accrued under this title on or after the date of the
 13 adoption of this amendment, or (2) of obtaining a declara-
 14 tory judgment under the Federal Declaratory Judgments
 15 Act in connection with any such tax or such amount of any
 16 such interest or penalty. In probate, administration, receiv-
 17 ership, bankruptcy, or other similar proceedings, the claim
 18 of the United States for any such tax or such amount of
 19 any such interest or penalty, in the amount assessed by the
 20 Commissioner of Internal Revenue, shall be allowed and
 21 ordered to be paid, but the right to claim the refund or credit
 22 thereof and to maintain such claim pursuant to the *appli-*
 23 *cable* provisions of ~~law made applicable by section 19~~ law,
 24 *including subsection (d) of this section,* may be reserved in
 25 the court’s order.

1 “(c) The taxes imposed under this title, as deter-
 2 mined, prescribed, proclaimed and made effective by the
 3 proclamations and certificates of the Secretary of Agricul-
 4 ture ~~and~~ or of the President *and* by the regulations of the
 5 Secretary with the approval of the President prior to the
 6 date of the adoption of this amendment, are hereby legalized
 7 and ratified, and the assessment, levy, collection, and accrual
 8 of all such taxes (*together with penalties and interest with*
 9 *respect thereto*) prior to said date are hereby legalized and
 10 ratified and confirmed as fully to all intents and purposes as
 11 if each such tax had been made effective and the rate thereof
 12 fixed specifically ~~on May 12, 1933,~~ by *prior* Act of Congress.
 13 All such taxes which have accrued and remain unpaid on
 14 the date of the adoption of this amendment shall be assessed
 15 and collected pursuant to section 19, and to the provisions
 16 of law made applicable thereby. Nothing in this section
 17 shall be construed to import illegality to any act, determina-
 18 tion, proclamation, certificate, or regulation of the Secretary
 19 of Agriculture or of the President done or made prior to
 20 the date of the adoption of this amendment.

21 ~~“(d) No refund or credit shall be made or allowed~~
 22 ~~of any amount of any tax which accrued on or after the date~~
 23 ~~of the adoption of this amendment under this title (includ-~~
 24 ~~ing any overpayment of such tax), unless (1) the claimant~~
 25 ~~establishes to the satisfaction of the Commissioner of~~

1 Internal Revenue, ~~(A)~~ that he has not included such amount
 2 in the price of the article with respect to which it was im-
 3 posed or of any article processed from the commodity with
 4 respect to which it was imposed, and that he has not col-
 5 lected from the vendee any part of such amount, or ~~(B)~~
 6 that he has repaid such amount to the producer or the
 7 ultimate purchaser of the article, and ~~(C)~~ in the case of
 8 hogs that such amount has not been deducted from the price
 9 paid to the producer, or ~~(2)~~ the claimant files with the
 10 Commissioner of Internal Revenue the written consent of
 11 such producer and ultimate purchaser to the allowance of
 12 the credit or refund. The provisions of this subsection shall
 13 not apply to any refund under section 15 ~~(a)~~, section 16,
 14 or section 17.

15 “(d) No recovery, refund, or credit shall be made or
 16 allowed of any amount of any tax which accrued on or
 17 after the date of the adoption of this amendment (and, in
 18 case any part or application of subsection (a) of this section
 19 is held invalid, which may have heretofore accrued) under
 20 this title (including any overpayment of such tax), unless the
 21 claimant establishes to the satisfaction of the Commissioner
 22 of Internal Revenue, or in the case of a judicial proceeding
 23 establishes in such proceeding, (1) that he has not included
 24 such amount in the price of the article with respect to which
 25 it was imposed or of any article processed from the com-

1 *modity with respect to which it was imposed, that he has not*
 2 *collected from the vendee any part of such amount, and that*
 3 *the price paid to the producer was not reduced by such*
 4 *amount, or (2) that he has repaid such amount to the ulti-*
 5 *mate purchaser of the article, or in case the price paid to the*
 6 *producer was reduced by such amount, to such producer;*
 7 *nor shall any judgment or decree be entered by any Federal or*
 8 *State court for damages for the collection thereof, unless the*
 9 *claimant establishes the foregoing facts, in addition to all other*
 10 *facts required to be established. The provisions of this sub-*
 11 *section shall not apply to any refund or credit under subsec-*
 12 *tion (a) or (c) of section 15, section 16, or section 17.*

13 “(e) No ~~refund or credit~~ refund, credit, or abatement
 14 shall be made or allowed of the amount of any tax, under
 15 section 15, ~~section 16~~, or section 17, unless, within one
 16 year after the right to such refund or credit has accrued, a
 17 claim for such refund or credit (conforming to such regu-
 18 lations as the Commissioner of Internal Revenue, with the
 19 approval of the Secretary of the Treasury, may prescribe)
 20 is filed by the person entitled to such refund or credit, except
 21 that if the right to any such refund or credit accrued prior
 22 to the date of the adoption of this amendment, then such
 23 one year period shall be computed from the date of this
 24 amendment. No interest shall be allowed or paid, or

1 included in any judgment, with respect to any such claim
2 for refund or credit.

3 ~~“(f) The provisions of section 3226, Revised Statutes,~~
4 ~~as amended, are hereby extended to apply to any suit for~~
5 ~~the recovery of any amount of any tax which accrued, on~~
6 ~~or after the date of the adoption of this amendment, under~~
7 ~~this title, and to any suit for the recovery of any amount of~~
8 ~~tax which results from an error in the computation of the~~
9 ~~tax or from duplicate payments of any tax.~~

10 “(f) *The provisions of section 3226, Revised Statutes,*
11 *as amended, are hereby extended to apply to any suit for*
12 *the recovery of any amount of any tax, penalty, or interest,*
13 *which accrued on or after the date of the adoption of this*
14 *amendment (and, in case any part or application of sub-*
15 *section (a) of this section is held invalid, which may have*
16 *heretofore accrued) under this title (whether an overpay-*
17 *ment or otherwise), and to any suit for the recovery of any*
18 *amount of tax which results from an error in the computa-*
19 *tion of the tax or from duplicate payments of any tax, or*
20 *any refund or credit under subsections (a) or (c) of section*
21 *15, under paragraph (1) of subsection (e) of section 16,*
22 *or under section 17 of this title or any refund or credit to*
23 *the processor of any tax paid by him with respect to articles*
24 *exported pursuant to the provisions of section 317 of the*
25 *Tariff Act of 1930.*

1 “(g) Whenever in this title a refund of any tax is
2 authorized to be made to any person other than the person
3 required to pay the tax with respect to which an applica-
4 tion for refund is made, upon statement under oath by the
5 applicant for refund that he has no knowledge, information
6 or belief that such tax has not in fact been paid, then for
7 the purpose of such refund to said applicant such tax shall
8 be deemed to have been due from any paid by the person
9 liable therefor. Any other provision of the law notwith-
10 standing, the Comptroller General of the United States is
11 authorized and directed, without review of the fact of the
12 payment of the tax, to certify for payment refunds authorized
13 under this subsection in the amounts scheduled to him by
14 the Commissioner of Internal Revenue. Whoever makes
15 any false statement under oath in connection with applying
16 for or securing such refund of any tax shall be guilty of a
17 misdemeanor and upon conviction thereof shall be punished
18 by a fine of not more than \$1,000 or by imprisonment not
19 exceeding six months, or both.”

20 SEC. 30. The Agricultural Adjustment Act, as
21 amended, is amended by inserting after section 21 the
22 following:

23 "IMPORTS

24 “~~SEC. 22. (a)~~ Whenever the President has reason to
25 believe that any one or more articles are being imported

1 or are likely to be imported into the United States under
2 such conditions and in sufficient quantities to render ineffec-
3 tive or materially interfere with any program or operation
4 undertaken under this title, he shall cause an immediate
5 investigation to be made by the United States Tariff Com-
6 mission, which shall give precedence to investigations under
7 this subsection, to determine such facts. Such investigation
8 shall be made after such notice and hearing and subject to
9 such regulations as the President shall specify.

10 “(b) If, after such investigation and report to him of
11 findings and recommendations made in connection therewith,
12 the President finds the existence of such facts, he shall by
13 order direct that the entry into the United States of such
14 article or articles shall, for such time as may be specified
15 by him, be permitted subject to (1) such terms and condi-
16 tions, (2) such limitations on the total quantities thereof
17 which may be imported, or (3) the payment of such com-
18 pensating taxes as he finds necessary to prescribe in order
19 that the entry of such article or articles will not render
20 or tend to render ineffective or materially interfere with
21 such program or operation undertaken under this title.
22 Any compensating tax imposed under this section shall be
23 in addition to any tax imposed under section 15 (c) and
24 the provisions of such section shall apply thereto.

1 “(c) Any decision of the President as to facts under
2 this section shall be final.

3 “(d) Upon information of any order of the President
4 under subsection (b), the Secretary of the Treasury shall
5 permit entry of any article or articles specified therein only
6 in conformity with such order.

7 “(e) After investigation, report, and finding in the
8 manner provided in the case of an original order, any order
9 or provision thereof may be suspended or revoked by the
10 President whenever he finds that the circumstances requir-
11 ing the order or provision no longer exist, or may be modi-
12 fied by the President whenever he finds that changed cir-
13 cumstances require such modification to carry out the
14 provisions of this section.”

15 SEC. 31. There is authorized to be appropriated for
16 each fiscal year an amount equal to 30 per centum of the
17 gross receipts from duties collected under the customs laws
18 during the period January 1 to December 31, both inclu-
19 sive, preceding the beginning of such fiscal year. Sums
20 appropriated in pursuance of such authorization shall be
21 maintained in a separate fund and shall be used by the
22 Secretary of Agriculture only to: (1) Encourage the ex-
23 portation of major agricultural commodities and products
24 thereof by the payment of benefits in connection with the
25 exportation thereof or of indemnities for losses incurred in

1 connection with such exportation; ~~(2)~~ encourage the domes-
 2 tie consumption of such commodities or products by diverting
 3 them; by the payment of benefits or indemnities or by
 4 other means; from the normal channels of trade and com-
 5 merce; ~~(3)~~ purchase or lease, on behalf of the United
 6 States, submarginal agricultural and grazing lands; and ~~(4)~~
 7 finance adjustments in the quantity planted or produced
 8 for market of agricultural commodities. The amounts appro-
 9 priated in pursuance of this section shall be expended for
 10 such of the above-specified purposes; and at such times; in
 11 such manner; and in such amounts as the Secretary of Agri-
 12 culture finds will tend to eliminate unprofitable agricultural
 13 and grazing lands; bring about the utilization of only such
 14 lands as can be profitably utilized; increase the exporta-
 15 tion of agricultural commodities and products thereof; and
 16 increase the domestic consumption of agricultural commodi-
 17 ties and products thereof: *Provided*, That no part of the
 18 funds authorized to be appropriated by this section shall be
 19 expended pursuant to ~~(3)~~ or ~~(4)~~ hereof unless the Secretary
 20 of Agriculture determines that the expenditure of such part
 21 pursuant to clauses ~~(1)~~ and ~~(2)~~ is not necessary to effectu-
 22 ate the purposes of this section.

23 *SEC. 33. Section 7 of Title 1 of the Agricultural*
 24 *Adjustment Act, as amended by section 221 of the National*
 25 *Industrial Recovery Act (48 Stat. 210, 15 U. S. C., art.*

1 607), is amended by striking it out and inserting in lieu
2 thereof the following:

3 “*SEC. 7. The Secretary shall sell cotton held or ac-*
4 *quired by him pursuant to authority of this Act at his*
5 *discretion subject only to the conditions and limitations of*
6 *Title 1 of this Act: Provided, That the Secretary shall*
7 *have authority to enter into option contracts with producers*
8 *of cotton to sell to or for the producers such cotton held*
9 *and/or acquired by him in such amounts and at such prices*
10 *and upon such terms and conditions as he, the Secretary,*
11 *may deem advisable, and such option contracts may be*
12 *transferred or assigned in such manner as the Secretary*
13 *of Agriculture may prescribe.*

14 “*Notwithstanding any provisions contained in option*
15 *contracts heretofore issued and/or any provision of law,*
16 *assignments made prior to January 11, 1934, of option*
17 *contracts exercised prior to January 18, 1934, shall be*
18 *deemed valid upon determination by the Secretary that*
19 *such assignment was an assignment in good faith of the*
20 *full interest in such contract and for full value and is free*
21 *from evidence of fraud or speculation by the assignee.*

22 “*Notwithstanding any provision of existing law, the*
23 *Secretary of Agriculture may, in the administration of the*
24 *Agricultural Adjustment Act, make public such informa-*

1 tion as he deems necessary in order to effectuate the purposes
2 of such Act."

3 SEC. 34. Section 6 of the Agricultural Adjustment
4 Act, is hereby repealed.

5 SEC. 35. Section 4 (b) of Title 1 of the Agricultural
6 Adjustment Act, as amended by the Emergency Appropria-
7 tion Act, fiscal year 1935, is amended by striking out the
8 words "to be available until March 1, 1936" and inserting at
9 the end of said section a new sentence to read as follows:
10 "This sum shall be available until the cotton acquired by
11 the Secretary of Agriculture under authority of Title 1 of
12 this Act, including cotton futures, shall have been finally
13 marketed by any agency which may have been or may be
14 established by the Secretary of Agriculture for the handling,
15 carrying, insuring, or marketing of any cotton acquired by
16 the Secretary of Agriculture."

17 SEC. 36. Section 4 (f) of Title 1 of the Agricultural
18 Adjustment Act, as amended by the Emergency Appropria-
19 tion Act, fiscal year 1935, is amended by adding at the end
20 thereof a new paragraph to read as follows:

21 "The word 'obligation' when used in this section shall
22 include (without being limited to) administrative expenses,
23 warehouse charges, insurance, salaries, interest, costs, com-
24 missions, and other expenses incident to handling, carrying,
25 insuring, and marketing of said cotton."

1 SEC. 32 37. The Secretary of Agriculture is authorized
2 to use as much as he finds advisable of the funds appro-
3 priated by the second paragraph of Public Resolution Num-
4 bered 27, Seventy-third Congress, approved May 25, 1934,
5 to carry out section 6 of the Act entitled "An Act to amend
6 the Agricultural Adjustment Act so as to include cattle
7 and other products as basic agricultural commodities, and
8 for other purposes", approved April 7, 1934, for *scientific*
9 experimentation and efforts to eradicate Bang's disease in
10 cattle. Such funds shall be available to carry out such sec-
11 tion 6 and for the purposes for which funds are made avail-
12 able by this section until December 31, 1937, and may be
13 used for all necessary expenses in connection therewith,
14 including the employment of persons and means in the Dis-
15 trict of Columbia and elsewhere.

16 SEC. 33 38. Nothing contained in this Act shall (a),
17 invalidate any marketing agreement or license in existence
18 on the date of the enactment hereof, or any provision
19 thereof, or any act done pursuant thereto, either before
20 or after the enactment of this Act, or (b) ~~nor shall any-~~
21 ~~thing contained in this Act~~ impair any remedy provided
22 for on the date of the enactment thereof for the enforce-
23 ment of any such marketing agreement or license, or (c)
24 *invalidate any agreement entered into pursuant to section*
25 *8 (1) of the Agricultural Adjustment Act prior to the*

1 enactment of this Act, or subsequent to the enactment of
2 this Act in connection with a program initiated under such
3 section 8 (1) prior to the enactment of this Act, or any
4 act done or agreed to be done or any payment made or
5 agreed to be made in pursuance of any such agreement,
6 either before or after the enactment of this Act, or any
7 change in the terms and conditions of any such agreement,
8 or any voluntary arrangements or further agreements which
9 the Secretary finds necessary or desirable in order to com-
10 plete or terminate such program pursuant to the declared
11 policy of the Agricultural Adjustment Act.

12 SEC. 39. No cotton cooperative association shall be
13 eligible for any loan authorized to be made to cooperative
14 associations by any agency of the Government, unless such
15 association handles the products of or supplies of bona fide
16 cotton-producing members in an amount at least equal in
17 value to such as are dealt in for persons other than such
18 bona fide members.

19 AMENDMENTS TO BANKHEAD COTTON ACT

20 SEC. 40. (a) Section 2 and the first sentence of section
21 3 (a) of the Act entitled "An Act to place the cotton industry
22 on a sound commercial basis, to prevent unfair competition
23 and practices in putting cotton into the channels of inter-
24 state and foreign commerce, to provide funds for paying
25 additional benefits under the Agricultural Adjustment Act,

1 *and for other purposes", approved April 21, 1934, as*
 2 *amended, are amended by inserting after the phrase "the*
 3 *crop year 1935-1936", wherever such phrase appears, the*
 4 *phrase "or the crop year 1936-1937 or the crop year*
 5 *1937-1938".*

6 *(b) Section 3 (a) of such Act, as amended, is amended*
 7 *by adding at the end thereof the following new sentence:*
 8 *"In ascertaining the sentiment of the producers with respect*
 9 *to the crop year 1936-1937 or the crop year 1937-1938,*
 10 *the vote in favor of the compulsory tax features of this Act,*
 11 *by two-thirds of the producers voting, shall be deemed*
 12 *sufficient for the purposes of this subsection."*

13 *(c) The action of the Secretary of Agriculture in*
 14 *ascertaining and proclaiming, pursuant to section 3 (a) and*
 15 *(b) of such Act, as amended, 10,500,000 bales as the maxi-*
 16 *mum amount of cotton of the crop harvested in the crop*
 17 *year 1935-1936 that may be marketed exempt from pay-*
 18 *ment of the tax levied by such Act, as amended, is hereby*
 19 *legalized and ratified, and all apportionments and other*
 20 *action taken pursuant to such ascertainment and procla-*
 21 *mation are legalized and ratified and confirmed as fully*
 22 *to all intents and purposes as if such amount had been fixed*
 23 *specifically by Act of Congress.*

24 *SEC. 41. Section 17 of an Act entitled "An Act to*
 25 *place the cotton industry on a sound commercial basis, to*

1 *prevent unfair competition and practices in putting cotton*
 2 *into the channels of interstate and foreign commerce, to*
 3 *provide funds for paying additional benefits under the Agri-*
 4 *cultural Adjustment Act, and for other purposes", approved*
 5 *April 21, 1934, as amended, is amended by inserting*
 6 *"(a)" before the first sentence thereof and by inserting at*
 7 *the end thereof the following new subsection:*

8 *"(b) Appropriations for administrative expenses under*
 9 *this Act are authorized to be made available to enable the*
 10 *Secretary of Agriculture to pay any person, who, in con-*
 11 *nection with the operation of any cotton gin, incurred addi-*
 12 *tional expenses in connection with the administration of*
 13 *this Act with respect to cotton harvested and ginned during*
 14 *any crop year when the above-mentioned Act is in effect,*
 15 *and who applies to the Secretary therefor, compensation*
 16 *at the rate of 25 cents per bale of such cotton ginned by*
 17 *such person."*

18 *AMENDMENTS TO KERR TOBACCO ACT*

19 *SEC. 42. The title of the Act entitled "An Act to place*
 20 *the tobacco-growing industry on a sound financial and*
 21 *economic basis, to prevent unfair competition and practices*
 22 *in the production and marketing of tobacco entering into the*
 23 *channels of interstate and foreign commerce, and for other*
 24 *purposes", approved June 28, 1934, is amended to read*
 25 *as follows:*

1 *"An Act to place the tobacco-growing industry on a*
2 *sound financial and economic basis, to prevent unfair com-*
3 *petition and practices in the production and marketing of*
4 *tobacco entering into the channels of interstate and foreign*
5 *commerce, to raise revenue, and for other purposes."*

6 *SEC. 43. Section 1 of said Act is amended by adding*
7 *at the end thereof the following new subsections:*

8 *"(l) The term 'Puerto Rican tobacco' means all leaf*
9 *tobacco classified as type 46 in the United States Depart-*
10 *ment of Agriculture, Bureau of Agricultural Economics,*
11 *Service and Regulatory Announcements Numbered 118."*

12 *"(m) The term 'cigar-wrapper tobacco' means all*
13 *leaf tobacco classified in class 6 in the United States Depart-*
14 *ment of Agriculture, Bureau of Agricultural Economics,*
15 *Service and Regulatory Announcements Numbered 118."*

16 *SEC. 44. Section 2 of said Act is amended by*
17 *inserting after the words "consumption of tobacco" a*
18 *comma and the words "to raise revenue,".*

19 *SEC. 45. Subsection (b) of section 3 of said Act is*
20 *amended by striking out the period and the remainder of the*
21 *subsection following the first sentence and inserting in lieu*
22 *thereof the following: "and to all tobacco harvested in the*
23 *crop year 1935-1936, except Maryland tobacco, Puerto*
24 *Rican tobacco, and cigar wrapper tobacco. Thereafter*
25 *whenever the Secretary of Agriculture determines (1) that*

1 the imposition of the tax upon any particular type of tobacco
2 is necessary for the orderly marketing of such tobacco in
3 interstate and foreign commerce and to effectuate the declared
4 policy of this Act, and (2) that two-thirds of the land
5 engaged in the production of such type of tobacco during
6 the crop year in which such determination is made is voted
7 in favor of the levy of the tax upon the sale of such type
8 of tobacco, he shall proclaim such determination at least
9 sixty days prior to the next succeeding crop year, and the
10 tax shall thereafter apply to the sale of tobacco of such type
11 harvested during the crop year next following the date of
12 such proclamation. All persons who have the right, during
13 the crop year in which such determination is made, to sell
14 or to receive a share of the proceeds derived from the sale
15 of tobacco of any type produced by them, or produced on
16 land owned or leased by them, shall be entitled to vote, and
17 the proportion of all the votes cast in each county which
18 are cast in favor of levying the tax upon the sale of such
19 type of tobacco shall determine the proportion of the total
20 amount of tobacco land in such county which shall be deemed
21 to have been voted in favor of levying such tax. The tax
22 provided for by subsection (a) of this section shall not
23 apply to any tobacco harvested after April 30, 1939."

24 SEC. 46. Subsection (a) of section 5 of said Act
25 is amended by inserting after the designation "(a)" at the

1 beginning thereof the following: "(1)"; and by inserting
2 at the end of said subsection the following paragraph:

3 “(2) The Secretary of Agriculture shall issue to any
4 person, who, because of religious or moral scruples, is un-
5 willing or unable to become a contracting producer, similar
6 tax-payment warrants covering the quantity of tobacco pro-
7 duced by such person: Provided, That the Secretary deter-
8 mines that such person has not planted a greater acreage of
9 tobacco nor sold a greater quantity of tobacco than he could
10 have planted or sold as a contracting producer.”

11 SEC. 47. Subsection (b) of section 5 of said Act is
12 amended by striking out the first sentence of said subsection
13 and inserting in lieu thereof the following:

14 “ There shall be available for issuance by the Secretary
15 of Agriculture further warrants, covering an amount of
16 tobacco of any type equal to 3 per centum of the amount
17 of tobacco of such type covered by the warrants issuable
18 or issued to all contracting producers under the provisions
19 of subsection (a) of this section, to persons engaged in the
20 production of tobacco of such type who do not enter into
21 such contracts and as to whom the Secretary determines
22 that no equitable allotment of tobacco acreage or production
23 is possible under such tobacco contracts. Such warrants
24 shall be issued, upon application therefor, upon such basis
25 or classification as the Secretary deems will effectuate the

1 declared policy of this Act and will be fair and just, and as
2 will apply to all persons eligible to receive warrants under
3 this subsection uniformly on the basis or classification
4 adopted: Provided, That warrants covering two-thirds of
5 the amount of any type of tobacco to cover which warrants
6 are available under this subsection shall be issued, upon
7 application therefor, only to persons who receive warrants
8 covering one thousand five hundred pounds or less of any
9 type of tobacco.”

10 SEC. 48. Subsection (d) of section 5 of said Act is
11 amended to read as follows:

12 “If any tax-payment warrant is erroneously issued to
13 any person, or if the Secretary of Agriculture determines
14 pursuant to this subsection that any person to whom any
15 tax-payment warrant is issued has failed to comply in any
16 crop year with any provision of any agreement entered into
17 by such person pursuant to the Agricultural Adjustment Act
18 or has failed to comply with any rule or regulation issued
19 by the Secretary of Agriculture pursuant to this Act or the
20 Agricultural Adjustment Act, any warrant issued during
21 such crop year to such person shall be void upon demand
22 in writing for the return of such warrant made by the Secre-
23 tary of Agriculture to the person to whom such warrant
24 was issued. If any tax-payment warrant which has been
25 accepted in payment of the tax imposed by this Act upon

1 *the sale of tobacco becomes void pursuant to this subsection*
2 *either before or after such acceptance, the person to whom*
3 *such warrant was issued shall, notwithstanding such accept-*
4 *ance of such warrant, be liable for the full amount of the*
5 *tax upon such sale."*

6 *SEC. 49. Section 8 of said Act is amended by striking*
7 *out subsection (b) of that section and inserting in lieu*
8 *thereof two new subsections as follows:*

9 *"(b) All persons, in whatever capacity acting, includ-*
10 *ing producers, warehousemen, processors of tobacco, and*
11 *common carriers, having information with respect to tobacco*
12 *produced or sold, may be required to make a return in*
13 *regard thereto, setting forth the amount of tobacco pro-*
14 *duced, sold, or delivered, the name and address of the*
15 *person who produced, sold, or delivered said tobacco, or to*
16 *whom said tobacco was sold or delivered, the price paid*
17 *on such sale, and any other and further information which*
18 *the Commissioner of Internal Revenue, with the approval*
19 *of the Secretary of the Treasury and the Secretary of Agri-*
20 *culture, shall by regulations prescribe as necessary for the*
21 *proper administration and collection of the tax. Any person*
22 *required to make any such return shall render a true and*
23 *accurate return to the Commissioner of Internal Revenue.*

24 *"(c) Any person willfully failing or refusing to file any*
25 *return required to be filed under this section, or filing will-*

1 *fully any false return, shall be guilty of a misdemeanor and*
2 *upon conviction thereof shall be punished by a fine of not*
3 *more than \$1,000."*

4 *SEC. 50. Section 9 of said Act is amended by adding*
5 *at the end thereof the following new subsection:*

6 *"(c) Any person who is authorized in writing by the*
7 *Secretary of Agriculture to act as his agent in the admin-*
8 *istration of this Act shall, while he is acting as such agent,*
9 *have the power to administer oaths in connection with the*
10 *execution of forms required by regulations issued pursuant*
11 *to sections 7 and 8 of this Act, but no fee or compensation*
12 *shall be charged or received by any such agent for admin-*
13 *istering such an oath."*

14 *SEC. 51. The first sentence of subsection (a) of section*
15 *10 of said Act is amended to read as follows: "The pro-*
16 *ceeds heretofore and hereafter derived from the tax are*
17 *hereby appropriated to be available to the Secretary of*
18 *Agriculture for rental and benefit payments under the Agri-*
19 *cultural Adjustment Act to contracting producers, for admin-*
20 *istrative expenses, refunds of taxes, redemption of tax-pay-*
21 *ment warrants heretofore or hereafter received by contract-*
22 *ing producers subsequent to the sale of the tobacco covered*
23 *by said warrants and subsequent to payment of the tax im-*
24 *posed upon such sale by section 3 of this Act, and other*
25 *payments under this Act."*

1 *SEC. 52. Subsection (a) of section 11 of said Act is*
2 *amended effective as of the date of the enactment of the*
3 *said Act by striking out the words "six months" and by*
4 *inserting in lieu thereof the words "one year".*

5 *SEC. 53. Section 14 of said Act is amended to read as*
6 *follows:*

7 *"The Secretary of Agriculture is directed not to refuse*
8 *on the ground of lateness any offer by a tobacco producer*
9 *to become a contracting producer, if such offer is filed with*
10 *the Secretary of Agriculture within thirty days after the*
11 *date of the proclamation by the Secretary of Agriculture,*
12 *pursuant to subsection (b) of section 3 of this Act."*

Passed the House of Representatives June 18, 1935.

Attest:

SOUTH TRIMBLE,

Clerk.

74TH CONGRESS }
1ST SESSION

H. R. 8492

[Report No. 1011]

AN ACT

To amend the Agricultural Adjustment Act,
and for other purposes.

MAY 13 (calendar day, JUNE 19), 1935
Read twice and referred to the Committee on
Agriculture and Forestry

MAY 13 (calendar day, JULY 3), 1935
Reported with amendments

74th CONGRESS
1st Session

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 8), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. LA FOLLETTE to the bill
(H. R. 8492) to amend the Agricultural Adjustment Act,
and for other purposes, viz: On page 70, strike out lines
1 to 15, inclusive, and insert in lieu thereof the following:

1 SEC. 37. In addition to all funds heretofore appro-
2 priated there is authorized to be appropriated the sum of
3 \$40,000,000 to enable the Secretary of Agriculture, under
4 rules and regulations to be promulgated by him and upon
5 such terms as he may prescribe, to eliminate diseased dairy
6 and beef cattle, including cattle suffering from tuberculosis
7 or Bangs' disease, and to make payments to owners with
8 respect thereto. The Secretary of Agriculture is authorized
9 to use as much as he finds advisable of the funds authorized
10 to be appropriated by this section and the funds appro-

1 priated by the second paragraph of Public Resolution
2 Numbered 27, Seventy-third Congress, approved May 25,
3 1934, to carry out section 6 of the Act entitled "An Act
4 to amend the Agricultural Adjustment Act so as to include
5 cattle and other products as basic agricultural commodities,
6 and for other purposes", approved April 7, 1934, for
7 experimentation and efforts to eradicate disease in cattle.
8 Such funds shall be available to carry out the purposes of
9 this section and such section 6 until December 31, 1937,
10 and may be used for all necessary expenses in connection
11 therewith, including the employment of persons and means
12 in the District of Columbia and elsewhere.

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 8), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BORAH to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz:

- 1 On page 57, beginning with line 22, strike out all down
- 2 to and including line 5, on page 59.

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 8), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BORAH to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz:

- 1 On page 59, beginning with line 6, strike out all down
- 2 to and including line 20, on page 60.

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 8), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz:

1 On page 25, line 8, after the word "producer" insert
2 a semicolon and the following: "and for the purpose of
3 determining the application of any such order, the prepara-
4 tion of a commodity by the producer thereof for market
5 or for distribution or use which does not involve a material
6 change in the form of the commodity, and the sale by the
7 producer of the commodity so prepared, shall not be con-
8 strued to affect his capacity as a producer".



H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 8), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz:

- 1 On page 16, lines 23 and 24, strike out "marketed
- 2 in or transported to any or all markets" and insert "trans-
- 3 ported in interstate or foreign commerce".

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 8), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: On page 10, beginning with line 1, strike out through line 20 on page 29, and insert in lieu thereof the following:

1 SEC. 5. The Agricultural Adjustment Act, as amended,
2 is amended by striking out section 8 (3) thereof and by
3 adding after section 8b the following new section:

4 " ORDERS

5 " SEC. 8c. (1) The Secretary of Agriculture shall,
6 subject to the provisions of this section, issue, and from
7 time to time amend, orders applicable to processors, asso-
8 ciations of producers, and others engaged in the handling
9 of milk or its products. Such persons are referred to in

1 this title as 'handlers'. Such orders shall regulate, in the
 2 manner hereinafter in this section provided, only such
 3 handling of milk, or the product thereof, as is in the current
 4 of interstate or foreign commerce, or as directly burdens,
 5 obstructs, or affects, interstate or foreign commerce in milk
 6 or the products thereof.

7 " NOTICE AND HEARING

8 " (2) Whenever the Secretary of Agriculture has rea-
 9 son to believe that the issuance of an order will tend to
 10 effectuate the declared policy of this title with respect to
 11 milk or its products, he shall give due notice of and an
 12 opportunity for a hearing upon a proposed order.

13 " FINDING AND ISSUANCE OF ORDER

14 " (3) After such notice and opportunity for hearing,
 15 the Secretary of Agriculture shall issue an order if he finds,
 16 and sets forth in such order, upon the evidence introduced
 17 at such hearing (in addition to such other findings as may
 18 be specifically required by this section) that the issuance
 19 of such order and all of the terms and conditions thereof will
 20 tend to effectuate the declared policy of this title with respect
 21 to milk.

22 " TERMS

23 " (4) Orders issued pursuant to this section shall con-
 24 tain one or more of the following terms and conditions, and
 25 (except as provided in subsection (5)) no others:

1 “(A) Classifying milk in accordance with the form
2 in which, or the purpose for which, it is used, and fixing, or
3 providing a method for fixing, minimum prices for each such
4 use classification which all handlers shall pay, and the time
5 when payments shall be made, for milk purchased from pro-
6 ducers or associations of producers. Such prices shall be
7 uniform as to all handlers, subject only to adjustments for
8 (1) volume, market, and production differentials customarily
9 applied by the handlers subject to such order; (2) the
10 grade or quality of the milk purchased; and (3) the loca-
11 tions at which delivery of such milk, or any use classifica-
12 tion thereof, is made to such handlers.

13 “(B) Providing:

14 “(i) for the payment to all producers and
15 associations of producers delivering milk to the same
16 handler of uniform prices for all milk delivered by
17 them: *Provided*, That, except in the case of orders
18 covering milk products only, such provision is approved
19 or favored by at least three-fourths of the producers
20 who, during a representative period determined by
21 the Secretary of Agriculture, have been engaged in
22 the production for market of milk covered in such
23 order or by producers who, during such representative
24 period, have produced at least three-fourths of the
25 volume of such milk produced for market during such

1 period; the approval required hereunder shall be sepa-
2 rate and apart from any other approval or disapproval
3 provided for by this section; or

4 “(ii) for the payment to all producers and
5 associations of producers delivering milk to all handlers
6 of uniform prices for all milk so delivered, irrespective
7 of the uses made of such milk by the individual handler
8 to whom it is delivered;

9 subject, in either case, only to adjustments for (a) volume,
10 market, and production differentials customarily applied by
11 the handlers subject to such order; (b) the grade or quality
12 of the milk delivered; (c) the locations at which delivery
13 of such milk is made; and (d) a further adjustment,
14 equitably to apportion the total value of the milk purchased
15 by any handler, or by all handlers, among producers and
16 associations of producers, on the basis of their production of
17 milk during a representative period of time.

18 “(C) In order to accomplish the purposes set forth
19 in paragraphs (A) and (B) of this subsection (4), pro-
20 viding a method for making adjustments in payments, as
21 among handlers (including producers who are also
22 handlers), to the end that the total sums paid by each
23 handler shall equal the value of the milk purchased by

1 him at the prices fixed in accordance with paragraph (A)
2 hereof.

3 “(D) Providing that, in the case of all milk purchased
4 by handlers from any producer who was not, upon the
5 effective date of such order, regularly selling milk for
6 consumption in the area covered thereby, payments to such
7 producer, for the period beginning with the first regular
8 delivery by such producer and continuing for three full
9 calendar months from the 1st day of the next succeeding
10 month, shall be made at the price for the lowest use classi-
11 fication specified in such order.

12 “(E) Providing for market information to and the
13 verification of weights, sampling, and testing of milk pur-
14 chased from producers, and for making appropriate deduc-
15 tions therefor from payments to producers, except as to
16 producers for whom such services are being rendered by
17 a cooperative marketing association, qualified as provided
18 in paragraph (F) of this subsection (4), and assurance
19 of, and security for the payment by handlers for, milk
20 purchased.

21 “(F) Nothing contained in this subsection (4) is
22 intended or shall be construed to prevent a cooperative
23 marketing association qualified under the provisions of the
24 Act of Congress of February 18, 1922, as amended, known

1 as the 'Capper-Volstead Act', engaged in making collective
2 sales or marketing of milk or its products for the producers
3 thereof, from blending the net proceeds of all of its sales
4 in all markets in all use classifications, and making distri-
5 bution thereof to its producers in accordance with the con-
6 tract between the association and its producers: *Provided,*
7 That it shall not sell milk or its products to any handler
8 for use or consumption in any market at prices less than
9 the prices fixed pursuant to paragraph (A) of this sub-
10 section. (4) for such milk.

11 " (G) No marketing agreement or order applicable
12 to milk and its products in any marketing area shall pro-
13 hibit the marketing in that area of any milk or product
14 thereof produced in any production area in the United
15 States.

16 " (5) Such orders shall also contain one or more of
17 the following terms and conditions:

18 " (A) Prohibiting unfair methods of competition and
19 unfair trade practices in the handling of milk and its
20 products.

21 " (B) Providing for the appointment or selection by
22 the Secretary of Agriculture, or a method for the appoint-
23 ment or selection, of an agency or agencies and defining
24 their powers and duties, which shall include only the
25 powers—

1 " (i) to administer such order in accordance with
2 its terms and provisions;

3 " (ii) to make rules and regulations to effectuate
4 the terms and provisions of such order;

5 " (iii) to receive, investigate, and report to the
6 Secretary of Agriculture complaints of violations of
7 such order; and

8 " (iv) to recommend to the Secretary of Agri-
9 culture amendments to such order.

10 No person acting as a member of an agency established pur-
11 suant to this paragraph (B) shall be deemed to be acting
12 in an official capacity, within the meaning of section 10 (g)
13 of this title, unless such person receives compensation for his
14 personal services from funds of the United States.

15 " (C) Incidental to, and not inconsistent with, the
16 terms and conditions specified in subsections (4) and (5)
17 and necessary to effectuate the other provisions of such
18 order.

19 " ORDERS WITH MARKETING AGREEMENT

20 " (6) Except as provided in subsection (7) of this
21 section, no order issued pursuant to this section shall become
22 effective until the handlers (excluding cooperative associa-
23 tions of producers who are not engaged in processing, dis-
24 tributing, or shipping milk or the product thereof covered
25 by such order) of not less than 50 per centum of the volume

1 of milk or the product thereof covered by such order which
2 is produced or marketed within the production or marketing
3 area defined in such order have signed a marketing agree-
4 ment, entered into pursuant to section 8b of this title, which
5 regulates the handling of milk or the product thereof in the
6 same manner as such order.

7 "ORDERS WITH OR WITHOUT MARKETING AGREEMENT

8 "(7) Any order issued pursuant to this section shall
9 become effective in the event that, notwithstanding the
10 refusal or failure of handlers (excluding cooperative associa-
11 tions of producers who are not engaged in processing, dis-
12 tributing, or shipping milk or the product thereof covered
13 by such order) of more than 50 per centum of the volume
14 of milk or the product thereof covered by such order which
15 is produced or marketed within the production or marketing
16 area defined in such order to sign a marketing agreement
17 relating to such milk or product thereof, on which a hearing
18 has been held, the Secretary of Agriculture, with the
19 approval of the President, determines:

20 "(A) That the refusal or failure to sign a marketing
21 agreement (upon which a hearing has been held) by the
22 handlers (excluding cooperative associations of producers
23 who are not engaged in processing, distributing, or ship-
24 ping milk or the product thereof covered by such order)
25 of more than 50 per centum of the volume of milk or the

1 product thereof specified therein which is produced or
2 marketed within the production or marketing area speci-
3 fied therein tends to prevent the effectuation of the declared
4 policy of this title with respect to such milk or product; and

5 “(B) That the issuance of such order is the only
6 practical means of advancing the interests of the producers
7 of milk pursuant to the declared policy, and is approved
8 or favored—

9 “(i) by at least two-thirds of the producers
10 who, during a representative period determined by
11 the Secretary, have been engaged, within the pro-
12 duction area specified in such marketing agreement
13 or order, in the production for market of the milk
14 specified therein, or who, during such representative
15 period, have been engaged in the production of such
16 milk for sale or consumption in the marketing area
17 specified in such marketing agreement, or order; and

18 “(ii) by producers who, during such represent-
19 ative period, have produced for market at least two-
20 thirds of the volume of such milk produced for market
21 within the production area specified in such market-
22 ing agreement or order, or who, during such repre-
23 sentative period, have produced at least two-thirds
24 of the volume of such milk sold or consumed within

1 separate violation: *Provided*, That if the court finds that a
 2 petition pursuant to subsection (13) of this section was
 3 filed and prosecuted by the defendant in good faith and not
 4 for delay, no penalty shall be imposed under this subsection
 5 for such violations as occurred between the date upon which
 6 the defendant's petition was filed with the Secretary, and
 7 the date upon which notice of the Secretary's ruling thereon
 8 was given to the defendant in accordance with regulations
 9 prescribed pursuant to subsection (13).

10 " PETITION BY HANDLER AND REVIEW

11 " (13) (A) Any handler subject to an order may file
 12 a written petition with the Secretary of Agriculture, stating
 13 that any such order or any provision of any such order
 14 or any obligation imposed in connection therewith is not in
 15 accordance with law and praying for a modification thereof
 16 or to be exempted therefrom. He shall thereupon be given
 17 an opportunity for a hearing upon such petition, in accord-
 18 ance with regulations made by the Secretary of Agriculture,
 19 with the approval of the President. After such hearing,
 20 the Secretary shall make a ruling upon the prayer of such
 21 petition which shall be final, if in accordance with law.

22 " (B) The District Courts of the United States (in-
 23 cluding the Supreme Court of the District of Columbia) in
 24 any district in which such handler is an inhabitant, or has
 25 his principal place of business, are hereby vested with juris-

1 diction in equity to review such ruling, provided a bill in
2 equity for that purpose is filed within twenty days from the
3 date of the entry of such ruling. Service of process in such
4 proceedings may be had upon the Secretary by delivering
5 to him a copy of the bill of complaint. If the court deter-
6 mines that such ruling is not in accordance with law, it shall
7 remand such proceedings to the Secretary with directions
8 either (1) to make such ruling as the court shall determine
9 to be in accordance with law, or (2) to take such further
10 proceedings as, in its opinion, the law requires. The pend-
11 ency of proceedings instituted pursuant to this subsection
12 (13) shall not impede, hinder, or delay the United States
13 or the Secretary of Agriculture from obtaining relief pur-
14 suant to section 8a (6) of this title. Any proceedings
15 brought pursuant to section 8a (6) of this title (except
16 where brought by way of counterclaim in proceedings insti-
17 tuted pursuant to this subsection (13)) shall abate when-
18 ever a final decree has been rendered in proceedings between
19 the same parties, and covering the same subject matter,
20 instituted pursuant to this subsection (13).

21 " TERMINATION OF ORDERS AND MARKETING AGREEMENTS

22 " (14) (A) The Secretary of Agriculture shall, when-
23 ever he finds that any order issued under this section, or
24 any provision thereof, obstructs or does not tend to effec-

1 tuate the declared policy of this title, terminate or suspend
2 the operation of such order or such provision thereof.

3 “(B) The Secretary shall terminate any marketing
4 agreement entered into under section 8b, or order issued
5 under this section, at the end of the then current marketing
6 period for milk, specified in such marketing agreement or
7 order, whenever he finds that such termination is favored by
8 a majority of the producers who during a representative
9 period determined by the Secretary, have been engaged in
10 the production for market of milk, within the production
11 area specified in such marketing agreement or order, or
12 who, during such representative period, have been engaged
13 in the production of milk for sale or consumption within the
14 marketing area specified in such marketing agreement or
15 order: *Provided*, That such majority have, during such rep-
16 resentative period, produced for market more than 50 per
17 centum of the volume of such milk produced for market
18 within the production area specified in such marketing agree-
19 ment or order, or have, during such representative period,
20 produced more than 50 per centum of the volume of such
21 milk sold or consumed in the marketing area specified in
22 such marketing agreement or order, but such termination
23 shall be effective only if announced on or before such date
24 (prior to the end of the then current marketing period) as
25 may be specified in such marketing agreement or order.

1 “(C) The termination or suspension of any order or
2 amendment thereto or provision thereof, shall not be con-
3 sidered an order within the meaning of this section.

4 “PROVISIONS APPLICABLE TO AMENDMENTS

5 “(15) The provisions of this section, section 8d, and
6 section 8e applicable to orders shall be applicable to amend-
7 ments to orders: *Provided*, That notice of a hearing upon a
8 proposed amendment to any order issued pursuant to section
9 8c, given not less than three days prior to the date fixed for
10 such hearing, shall be deemed due notice thereof.”

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 9), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. DUFFY to the bill (H. R. 8492)
to amend the agricultural Adjustment Act, and for other
purposes, viz:

- 1 On page 11, line 6, strike out the word " hops ".
- 2 On page 16, lines 11 and 12, strike out the words
- 3 " hops and their products ".

Mr. WHEELER. I should feel it to be my duty to do so.
Mr. DIETERICH. Then, if the Senator will yield further, in view of that statement I withdraw my motion.

The VICE PRESIDENT. Without objection, the order heretofore entered providing for a vote at 2 o'clock is rescinded. The Chair appoints the following conferees on Senate bill 2796: The Senator from Montana [Mr. WHEELER], the Senator from Kentucky [Mr. BARKLEY], the Senator from New Hampshire [Mr. BROWN], the Senator from Maine [Mr. WHITE], and the Senator from Minnesota [Mr. SHIPSTEAD].

AGRICULTURAL ADJUSTMENT ADMINISTRATION

Mr. ROBINSON. Mr. President, the Senator from South Carolina [Mr. SMITH], Chairman of the Committee on Agriculture and Forestry, is prepared to move to proceed to the consideration of the bill to amend the Agricultural Adjustment Act. He is now on his way to the Chamber. There is pending before the Senate, however, the water carriers bill. I inquire of the Senator from Montana [Mr. WHEELER], who is in charge of that bill, whether he desires at this time to proceed with that bill or is he willing to have it laid aside?

Mr. WHEELER. Mr. President, as the Senator from Arkansas knows, my time has been taken up for the last 2 or 3 days by the holding-company bill, which has just been disposed of. I should much prefer to let the so-called "A. A. A. bill" be considered at this time, but I should like to have an opportunity to take up the other bill before the session closes.

Mr. ROBINSON. In the absence of the Chairman of the Committee on Agriculture and Forestry [Mr. SMITH], who is on his way to the Chamber, I move that the Senate proceed to the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. COPELAND. Mr. President, the water-carrier bill would then go back to the calendar?

Mr. ROBINSON. Yes; it would be displaced.

Mr. McNARY. Mr. President, by unanimous consent a few moments ago disposition was made of the agreement under which a vote was to be taken at 2 o'clock today on the holding-company bill, and the bill has been sent to conference.

The VICE PRESIDENT. That is correct.

Mr. McNARY. The pending measure now before the Senate is the so-called "Wheeler bill", affecting water-borne traffic, and to bring it under the jurisdiction of the Interstate Commerce Commission. Is the Senator from Montana now consenting to a withdrawal of the unfinished business and its restoration to the calendar?

Mr. ROBINSON. Mr. President, if I may answer the inquiry, let me say that, in view of the statement just made by the Senator from Montana, I have moved to proceed to the consideration of another bill, which would have the effect of displacing the unfinished business.

Mr. McNARY. I was not clear whether it was to be a displacement or merely a temporary laying aside during the consideration of the A. A. A. amendments.

Mr. ROBINSON. If my motion shall be agreed to, it would have the effect of displacing the unfinished business.

The VICE PRESIDENT. The question is on the motion of the Senator from Arkansas.

Mr. McNARY. Mr. President, there is some opposition to the bill. I note the absence at the moment of the Senator from Virginia [Mr. BYRD].

Mr. ROBINSON. I shall suggest the absence of a quorum if the Senator desires.

Mr. McNARY. I think that had better be done.

Mr. ROBINSON. Very well. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Bilbo	Byrd	Coolidge
Ashurst	Black	Byrnes	Copeland
Austin	Bone	Capper	Costigan
Bachman	Borah	Caraway	Davis
Bailey	Brown	Carey	Dickinson
Bankhead	Bulkeley	Chavez	Dieterich
Barbour	Bulow	Clark	Donahay
Barkley	Burke	Connally	Duffy

Fletcher
Frazier
George
Gerry
Gibson
Glass
Gore
Guffey
Hale
Harrison
Hastings
Hatch
Hayden
Holt
Johnson

Keyes
King
La Follette
Lewis
Logan
Lonergan
McAdoo
McGill
McKellar
McNary
Maloney
Metcalf
Minton
Moore
Murphy

Murray
Neely
Norbeck
Norris
Nye
O'Mahoney
Overton
Pittman
Pope
Radcliffe
Reynolds
Robinson
Russell
Schall
Schwellenbach

Sheppard
Shipstead
Smith
Steiger
Thomas, Okla.
Townsend
Trammell
Truman
Tydings
Vandenberg
Van Nuys
Wagner
Walsh
Wheeler
White

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from Arkansas that the Senate proceed to the consideration of House bill 8492.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which had been reported from the Committee on Agriculture and Forestry with amendments.

Mr. SMITH. Mr. President, I ask unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that committee amendments be first considered.

The VICE PRESIDENT. Without objection, it is so ordered. The clerk will state the first amendment of the Committee on Agriculture and Forestry.

The first amendment of the Committee on Agriculture and Forestry was, on page 3, line 2, after the word "than", to strike out the comma and "or is likely during the current or next succeeding marketing year for such commodity to be less than the fair exchange value thereof, and" and insert "the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and", so as to read:

Sec. 2. Section 8 of the Agricultural Adjustment Act, as amended, is amended by striking out everything preceding subsection (2) and inserting in lieu thereof the following:

"(1) Whenever the Secretary of Agriculture has reason to believe that:

"(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and"

The amendment was agreed to.

The next amendment was, on page 3, line 16, after the word "title", to strike out the words "and that the exercise of any one or more of such powers would be administratively practicable"; and in line 21, after the word "shall", to insert the words "proclaim such determination and shall", so as to make the paragraph read:

"(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that the exercise of any one or more of the powers conferred upon the Secretary under subsections (2) and (3) of this section would tend to effectuate the declared policy of this title,

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination and shall exercise such one or more of the powers conferred upon him under subsections (2) and (3) of this section as he finds, upon the basis of such investigation, administratively practicable and best calculated to effectuate the declared policy of this title.

The amendment was agreed to.

The next amendment was, on page 4, line 19, before the words "to be made", to insert "subject to the consent of the producer", so as to read:

"(2) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall provide, through agreements with producers or by other voluntary methods—

"(a) For such adjustment in the acreage or in the production for market, or both, of any basic agricultural commodity, as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, will tend to effectuate the declared policy of this title, and to make such adjustment program practicable to operate and administer, and

"(b) For rental or benefit payments in connection with such agreements or methods in such amounts as he finds, upon the basis

of such investigation, to be fair and reasonable and best calculated to effectuate the declared policy of this title and to make such program practicable to operate and administer, to be paid out of any moneys available for such payments or, subject to the consent of the producer, to be made in quantities of one or more basic agricultural commodities acquired by the Secretary pursuant to this title.

The amendment was agreed to.

The next amendment was, on page 5, line 17, after the word "than", to strike out the comma and "and is not likely during the current or next succeeding marketing year for such commodity to be less than the fair exchange value thereof, or" and insert "the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or", so as to read:

"(3) Subject to the provisions of subsection (1) of this section, the Secretary of Agriculture shall make payments, out of any moneys available for such payments, in such amounts as he finds, upon the basis of the investigation made pursuant to subsection (1) of this section, to be fair and reasonable and best calculated to effectuate the declared policy of this title:

"(a) To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof;

"(b) To expand domestic or foreign markets for any basic agricultural commodity or product thereof;

"(c) In connection with the production of that part of any basic agricultural commodity which is required for domestic consumption.

"(4) Whenever, during a period during which any of the powers conferred in subsection (2) or (3) is being exercised, the Secretary of Agriculture has reason to believe that, with respect to any basic agricultural commodity:

"(a) The current average farm price for such commodity is not less than the fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or."

Mr. McNARY. Mr. President, we are proceeding so rapidly that I cannot turn the pages of the bill with sufficient celerity to keep up. May we have the amendment again reported?

The VICE PRESIDENT. The clerk will again state the amendment.

The Chief Clerk again stated the amendment.

Mr. McNARY. Mr. President, I think the chairman of the committee should explain the reason for the insertion of this language and the elimination of the original language.

Mr. SMITH. Mr. President, as the Senator knows, he being a member of the committee, at every meeting of the committee we had present a majority of the members. After full consideration it was determined that the language proposed to be inserted was more in conformity with the practices of the different departments, the Interstate Commerce Commission, and others, and that the new language would come nearer expressing the purposes and ideas than would the language of the House bill. The new language is:

The fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or.

Then follows the original language of the bill, so that it provides that there may be ascertained just what is the fair exchange value during the current year, as distinguished from the language used by the House. That was unanimously agreed to by the committee.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. BYRD. Mr. President, a parliamentary inquiry. I should like to know what the amendment is.

The VICE PRESIDENT. The clerk will restate the amendment.

The CHIEF CLERK. On page 5, line 17, after the word "than", it is proposed to strike out the comma and all down to and including the word "or", in line 20, and to insert in lieu thereof:

The fair exchange value thereof, and the average farm price for such commodity is not likely to be less than the fair exchange

value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, on page 6, line 6, after the word "title", to strike out "or that the exercise thereof would not be administratively practicable", so as to make the paragraph read:

(b) The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers would, if exercised, tend to effectuate the declared policy of this title.

The amendment was agreed to.

The next amendment was, on page 6, line 10, after the word "he", to insert "shall proclaim such determination, and"; in line 13, after the word "such", to strike out "finding" and insert "proclamation"; in line 14, after the word "new", to strike out "finding" and insert "proclamation"; and in line 15, after the word "section", to insert "except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section", so as to make the paragraph read:

he shall cause an immediate investigation to be made to determine such facts. If, upon the basis of such investigation, the Secretary finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section—

Mr. BYRD. Mr. President, I hope the Senator from South Carolina will explain the purpose and effect of some of these amendments before they are adopted.

Mr. McNARY. Mr. President, I was about to make the same request which has just been made by the Senator from Virginia.

The PRESIDING OFFICER (Mr. VAN NUYS in the chair). Will the Senator from Virginia state his request?

Mr. BYRD. I should like to ask the Senator from South Carolina to return to the top of page 5, and to explain what is meant there by the words:

To remove from the normal channels of trade and commerce quantities of any basic agricultural commodity or product thereof.

Is the meaning of those words that the particular commodity is going to be destroyed, or how will it be taken out of the normal channels of trade and commerce?

Mr. SMITH. Mr. President, the Senator from Virginia is as familiar as I with the conditions which existed, which brought about an effort to enact legislation of this kind. We were confronted with enormous surpluses. I had the privilege of introducing what was known as the "option plan", which attempted to remove some of the surpluses by substituting them for subsequent production.

The plan worked admirably. Anyone who is at all familiar with farm products knows that very often the price goes below the cost of production; and when our foreign markets were practically destroyed by the cataclysm which occurred in 1929, particularly those farm products which were produced in excess of domestic consumption were piled up in this country. There was no domestic demand for the excess, and no chance to sell it abroad; and the consequence was that the price went down below the cost of production. The common-sense view was that if we had already produced more than could be domestically consumed or sent abroad, and the price was below the cost of production, the Government should assume the ownership of the excess and redistribute it to the producers in lieu of subsequent production.

The result was that through that option plan large quantities of these surpluses were substituted for subsequent production, thereby restoring the action of the law of supply and demand, and giving the producer the benefit of the

subsequent rise in price of the crop he had already produced rather than leaving it in speculative hands for speculators to have the benefit as against the man who would produce another crop.

That is the object of that provision of the bill. I think the Senator from Virginia would be heartily in accord with any plan by which, whenever for any reason a surplus should be accumulated sufficient to force the price of a commodity below the cost of production, an arrangement should be made that the producer might, by reducing his subsequent production, be the beneficiary of the surplus he had already produced.

That is the object of that provision. I hope the explanation is satisfactory to the Senator.

Mr. McNARY. Mr. President, I suggest to the able chairman of the committee this procedure: I think very few Members of the Senate are familiar with these amendments and the reasons why they are recommended. The members of the committee, of course, are very familiar with them. If the Senator from South Carolina would take up the amendments one by one, and explain as we go along their general purpose, stating at the same time what is really wrong with the organic act, I think it would do a great deal to make the various proposals clear to the minds of Senators.

Mr. SMITH. Mr. President, when I planned to ask for the consideration of this bill I intended to address the Senate as to its general purpose, and then, if anyone asked for an explanation, to explain, so far as the chairman was able to do so, the changes made in the House text by the Senate committee. I was busily engaged in preparing myself for that, thinking we would take up the bill at 2 o'clock after the fulfillment of the unanimous-consent agreement. I did not know the unanimous-consent agreement would be withdrawn, and therefore was not present when that action was taken. I desire to take this occasion to explain my attitude, as chairman of the committee, toward these amendments.

Mr. WALSH. Mr. President, would it not be well for the Senator to do that now?

Mr. SMITH. I am going to begin now.

Mr. WALSH. Very well. In other words, the Senator now is going to discuss the bill?

Mr. SMITH. I am going to discuss it as it now stands. That is what I am about to do.

In the first place, Mr. President, I wish all Members of the Senate were present, for I think it is essential in discussing the amendments to this bill to have the Senate become farmer-minded, to consider the farmer in the relation which he now bears and has borne from time immemorial to our organized society. I take it that the bill is an attempt on the part of the Government to set up an organization for the farmer which will stand as a bulwark against the organized processors and distributors.

From time immemorial the farmer has been exploited because he was unorganized. Every Senator who is at all familiar with farming understands that the man who produces the raw material in the field never has had a voice in the price he has received. He pays the freight, he pays all the expenses incidental to production, and the price he receives is what is left after the purchaser has deducted all the expense incidental to the purchase. Then, if anything is left, the producer gets it. If what he receives is less than the cost of production he accepts that, until today more than 50 percent of the farms of America, regardless of their location, are under mortgage.

This is an attempt on the part of the Government to create a line of resistance for the benefit of the farmer. There may be in the bill, and there appear to be from time to time, what seem to be arbitrary provisions; but I desire to have Senators bear in mind that, this being an effort on the part of the Government to recognize the unorganized and helpless condition of the farmer, we are attempting to create an organization which will stand in lieu of the organization with which he has to deal.

In addition to that, there is not a provision in the bill which does not predicate its enactment upon the consent of the producer. That privilege is extended to him in every section of the bill. His majority consent is made the basis of any enactment in the bill. There is presented to him this proposition: How does this seem to you? Is it efficient in enabling you, through the agency of the Government, to receive at least some semblance of return for the wealth you produce?

There are certain features which I have never supported and never can support. One is the high protective tariff. I have never considered that the Congress had any right to impose a protective tariff. We can provide for a tariff for revenue, which may be burdensome at times, but we have no constitutional right to impose a protective tariff. The power is not given in the Constitution. But so far as this bill is concerned, from start to finish it provides for action by and with the consent of the producer.

I am asking Senators, when they come to criticize the bill, to make their criticisms constructive in reference to the unorganized, helpless farmers, and not destructive criticisms, for the benefit of those who have exploited the farmer from time immemorial.

I am no more enthusiastic than are other Senators about dictatorship. There is no place in the United States for the voice of a dictator. It is an alien and obnoxious voice. It ought always to be denounced wherever it shows itself or makes an intimation of its intent. The pending measure is as far removed from the idea of dictatorship in reference to the man who produces as it could be. I hope the Senate will have clearly in mind the distinction between processors and distributors and the man who, in the field, in the sun, in the rain, in the winter, spring, and summer gambles with Nature as to what he will produce—unorganized, incapable of organization—yet the aggregate of whose efforts feeds the Nation and furnishes the material out of which the Nation is clothed. I want Senators in acting on this bill to consider that man, and not the man who processes and distributes. Let us first take care of the man who produces that upon which we live, and the others will be certain to take care of themselves.

I hope that those who come prepared to antagonize the bill on the ground of it being a bill to delegate arbitrary and dictatorial powers will consider the fact that there is not an element in it or a provision in it that is not predicated upon the vote of the man who produces. Let us all consider that fact, and if we have a criticism to make, let us remember those in the field who are producing the foodstuffs, who have asked and voted overwhelmingly for the provisions of this bill.

Mr. President, we talk about the law of supply and demand.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. Let me finish this thought. We talk about the law of supply and demand. There is another law which is as irrevocable as is the law of supply and demand. I refer to the law by which everything takes the line of least resistance. Everything moves along the line of least resistance. Every element of Nature moves along the line of least resistance, and that law is as potent and deadly in the realm of commerce as it is in the natural world. Consequently, all those who deal in farm products get their profits out of the depression of farm prices, because the farmer offers the line of least resistance.

What business is there in the United States today that pays the freight, except the business of farming, where the producers receive for their goods what is left after those who handle them have deducted every expense incident to the handling? In the case of one commodity with which I am particularly familiar there is a contract which is an institution, known as the "cif and six" contract, so named because those are the initials of the things which characterize the contract—cost, insurance, freight, and 6 percent for tariff. The man who produces the material does not even get paid for the wrappings in which he is compelled to

package his product. Six percent is deducted before the price is fixed, together with all the costs incident to handling—cost, insurance, freight, "cif and six." If there is anything left, the producer gets it, and if not, he can produce some more.

The pending measure is an attempt on the part of the Government—I take it to be an honest attempt—to set up an organization which will function in some degree for the benefit of the man who is unorganized, but upon whom we are all dependent. Once again let me ask the Members of this body, in considering this bill and asking the meaning of any amendment, to keep in mind that the entire bill is for the purpose of giving to the producer of the raw material at least a partial chance of sharing in the wealth he produces.

This is a producer's bill, and we are attempting to control the processor in the instrument that is invoked here for the purpose of handing back to the producer a part of the profit to which he is entitled.

Mr. BYRD. Mr. President—

Mr. SMITH: I now yield to the Senator from Virginia.

Mr. BYRD. The Senator just stated that no restrictions could be placed on the producer without his consent. I will ask him to refer to page 20, subsection (8)—

Mr. SMITH. I know to what the Senator refers.

Mr. BYRD. Which gives to 50 percent of the handlers of any commodity the right to impose licenses, or orders or whatever they may be called, on the producers, without a vote on the part of the producers.

Mr. SMITH. To what does the Senator refer?

Mr. BYRD. I refer to subsection (8) on page 20.

Mr. SMITH. That is predicated upon the producers agreeing beforehand.

Mr. BYRD. Will the Senator show me where the producers are to agree?

Mr. SMITH. It reads:

The volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8 (b) of this title, which regulates the handling of such commodity.

Mr. BYRD. Is the Senator reading at the bottom of page 20?

Mr. SMITH. At the bottom of the page.

Mr. BYRD. The section reads in this way:

(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 percent of the volume of the commodity or product thereof. * * *

Mr. SMITH. The Senator has mistaken the purpose of this section. This is the provision for the elimination of the licensing feature and is a proposal for the issuance of orders to regulate the commodity in its interstate movement, and it provides that before such an order can issue the designated number of those engaged in the industry shall sign.

Mr. BYRD. Mr. President, the Senator has suggested that no restrictions may be put upon the producers without their consent, and the bill provides that the orders referred to, which, in my judgment, are just the same as licenses, whereby the amount of a commodity to be produced and the markets to which it is to be shipped may be restricted, and even the price fixed, can be imposed by 50 percent of the handlers.

Mr. SMITH. Oh, no; that is based upon the previous consent of the producers.

Mr. BYRD. Will the Senator show me where provision is made for such consent?

Mr. SMITH. It is provided in every section of the bill.

Mr. BYRD. Will the Senator show me one section in which it is provided?

Mr. SMITH. Mr. President, the proportion runs from two-thirds down to 50 percent. The Senator knows it is in practically every paragraph in the bill.

Mr. BYRD. It is only provided in the event that 50 percent of the handlers do not oppose the orders, then 75 percent of the growers may act. My contention is that it should originate with the producers themselves.

Mr. SMITH. It does originate with the producers.

Mr. BYRD. Will the Senator show me the specific provision under which it would originate with the producers?

Mr. SMITH. All the agreements and all the orders issued under the bill are based on the previous marketing agreements of the producers. The Senator knows that to be so. Every single order that is going to be issued to control a handler or a processor is dependent entirely upon whether or not a previous marketing agreement for the particular commodity has been entered into by the producers.

Mr. BYRD. Marketing agreements can be made with the approval of 50 percent of the handlers and without the approval of 75 percent of the producers.

Mr. SMITH. The Senator is entirely mistaken.

Mr. BYRD. Would the Senator mind showing the specific provision where such approval is provided for?

Mr. SMITH. I thought the Senator was sufficiently familiar with the bill and I thought I would be sufficiently familiar with it to give the specific language; but I state here and now that, with one exception, there can be no order issued to any processor, except and unless it is based upon a marketing agreement.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BARKLEY. As I understand this bill, it provides for various amendments to the existing law. It is not an original, new bill. It is an amendment of existing law, as I understand, and the existing law provides that all the producers shall enter into a marketing agreement previous to the consummation of any of the provisions in any of the amendments. So, even though the provision is not contained in the amendment now under consideration, my understanding is that the original law makes the provision.

Mr. SMITH. Yes; the original law makes the provision.

Mr. BYRD. Mr. President, I have studied the matter very carefully, and I differ from both the Senator from South Carolina [Mr. SMITH] and the Senator from Kentucky [Mr. BARKLEY]. I ask the Senator from South Carolina to point to a specific provision whereby 75 percent of the producers must agree before the restrictions are placed upon them.

Mr. SMITH. Mr. President, I did not say 75 percent. There are provisions whereby 75 percent are required to agree. There are other provisions where a majority only is required. The proponents of the bill, those who drafted the bill, were so careful that they took into consideration the fact that a majority of the producers might sometimes represent less than a majority of the product provided for in several sections of the bill, and therefore they included both.

Mr. GORE. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GORE. The Senator said the proponents of the bill, those who drafted the bill, made that arrangement.

Mr. SMITH. I meant these amendments.

Mr. GORE. Will the Senator indicate who drafted the bill?

Mr. SMITH. I wish I knew.

Mr. GORE. I understand.

Mr. BYRD. Mr. President, I do not wish to insist upon an answer by the Senator from South Carolina—

Mr. SMITH. Mr. President, I will have those provisions segregated, and I will read them into the Record, since the Senator has raised the question. I will refer to the different specific provisions in the original act and in this amendatory bill, showing that all the amendments are predicated upon matters contained in the original act.

Mr. BYRD. I should like to have the Senator show that.

Mr. SMITH. Yes; I will have them put in at the proper place. I have requested my clerk to prepare them.

Mr. President, in the consideration of both the House text and the Senate committee amendments, I hope we shall keep in mind the essential fact that this is an effort on the part of

the Agricultural Department—and I hope on the part of the Senate—to do for the farmer what from time immemorial he has been unable to do for himself; and that is the only reason why I have given my consent to the guarantee provision of the bill.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. HATCH. Merely for the sake of clarity and understanding, I desire to ask the Senator if it be true that the provision of the pending bill relating to orders altogether supplements the previous law relating to licenses. Those provisions are all repealed.

Mr. SMITH. I am glad the Senator called my attention to that matter. After the decision of the Supreme Court, which was based upon the fact that we had delegated legislative power with a roving commission to the Agricultural Department, according to the agreement of the committee—and the Senator will bear me out in this—we read every line and every paragraph of this bill, and the chairman of the committee asked the members of the committee, "Have you any comments to make? Have you any amendments to offer?" When those matters were completed, the question was asked, "Are you ready to vote?" Is that not correct?

Mr. HATCH. That is entirely correct. I will say that the chairman of the committee was very careful to bring about that condition and labored very diligently to see that each member of the committee understood every word of the bill. If they did not, it is not his fault.

Mr. SMITH. Permit me to say, Mr. President, that I have been Chairman of the Committee on Agriculture and Forestry since the present administration came into office, and I have been chairman of other committees in other administrations; and I have never before had reason or occasion for reading every line and every paragraph of a bill and insisting that every member of the committee should be present at committee meetings. The committee at all its meetings had an overwhelming majority of the members present, so that every member of the committee who is now on the floor of the Senate, or who may be here later, is thoroughly familiar with the purpose of the amendments and of the bill.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. Were all the members of the Committee on Agriculture and Forestry present when wool and mohair were inserted in the bill?

Mr. SMITH. I think they were; and I think a member of the committee representing the section where wool and mohair originate is the author of that provision, and the one who had that provision placed in the bill.

Mr. BORAH. Yes; I understand that to be so. I also understand, however, that there was no consideration whatever of it, and no discussion of it. I will ask the Senator if there was any discussion of it in the committee.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. HATCH. I may throw a little light on the question of wool and mohair, because I know many Senators are interested in the question.

At the request of Mr. Byron Wilson, I suggested to the committee that the question of wool and mohair be taken up. We discussed it very little. I think I made a statement that the wool people were not at all in accord with the amendment, and the committee decided to include it, with the statement that on the floor of the Senate, Senators interested in wool and mohair could accept the amendment or reject it, as they desired. There was really no careful discussion of the question, I will say to the Senator from Idaho.

Mr. BORAH. I thank the Senator. We can shorten the discussion a great deal by accepting the information furnished by the Senator from New Mexico.

Mr. SMITH. Yes; and I think the same thing may apply to hops.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GEORGE. May I ask why the provision in the House bill, "and not including fruits for canning" was stricken out?

Mr. SMITH. From what page is the Senator reading?

Mr. GEORGE. Page 11, subsection (2), "Commodities to which applicable".

Mr. SMITH. The Senator refers to the words, "and not including fruits for canning"?

Mr. GEORGE. "Not including fruits for canning." The committee amendment includes canners of fruits, but it does not include canners of vegetables. I should like to understand the reason for it.

Mr. KING. Why not strike them all out?

Mr. SMITH. The committee at great length discussed the question of fruits for canning. It was stated that the market for fruits was very often dependent upon the amount used for canning purposes, and therefore, if the canners should be exempted from these marketing agreements, that the producers of fruits perhaps would suffer in the matter of their market just as though they had no agreement at all.

Mr. GEORGE. Will the Senator state who asked that that language be stricken out, or who made the request of the committee?

Mr. SMITH. Mr. President, that was committee action. There were members of the committee who represented the fruit regions, and after discussion for days I think that action was taken.

Mr. GEORGE. I broaden my inquiry, and ask all members of the committee, then, why that was stricken out. I should like to know why.

Mr. SMITH. We have on the committee members from the fruit-producing sections, and they contended that such a vast amount of fruit was canned, that if such fruit were left out the market price of the fruit would be disastrously affected, in that perhaps the major portion of the crop would be at the mercy of those who canned fruit.

Mr. GEORGE. I think the Senator is familiar with the facts. In the southern market the one supporting element of green fruits is the canner, on whom the grower can always fall back for a stable price. If fruits for canning are to be subject to the orders of the Agricultural Adjustment Administration, why not vegetables for canning? Is there any essential difference?

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. MURPHY. My recollection of the discussion in the committee on the subject of excluding vegetables for canning is that it is hoped the effect of the inclusion of vegetables will be to increase the price of vegetables by bringing them under regulations in connection with directing their flow to market. By increasing the price of fresh vegetables the price of vegetables for canning is increased, because the price of the vegetables for canning is what is known as the "spot" price. It is not a price agreed upon in advance, when the contract is made with the grower of the vegetables for delivery at a given time.

Mr. GEORGE. I will say to the Senator from Iowa that he is hardly correct when he applies it all to price under contract. In many sections of the country vegetables are grown on contract just as are fruits.

Mr. MURPHY. With an agreed price.

Mr. GEORGE. Yes; or else they could not be grown.

Mr. MURPHY. I do not insist that my information is correct; but, nevertheless, it is my information that the price of vegetables for canning is the "spot" price, not settled upon in advance when the contract is made. The agreement is as to acreage or production, it being impossible to determine so far in advance what the price is likely to be when the crop is ripe and ready for canning.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. JOHNSON. I may say to the Senator from Georgia it is my intention to endeavor to amend the clause which reads "vegetables (not including vegetables for canning)" by placing under the law asparagus. That is one particular

vegetable as to which the producers in my locality have made the request and are very earnest in their desire.

Mr. NORRIS and Mr. KING addressed the Chair.

The PRESIDING OFFICER. Does the Senator from South Carolina yield; and if so, to whom?

Mr. SMITH. I yield first to the Senator from Nebraska.

Mr. NORRIS. Let me suggest to Senators that I think the question we are now discussing is one of considerable importance upon which there will be various opinions expressed. It will come up when we proceed further with the bill and amendments are offered. Would it not result in a saving of time if the discussion of the details as to fruits and vegetables and their canning, whether they should be included or not included, should await the offering of amendments which will undoubtedly be presented as we proceed with the bill? This particular item is quite a distance further on in the bill.

Mr. SMITH. Mr. President, I want to accommodate myself to the will of the Senate. I thought it might be best for us to consider the committee amendments and then take up whatever amendments are to be proposed or whatever amendments may suggest themselves as we go along. That procedure would not estop any Senator from seeking to reject a committee amendment or to move to amend the bill otherwise. I would prefer to go ahead with the committee amendments.

Mr. FLETCHER. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Florida?

Mr. SMITH. I yield.

Mr. FLETCHER. This question comes up on agreeing or not agreeing to the committee amendment.

Mr. NORRIS. We have not reached it as yet.

Mr. SMITH. No; it has not as yet been reached.

Mr. FLETCHER. The bill eliminates fruits for canning.

Mr. NORRIS. But we have not reached that amendment in the bill as yet.

Mr. FLETCHER. I know we have not, but I am suggesting that the committee amendment will involve the whole question, and I certainly shall insist that the committee amendment be rejected.

Mr. SMITH. Mr. President, we will discuss the amendments as we reach them in the regular order.

Mr. KING and Mr. GEORGE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from South Carolina yield; and, if so, to whom?

Mr. SMITH. I yield first to the Senator from Utah.

Mr. KING. As the Senator from South Carolina knows, most of the Members of the Senate are not members of his committee, and all of us have other duties of more or less importance which keep us from the floor of the Senate; but some of us would like to know just what changes have been made in the present law by the pending bill. I should be very glad—and I hope that I voice the sentiments of other Senators—to have the Senator take his time to explain to us every change that has been made in the present law, and the changes which have been made in the House bill, but particularly the former. I should like to know wherein we have amplified or changed existing law.

Mr. SMITH. I think I can say, almost in a sentence, that the existing law is not materially changed at all. I think that there is merely a substitution of language wherever it was found, in the opinion of those who drafted the amendments, that the law happened to run counter to the decision of the Supreme Court in the *N. R. A.* case. They accommodated themselves to that fact, and arranged the bill so that the provisions which are before the Senate, so far as they were able to do so, are made to conform to the decision of the Supreme Court.

Mr. KING. Mr. President, will the Senator yield further?

Mr. SMITH. Yes.

Mr. KING. Mr. President, I do not want to disagree at all with my friend, whom I love, but I must be permitted to say that I hastily read the bill last night, and of all the subtle, misleading, nonunderstandable language that can be found

in a measure, it seems to me we find it in the bill which is before us.

I do not agree with the Senator—but probably he is right and I am wrong—that it does not change existing law. I think that it does; I think that it seeks a complete regimentation of the American producers and the American handlers, so-called, with respect to all the commodities which are embraced within the measure. I think it is a scheme for the purpose of nullifying the rights of individuals and subjecting them to a process of regimentation which will, in the end, be most offensive and destructive to individual liberty.

Mr. BANKHEAD. Mr. President, may I ask the Senator from Utah a question?

Mr. KING. I have not the floor.

Mr. SMITH. I yield to the Senator from Alabama.

Mr. BANKHEAD. I should like to know if the Senator from Utah did not express exactly the same views when the original bill was passed?

Mr. KING. I hope that I did; and I am sure that if I did I was correct.

Mr. NORRIS. Mr. President—

Mr. SMITH. Let me answer what the Senator from Utah has said as to regimentation by saying that, aside from the opinion that I voiced when I first took the floor—and I am now having my clerk mark out the places for reference—I think every member of the committee will bear out the statement I make that there is not a single instance where a control is introduced but that it is predicated upon the consent of the producer. Am I right? I am asking members of my committee.

Mr. MURPHY. I think the Senator is correct.

Mr. GLASS. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. SMITH. I yield to the Senator from Virginia.

Mr. GLASS. I should like to have perhaps an idle curiosity of mine gratified by making an inquiry of the Senator from South Carolina. For a long period of time there has been quite an intense crusade to bring about birth control among human beings, without success. I note here that it is proposed to confer upon the Secretary of Agriculture the right to bring about birth control among bees. [Laughter.] I can understand that the drone bees, after they have had their day in court [laughter]—

Mr. SMITH. Their day at courting.

Mr. GLASS. After they have had their day in court, are said to die, so that they may be self-controlled in that way; but I should like to know just exactly how the Secretary of Agriculture proposes to control the queen bees. [Laughter.]

Mr. SMITH. I think it is very much along the line of birth control amongst individuals. So far as the bee provision is concerned, whence it came the chairman of the committee knows not, but there was a majority of the committee for it; when it was proposed to include bees and queen bees, the question was put to the committee and a majority voted to incorporate the provision. I am thoroughly unfamiliar with the bee business, but I do wish that we could pass some law that would have the same effect on the human family that there is on drone bees.

Mr. GLASS. I have a good many bees; I do not know how many of them are queens; but I am just a little curious to know how I am expected to control the queen bees. [Laughter.]

Mr. SMITH. I think that the proponent of that provision of the bill will probably have to explain it. As chairman, I plead ignorance entirely of any of the marketing agreements in reference to bees. I did hear it said that there is a peculiar queen bee known as the "Italian queen bee", which, when put into a hive, affects with an Italian flavor all the subsequent bees in that hive.

Mr. GLASS. Of course we can control the Italian queen bees by prohibiting their importation into this country.

Mr. SMITH. No; they have been here for many years; there are plenty of them here.

Mr. GLASS. They are already here?

Mr. SMITH. Yes; they are here.

Mr. GLASS. So we cannot control those that are here, but—

Mr. FLETCHER. Can we not license them?

Mr. GLASS. I should like to understand how the Secretary of Agriculture can come down to my plantation in Virginia and require me to discriminate against my queen bees. [Laughter.]

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. TYDINGS. I can say to the Senator from Virginia it is my understanding that the man owning a queen bee will be furnished with a logarithm for each bee which he owns, which will solve the equation, and the owner will be able to get such logarithms on application. [Laughter.]

Mr. GLASS. That may explain it.

Mr. BANKHEAD. Mr. President—

Mr. SMITH. I yield.

Mr. BANKHEAD. Waiving, of course, the facetiousness of the remarks of the Senator from Virginia, permit me to say that this amendment was incorporated at the request of the bee shippers of this country. It is quite a large industry in some 6 or 8 States, and there are now bee-bargaining agreements under which the bee producers are operating and with which they are satisfied.

Of course, the facetious remarks about birth control might as well be applied to fruits or vegetables or anything else included in this bill.

Mr. GLASS. Yes; I think they might be.

Mr. BANKHEAD. The provision does not relate to anything except the matter of the orderly marketing of the shipment of package bees, queen bees, which are in demand throughout the country. A number of requests came from 6 or 8 States, and it was pointed out—and the Department of Agriculture confirmed the suggestion—that the bee owners were now operating under marketing agreements and merely wanted to preserve what they have.

Mr. GLASS. I am not facetious about it; I am serious about it. I do not want to be fined and put in jail because I just cannot control the actions of my queen bees. [Laughter.] Therefore I want to know what is the meaning of it. I cannot conceive how the Secretary of Agriculture can control my queen bees. [Laughter.]

Mr. BANKHEAD. If the Senator is not facetious about it, I should like to have him point out anything in the bill that indicates any effort of control along the line he is talking about.

Mr. GLASS. This section of the bill does.

Mr. BANKHEAD. It relates to marketing agreements.

Mr. GLASS. I know, but it controls my queen bees or at least it is designed to control them.

Mr. BANKHEAD. It is designed to control their shipment.

Mr. GLASS. Well, that means production and shipment of queen bees. Nobody is going to overproduce queen bees and keep them in his hive; he will want to ship them. I just want to know how the Secretary of Agriculture is going to handle it.

Mr. SMITH. I think the request of those who produce bees for the market is responsible for the provision, but I am thoroughly unfamiliar with the facts. It is, however, rather complimentary to the effort on the part of the Agricultural Department to improve the process wherever bees are produced for the market. I never before heard of "package bees" until the question came before the committee, nor of the propagation of queen bees for market; but if the States engage in the production of bees for market and of queen bees for the propagation of particular productive honey-making bees, recognize that there is some benefit in the marketing agreements, and ask to come under them, it is more complimentary than it is destructively critical of the bill.

I do not know anything about the production of bees for markets—"package bees", as they are called—nor do I know anything about the production of queen bees. If there are Members of the Senate who are familiar with the subject it would seem to me to be their duty to explain it to

the Senate. It was not fully explained to the committee except through the medium of letters and communications which seemed to indicate it is an industry which ought to be under the regulations proposed on the theory that the bee producers are already operating under a marketing agreement relating to bees.

Personally I have no use for the bee, because he is a very active "bird" with which I am not very much inclined to be friendly, and, too, I am not very fond of honey. I was rather amazed to learn that there is an industry involving the shipment of bees.

If under marketing agreements the bee producers can be benefited and any Senator is familiar with the raising and marketing of bees, I should be glad to have an explanation. In the committee all we knew about it was that they were under a marketing agreement now and wanted to be included in the bill.

Mr. GLASS. Mr. President, I for one should like to see the bill amended to make the Secretary of Agriculture the handler of these bees. [Laughter.]

Mr. SMITH. I should not object! [Laughter.]

Mr. FLETCHER. Mr. President, may I say in that connection that in the production of honey it is not so much the kind of bees as it is the kind of flowers. We have in Florida the tupelo tree flower. Tupelo honey is the only honey produced in the world that does not coagulate or turn to sugar.

Mr. SMITH. Perhaps the bill should be so worded as to require the furnishing of tupelo flowers for the bees?

Mr. FLETCHER. Yes; the thing to do is to furnish the bees with the proper kind of flowers.

Mr. SMITH. That may be developed later.

Mr. President, may we have the next amendment stated?

The PRESIDING OFFICER. The next amendment of the committee will be stated.

The next amendment of the Committee on Agriculture and Forestry was, on page 9, line 20, after the word "and", to strike out the word "others" and the comma and insert the word "others", and in line 22, after the word "thereof", to insert the word "only", so as to make the paragraph read:

SEC. 4. Subsection (2) of section 8 of the Agricultural Adjustment Act, as amended, is amended by designating said subsection as section 8b, by inserting said section at the end of section 8a, and by amending the first sentence thereof to read as follows: "In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect, interstate or foreign commerce in such commodity or product thereof."

The amendment was agreed to.

The next amendment was, on page 10, line 8, after the word "and", to strike out the word "others" and the comma and insert "others"; and in line 12, after the word "provided", to strike out "the handling of such agricultural commodity, or product thereof, only in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect, interstate or foreign commerce in such commodity or product thereof", and to insert in lieu thereof "only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof", so as to make the paragraph read:

SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as "handlers." Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

The amendment was agreed to.

Mr. BYRD. Mr. President, a number of Senators now absent are interested in this particular section. Therefore, I make the point of no quorum.

Mr. McNARY. Mr. President, first let me ask the Senator in charge of the bill about the next amendment, in the provision headed "Commodities to which applicable." That provision is largely the heart of the bill. May it not be passed over until tomorrow? I should not want action taken on it today. It treats of the various commodities which have been included under the marketing-agreement provision. Very little time has been given to members to study the bill. This is a very important section, and I should like to have an understanding with the chairman of the committee that it shall be passed over until tomorrow.

Mr. SMITH. Mr. President, so far as the chairman of the committee is concerned, that is perfectly agreeable. I do not think we ought to go through the bill hastily. I hope all Senators will study the bill in relation to the particular benefit the farmer is to derive. There will be plenty of fight here on the part of those whose age-old rights are to be interfered with. I beg of my colleagues to think of the man who all these years has had no say whatever with reference to the price of the commodity he produces.

So far as I am concerned, I am willing that the amendment shall go over if that meets with the approval of the other Members of the Senate.

Mr. McNARY. I ask unanimous consent that consideration of the amendments covered by the section entitled "Commodities to which applicable", beginning at the bottom of page 10, may be passed over for the day.

Mr. BYRD. Mr. President, that should be enlarged to include all the amendments down to the bottom of page 29, because they all relate to the marketing agreements.

Mr. McNARY. I had particular reference to the commodities specified in this section. I am very willing that the entire provision shall go over.

Mr. BYRD. It is all interlocking down to and including page 29.

Mr. McNARY. I enlarge my request to include the provisions suggested by the able Senator from Virginia.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon?

Mr. SMITH. Mr. President, I invite the attention of the Senate to the fact that the proposal of the Senator from Oregon includes all those things which would come under the orders which have been substituted for licensing. There is a distinction in the bill between the basic crops upon which the processing tax has been laid and which do not come in this category at all. These commodities are the ones which are proposed to be subject to order. I hope every Member of the Senate who is interested in the legislation will bear in mind that every provision subject to these orders relates to interstate commerce. Provision is made in the bill whereby intrastate commodities may be included by coordinating or cooperating with the interstate or Federal forces in bringing about the condition which is desired on the part of the States only in cooperation with the Federal Government.

I desired to make that statement because my attention has been called to certain language in the bill which, detached from the preceding language, looks as though we had gone within the States on these matters, as was done in the case of licensing. That is the language which means it may be done only with the consent and cooperation of the States.

Mr. McNARY. Mr. President, I should like to have action upon my request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Oregon?

Mr. SMITH. Let me understand thoroughly the request submitted. I understand it to include all provisions down to and including page 29, all of it being related matter?

Mr. McNARY. Yes.

The PRESIDING OFFICER. The request covers all of section 5. Is there objection to the request of the Senator from Oregon? The Chair hears none, and it is so ordered. The clerk will state the next amendment.

The next amendment of the Committee on Agriculture and Forestry was, on page 36, line 24, after the word "paragraph", to strike out "(6)" and insert "(8)"; and on page 37,

line 5, after the word "on", to strike out "June 1, 1935, during the period from the date of the adoption of this amendment" and to insert in lieu thereof the words "the date of the adoption of this amendment, during the period from such date", so as to make the paragraph read:

"SPECIFIC TAX RATES

"(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

The amendment was agreed to.

The next amendment was, on page 37, after line 13, to insert the following new paragraph:

"SPECIFIC TAX RATE—MARKETING YEAR—FLOOR STOCKS—RYE

"(4) For the period from August 1, 1935, to December 1, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of 56 pounds. In the case of rye, the first marketing year shall be considered to be the period commencing August 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

Mr. BYRD. Mr. President, a parliamentary inquiry. What was that amendment?

The PRESIDING OFFICER. The amendment will be restated.

The CHIEF CLERK. On page 37, after line 13, it is proposed to insert a subhead, "Specific tax rate—Marketing year—Floor stocks—Rye", and certain other words.

The amendment was agreed to.

The next amendment was, at the top of page 38, to insert:

"SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND BARLEY

"(5) If at any time prior to December 31, 1937, any tax with respect to flaxseed, or barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. The provisions of section 16 of this title shall not apply in the case of flaxseed and barley.

Mr. McADOO. Mr. President, I ask that that amendment may go over for the moment. Will the chairman of the committee allow it to be taken up a little later? I have various protests from my State about this provision as to flaxseed, and I should like to bring them to the attention of the committee.

Mr. SMITH. Where a Senator has certain amendments which he desires to offer, I think it is proper to give him the opportunity to do so. Therefore I join in the suggestion that we pass over the amendment.

The PRESIDING OFFICER. The Senator from California asks unanimous consent that the amendment on page 38, lines 1 to 13, inclusive, go over at this time. Is there objection? The Chair hears none. The clerk will state the next amendment of the committee.

The next amendment was, under the subhead "Adjustment of rate", on page 38, after line 14, to strike out:

"(4) In accordance with the formulae and standards prescribed in this title, (A) any rate of tax prescribed in paragraphs (2) and (3) of this subsection may be decreased (including a decrease to zero), to prevent an accumulation of surplus stocks of the commodity or the products thereof, to prevent such reduction in the quantity of the commodity or products thereof domestically consumed as will result in the accumulation of surplus stocks of the commodity or products thereof, or to prevent depression in the farm price of the commodity, or may be increased, or shall terminate pursuant to proclamation as provided in section 9 (a) or pursuant to section 13, and (B) after December 31, 1937 (in the case of the commodities specified in paragraph (2) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture and shall thereafter be effective. If the applicability to any person or circumstances of any tax under this title the rate of which is fixed in pursuance of this paragraph is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied,

assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph, respectively) rates of tax fixed under paragraph (2) or (3) and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation as provided in section 9 (a) or pursuant to section 13) until altered by act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between tax at the rate fixed in pursuance of this paragraph and tax at the rate fixed under paragraph (2) or (3) shall not be levied, assessed, collected, or paid.

And to insert:

"(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection on the processing of any commodity, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity.

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection, during the 2 months immediately preceding and the first 10 months of any marketing year—

"(i) is equal to, or exceeds by 20 percent or less, the fair exchange value thereof, the rate of such tax shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 20 percent of the fair exchange value thereof.

"(ii) exceeds by more than 20 percent the fair exchange value thereof, the rate of such tax shall be reduced, at the beginning of the next succeeding marketing year, to such rate as equals 10 percent of the fair exchange value thereof.

"(C) Any rate of tax which has been decreased pursuant to this paragraph (6) shall remain at such decreased rate until further decreased pursuant to this paragraph (6), or until increased pursuant to this paragraph (6) or paragraph (1) of this subsection.

"(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraphs (2), (3), (4), or (5) of this subsection may be increased.

"(E) Any tax, the rate of which is prescribed in paragraphs (2), (3), (4), and (5) of this subsection, shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraphs (2), (3), (4), or (5) of this subsection from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, and shall remain at such rate until altered pursuant to the provisions of section 9 of this title.

"(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title, and shall, subject to such formulae, standards, and requirements, thereafter be effective.

"(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraphs (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

Mr. McNARY. Mr. President, this has all the appearance of being a very complex provision. It is inserted in lieu of the provision incorporated in the House bill. I should like to have, and I suggest that the chairman make, an ample explanation of the reasons which brought about the change.

Mr. SMITH. Mr. President, this amendment has to do with the parity price and the processing tax. The tax ostensibly is levied for the purpose of collecting from the processor a sufficient amount to produce, when returned to

the producer, what is known as the "parity price." The purchasing power of the farm dollar is sought to be raised to an equality with that of the dollar of industry. Under this provision several of us maintain that in spite of what objection may have been made to the processing tax, once it is laid, and the processor and the producer cooperate, or for whatever reason the price to the producer is raised to the parity price, it is unfair still to lay and collect the tax.

Provision is made here that when the price has reached parity, and goes as much as 20 percent above it, the processing tax shall be reduced to 20 percent or less. If during a marketing year the processing tax should be reduced, as indicated in the amendment, to zero, and the price of the commodity then should drop down, it would be impossible to impose the tax without a provision of this kind being made if it had been entirely discontinued.

I discussed that question with the Department. I maintained that when the parity price was reached the processing tax ought automatically to cease. If the object of the processing tax was to bring the price to parity, when it got to parity the processing tax should cease. My attention, however, was called to the fact that during a marketing year the price might reach parity, but, without a guaranty that it would stay there, the price might slump to a point where the producer would be entirely deprived of any chance of getting his parity price; but provision is made here that if the conditions of the price and the prospect of operation of the law of supply and demand are evident before the next marketing year comes in, by proclamation the tax is to be eliminated.

The object of this entire amendment is so to accommodate the processing tax so that when conditions preceding the next marketing year indicate that the price will be parity or above, by proclamation the processing tax may be discontinued and removed, and may be reduced during a marketing year, if the price shall reach parity and above, during the period when it reaches parity or above.

Mr. GERRY. Mr. President, this seems to be a rather complicated section. I have not had time to study it carefully; and I should like to ask if the Senator from South Carolina will not let it go over.

Mr. SMITH. Mr. President, I am afraid that if we continue making exceptions we might just as well let Senators take the bill and prepare themselves to consider it tomorrow.

I do not wish to prevent anyone from having a thorough knowledge of the bill; but I am thoroughly familiar with the processing tax. I did not agree to it when it first was offered, and never have thought it was a correct principle. It is here, however; and where the processors and the producers have combined and the price has reached parity, I do not think it is proper for us to maintain the tax continuously and fully.

This provision is written for the purpose of reducing the tax during a marketing year in proportion as the price has reached parity and above, and when the conditions in the next succeeding marketing year are such as to indicate that the price will be parity and above, to remove the processing tax entirely.

That is all there is in the provision.

Mr. GERRY. Do I understand the Senator to say that in that case the tax is not to be raised?

Mr. SMITH. No; it is to be lowered whenever the price reaches parity and above, even during a marketing year. The processing tax is to be reduced even to 20 percent of the original amount, and may go lower.

Mr. GERRY. I misunderstood the Senator.

Mr. SMITH. That is all this paragraph means, and if in a succeeding year there is an indication that through supply and demand, or by the price current, the price is likely to be parity or above, no processing tax will be laid at all.

The PRESIDING OFFICER. The question is on agreeing to the amendment beginning on page 38, line 15.

The amendment was agreed to.

The next amendment of the committee was, on page 43, line 5, to strike out "(5)" and insert in lieu thereof "(7)", so as to read:

"RICE—SPECIAL RULE

"(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of the rough rice when delivered to the place of processing.

The amendment was agreed to.

The next amendment of the committee was, on page 43, line 12, to strike out "(6)" and to insert in lieu thereof "(8)"; on line 19, after the word "paragraph", to strike out "(4)" and insert in lieu thereof "(6)"; on page 44, line 4, after the word "paragraph", to strike out "(4)" and to insert in lieu thereof "(6)", so as to read:

"SUGAR—SPECIAL RULE

"(3) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the act of December 17, 1903, chapter 1.

The amendment was agreed to.

The next amendment of the committee was, on page 45, to insert after line 16 a new section to read as follows:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such, or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn, or the products thereof."

Mr. COPELAND. Mr. President, I ask unanimous consent that the amendment on page 45, section 15, relating to rayon, may go over.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH. Mr. President, I did not hear the request.

Mr. COPELAND. I may say to the Senator in charge of the bill that I have asked that the rayon amendment go over.

Mr. SMITH. The amendment relating to the processing tax on rayon?

Mr. COPELAND. Yes; I desire to have that go over for the day.

Mr. SMITH. Of course, having agreed that others might go over, I shall not object to the request of the Senator, but I wish to call attention to the fact that when the processing tax is placed upon any article it is presupposed that a compensatory tax will be placed upon any article likely to afford disastrous competition.

Mr. COPELAND. If the Senator will permit me, I am not arguing the amendment, I am merely asking that it may

go over until we can get our papers together and have a little argument about it. I am not now prepared to do that.

Mr. McKELLAR. Mr. President, may I interrupt the Senator to ask him to state a little more fully what he meant regarding a compensatory tax? As I understand, rayon is in competition with silk.

Mr. SMITH. No.

Mr. McKELLAR. Oh, yes; it is very much in competition with silk. Would it not be proper to put a compensatory tax on silk if we are to put a processing tax on rayon? We can put a tax on silk whether we produce it or not.

Mr. SMITH. Rayon is more a competitor of mercerized cotton, indeed it is largely composed of cotton.

Mr. McKELLAR. But a great deal of cotton is used in its production.

Mr. McNARY. Mr. President, will not the Senator from Tennessee address the Chair so that we may all hear what is going on?

Mr. McKELLAR. I am sorry I speak in so low a tone that the Senator cannot hear, but I cannot look at the Chair and look at the Senator from South Carolina at the same time, because they are in opposite directions.

Mr. McNARY. The Chair has a privileged status. Permit me to ask a question. Request has been made by the Senator from New York that the provision relating to rayon may go over.

Mr. SMITH. I have no objection to its going over.

Mr. McNARY. May we not have that understanding?

Mr. SMITH. But I should like to have the statement of the Senator from Tennessee, because that question has arisen, not only in the committee but since the committee has reported the bill.

Mr. McKELLAR. It seems to me that if a processing tax is to be placed upon the greatest competitor silk has, a compensatory tax ought to be placed on silk so as to do the right thing. Rayon producers use very large quantities of low-grade cotton, commonly known as "linters." As the Senator knows, cotton is first reduced to a liquid form and then there is a process of compression by steam machinery. After cotton and wood pulp together are put into liquid form, the mixture is put under terrific pressure through steam machinery, operating on the same principle as the inside of a silkworm, and when the liquid cotton comes out it is immediately "fiberized", if I may so express it, and becomes a yarn similar to the yarn that comes from the silkworm.

Of course, the one is competitive with the other, and if we put a processing tax on the rayon we ought to put an equalizing tax on the silk, it seems to me, and I hope the Senator will not oppose an amendment to that effect.

Mr. WAGNER. Mr. President, I should like to ask the Senator whether it is not a fact that there is an interrelation between the prices of rayon and silk, and whether or not there is not very definite and vigorous competition between those two commodities?

Mr. McKELLAR. Absolutely.

Mr. WAGNER. I think it is conceded, unless the Senator knows to the contrary, that there is practically no competition between rayon and cotton. I understand that the production of rayon is less than 5 percent of the production of cotton.

Mr. SMITH. I do not doubt that. Stating that the production of rayon is 5 percent of the production of cotton does not tell the story at all. The question is, What percentage of rayon is converted into clothing and furnishings, as compared with cotton?

It must be remembered that we furnish 55 percent of all the cotton produced in the world, but in this country we consume less than half of our cotton production. I think I could show the Senator some articles produced from rayon that not only are competing with cotton-made goods, but in a way are driving cotton out of the market.

Mr. WAGNER. Mr. President, I realize I am not as familiar with this subject as is the Senator from South Carolina, but I know something about the competitive conditions

between rayon and silk because of my experience in connection with an effort to adjust some labor strikes in the different industries. As I recall, there was never any suggestion that there was any real competition between cotton and rayon, but there is a very definite competition between silk and rayon, and if we impose a compensatory tax upon rayon we are going simply to give the Japanese manufacturers of silk the entire American market.

Mr. SMITH. Mr. President, I wish to state that if, in the opinion of a majority of the Senators, the question of silk competition with rayon is of sufficient importance to justify our protecting rayon from competition with silk, there ought to be a tax on silk.

Mr. McKELLAR. I thank the Senator.

Mr. SMITH. My idea all along was that silk—the worm product—was of such a distinct quality, character, and class that, though the rayon may in appearance be a substitute for it, in quality and in durability it does not even approximate it. In weight per volume it is no competitor whatever with silk. But it is not only a competitor with cotton but about three-fourths of it is cotton. It is made into cellophane and then spun out and made into silk.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McKELLAR. I merely wish to say that the rayon factories are very large purchasers of what we in the South know as "linters", which is the cotton fiber taken off the seed after it is ginned. It was just a short time ago when the price of linters, if my recollection serves me correctly, was down to about one-half or three-quarters of a cent a pound. Because of the increased use of linters, largely by reason of the demand on account of its use in rayon, linters now bring about 5½ cents, as I recall. It is a matter of the utmost importance that, so far as possible, that market should be sustained. Certainly we should not destroy it by legislation, and it seems to me for that reason there ought to be a compensatory tax.

Mr. SMITH. I think we ought to put into the RECORD the fact that linters, strange and paradoxical as it may seem, come in competition with the farmer's cotton, for the linters are procured by the cottonseed-oil producers; they are a by-product out of which they get a profit to the detriment of the farmer. It is really a competitor of the farmer's own product. Through the oil mills it is made a competitor of his product, and I am not disposed to increase the consumption of a competitor of the very thing I am trying to protect.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. WAGNER. May I ask the Senator whether or not the proposal for the compensatory tax upon rayon was recommended by the Department of Agriculture?

Mr. SMITH. I think not. I think they were perfectly willing to accept it, but I think in justice they ought to put it on when they put the processing tax on cotton. Under our protective tariff system, every time we put a duty on an article we put a compensatory tax on every competitor. Let Senators read the tariff bill. Yet when we came to deal with the farmer domestically I did not believe in the processing tax, because it was the protective tariff domestically applied, and I protested against it; but provision was made for it. If we are to apply it, let us apply it as we do the infernal protective tariff. Let us protect the article we are seeking to protect by the imposition of a compensatory tax on its competitors.

Mr. WAGNER. Mr. President, apparently the Department which has been administering the present act—and of course has been doing it to protect cotton and to aid cotton—has not recognized that there was a competition between rayon and cotton which required the imposition of this compensatory tax. That is the reason why I asked the question, because I understand this recommendation does not come from the Department at all.

Mr. SMITH. Mr. President, coming as we do from the different sections of the United States, and knowing our own problems, we ought to legislate rather than to have legislation handed to us. The Senator from New York knows the con-

ditions of his section, and I know the conditions in my section of the country.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. COPELAND. There are other sections of the country besides those which raise cotton.

Mr. SMITH. I was not aware of that fact!

Mr. COPELAND. I sometimes think the Senator is serious when he makes such a statement as that.

Mr. SMITH. I am glad the Senator informed me.

Mr. COPELAND. We have in this country 175,000 employees working in the rayon industry.

Mr. SMITH. Yes; and about 6,000,000 engaged in producing cotton.

Mr. COPELAND. The scheme which the Senator from South Carolina has in mind will not have the sole effect of helping the cotton industry, but will also help Japanese silk.

I once more renew my request that the Senator from South Carolina let this provision go over.

Mr. SMITH. I have said all along that I am perfectly willing to have it go over, but I desired to save some time by getting something off the chests of some of the other Senators.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GLASS. The State of Virginia produces perhaps more rayon than any other State in the United States, and most of it is made from wood, not from cotton at all.

Mr. SMITH. I think the Senator will find upon investigation that the textile strength of the rayon produced in his State largely depends on the cellulose derived from cotton; and I think if the Senator will visit the rayon mills he will find that they mix the substance obtained from the wood with cotton fiber.

Mr. GLASS. The largest rayon factory in the United States is in the congressional district in which I live.

Mr. SMITH. And they do not use any cotton at all?

Mr. GLASS. I did not say that they do not use any cotton at all.

Mr. McKELLAR. They mix cotton fibers with their other ingredients.

Mr. GLASS. I did not say they do not use any cotton at all, but I do not think they should be taxed out of existence because they use a little cotton.

Mr. McKELLAR. That does not make them competitive with cotton anyway. Both linen and wood products are used in making rayon.

Mr. WAGNER. The result will be to tax them out of existence.

Mr. GLASS. Of course it will.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent that the amendment on page 45, section 15, beginning with line 17 and ending with line 20, on page 46, be laid aside for the day. Is there objection? The Chair hears none. The clerk will state the next amendment.

The next amendment was on page 46, line 21, after "Sec." to strike out "15" and insert "16"; and on page 47, line 12, after the word "distribution" to strike out the comma and "but without discrimination against other producers, processors, and handlers"; so as to make the paragraph read:

SEC. 16. Subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing acts of Congress, and as will tend to promote efficient methods of marketing and distribution."

Mr. VANDENBERG. Mr. President, may I ask the Senator why this language is to be stricken from the bill? What

is offensive about the prohibition against discrimination on page 47, line 12? The committee is striking out the words "but without discrimination against other producers, processors, and handlers". Is it necessary to have discrimination in order to make this system work?

Mr. SMITH. No. There was considerable discussion in the committee about that language. It has reference to the cooperatives. It was found, as the Senator knows, that certain privileges are extended to the cooperatives which are not extended to other marketing agencies.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. It was supposed that the language, "but without discrimination against other producers, processors, and handlers", would in effect be to discriminate against cooperatives.

Mr. SMITH. That is exactly the point.

Mr. BORAH. By striking out that language it was designed to leave intact whatever advantage the cooperatives had.

Mr. SMITH. Exactly. That is all it means.

Mr. BORAH. I think that is a sound doctrine.

Mr. SMITH. It was brought out in the committee that with this language in the bill no protection could be given the cooperatives, even under the law we had passed exempting them from the operation of certain laws and allowing them certain lending privileges.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, beginning in line 21, on page 46, and ending in line 13, on page 47.

The amendment was agreed to.

The next amendment was, on page 48, line 12, after "Sec.", to strike out "16" and insert "17", so as to make the section read:

Sec. 17. Subsection (e) of section 10 of the Agricultural Adjustment Act, as amended, is amended by striking out "rental or benefit payment" and inserting in lieu thereof "payment authorized to be made under section 8."

The amendment was agreed to.

The next amendment was, in section 17, on page 48, line 16, after the word "Sec.", to strike out "17" and insert "18"; in line 19, after the word "Agriculture", to strike out "is authorized" and insert "upon the request of the duly constituted authorities of any State is directed."; and on page 49, line 2, after the word "State" and the comma, to insert "and is authorized", so as to make the paragraph read:

Sec. 18. Section 10 of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new subsection:

"(1) The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof."

The amendment was agreed to.

The next amendment was, on page 49, after line 18, to insert a new section, as follows:

Sec. 19. Section 11 of the Agricultural Adjustment Act, as amended, is amended by striking out the word "flax" and inserting in lieu thereof the word "flaxseed."

Mr. McNARY. Mr. President, I should like to have that amendment go over. I am not familiar with the reason which prompted the committee to insert this language in the bill. I think I have in my files literature upon the subject to which I should like to refer.

Mr. SMITH. Is that the amendment with reference to flaxseed?

Mr. McNARY. Yes.

Mr. FRAZIER. Mr. President, this amendment was inserted at my request. In the original bill the word "flax" was inadvertently used for "flaxseed." It is the seed we desire to have in the bill, and not the flax fiber or anything of that kind. I requested that this amendment be inserted in the bill in order that there should be no question with reference to the meaning of another amendment in the bill which applies to flaxseed.

Mr. McNARY. Would the Senator be willing to let it be passed over for the present? I shall probably agree with him, but I think I have a file dealing with the matter which is being discussed, and I should appreciate the Senator's courtesy in permitting it to be passed over, so that I may refer to the file.

Mr. FRAZIER. I have no objection to its being passed over.

The PRESIDING OFFICER. The Senator from Oregon asks unanimous consent that the committee amendment on page 49, lines 19 to 21, both inclusive, be passed over for the day. Is there objection? The Chair hears none, and it is so ordered.

The next amendment will be stated.

The next amendment was, on page 49, line 22, after "Sec.", to strike out "18" and insert "20", so as to make the section read:

Sec. 20. The first sentence of subsection (a) of section 12 of the Agricultural Adjustment Act, as amended, is amended by striking out "rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title" and inserting in lieu thereof "payments authorized to be made under section 8."

The amendment was agreed to.

The next amendment was, on page 50, after line 3, to strike out the following:

Sec. 9. Section 12 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) Amounts expended under this title which are expended for payments authorized to be made under section 8 and administrative expenses in connection with any basic agricultural commodity shall not be less than a sum equal to the proceeds of the taxes levied under this title with respect to such commodity. For the purposes of this subsection: (1) Amounts collected and expended from taxes the proceeds of which under this title are held for, or paid for use in, any possession of the United States shall not be included; (2) the amount of all refunds and abatements of taxes shall not be included; and (3) hogs and field corn may be considered as one commodity."

Mr. VANDENBERG. Mr. President, I desire to ask the Senator from South Carolina a question for information at this point.

It is my understanding that at the present time the processing taxes collected upon any given commodity are segregated exclusively to the payment of beneficial payments for the commodity. It is my understanding that it is now proposed to turn the processing-tax revenues into the general fund of the Treasury and to cease the guarantee that the collections for a given commodity shall be dedicated exclusively to that commodity. Am I correct?

Mr. SMITH. It is proposed to do just exactly the opposite.

Mr. VANDENBERG. What is the situation?

Mr. SMITH. The Senator will find further along in the bill that each commodity shall, to the cent, be the beneficiary of whatever taxes are collected, and that whatever benefit payments are made in connection with any product shall be made from the taxes collected in connection with that particular and specific product.

Mr. VANDENBERG. What is the purpose of striking out this particular section?

Mr. SMITH. I think it is clarified later on in other language in the bill.

Mr. VANDENBERG. No; there is no substituted language.

Mr. SMITH. The language of this particular section ran counter to the decision of the Supreme Court, and the committee eliminated it, and further on in the text there is language which does accommodate itself to the decision of the Supreme Court.

Mr. VANDENBERG. That is what I should like to know about. In what aspect does the language stricken out run counter to the philosophy of the decision of the Supreme Court?

Mr. SMITH. I shall have to leave that question to some of my legal friends for explanation.

Mr. BANKHEAD. Mr. President, the Senator from Michigan is in error in the idea he expressed that the present law requires the segregation of taxes. It does not so require at all. As a matter of practical application, it has been done. The present law, the original Agricultural Adjustment Act, makes no segregation of any kind of the specific taxes.

Mr. VANDENBERG. I am correct that that is the practice?

Mr. BANKHEAD. That is the practice; and I assume, I will say to the Senator from Michigan, that the practice is expected to be continued. This section as it came from the House appeared to the members of the committee who are lawyers as being a provision which might be construed to be a declaration in the law of a particular tax for a special purpose. For that reason, in order to prevent any such declaration in the law, the committee decided to strike out the section and leave the law as it is now, so that all taxes collected under the processing taxes shall go into the Treasury, into the general fund made available to the Secretary of Agriculture for the administration of the Agricultural Adjustment Act. The amendment leaves the law, I repeat, as it is now.

Mr. VANDENBERG. May I interrupt the Senator?

Mr. BANKHEAD. Yes.

Mr. VANDENBERG. The Senator from South Carolina subsequently said, as I understood him, that there is a provision which specifically requires all these commodity taxes to be paid to the benefit of the commodities.

Mr. BANKHEAD. This being a legal question, the Senator subsequently said that he would prefer that some of the lawyers on the committee should explain the purpose of the amendment.

Mr. VANDENBERG. The original statement was in error?

Mr. BANKHEAD. The first statement was in error.

The PRESIDING OFFICER. Without objection, the amendment reported by the committee is agreed to. The next amendment will be stated.

The next amendment was, on page 51, after line 23, to insert a new section, as follows:

SEC. 23. Subsection (b) of section 15 of the Agricultural Adjustment Act, as amended, is amended by adding at the end of said subsection the following new sentence: "The Secretary of Agriculture is authorized to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of the act approved April 21, 1934, an amount of lint cotton not in excess of 110 pounds, produced by or for any producer and retained for domestic use in his household."

The amendment was agreed to.

The next amendment was, on page 52, after line 14, to insert a new section, as follows:

SEC. 25. The first sentence of subsection (d) of section 15 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "processors" the words "or producers."

Mr. BYRD. Mr. President, I should like an explanation of the amendment which has just been stated and which proposes to add to the original act the words "or producers" after the word "processors."

Mr. SMITH. I think it has reference entirely to agreements. I have not the original act before me and therefore I cannot tell exactly what the reference is.

Mr. BYRD. I will hand the Senator a copy of the original act.

Mr. SMITH. I thank the Senator. I see, as I thought, that it has reference to the effect of the processing tax on the processors or producers. If the effect is detrimental to the processors or producers, then the remedy is as here indicated. The original act contained the words "or will cause to the processors thereof disadvantages." The words "or producers" have been added to give them a 50-50 chance. I thought I was correct in the first instance, and now I know I am. Does the Senator from Virginia object to having the producers included, so that they also may be made beneficiaries along with the processors?

Mr. BYRD. I am very glad to have the explanation of the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee, to insert section 25, after line 14, on page 52.

The amendment was agreed to.

The next amendment was, in section 27, on page 53, line 10, after the word "credited", to strike out "when" and insert "(but not before"; and in line 11, after the word "been", to strike out "paid" and insert "paid)", so as to make the section read:

SEC. 27. Subsection (a) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out subdivision (2) thereof and inserting in lieu thereof the following:

"(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity."

The amendment was agreed to.

The next amendment was, in section 28, page 54, line 1, after the word "Except", to insert "as to flour processed from wheat and."

Mr. McNARY. Mr. President, from a hasty glance I am unable to interpret the reason for that change. What does the chairman of the committee have to say about it?

Mr. SMITH. I did not hear the Senator's statement.

Mr. McNARY. I say from a hasty glance I do not discern the reason for including that language in the bill.

Mr. SMITH. I think anyone reading the context will see exactly what it means. It is essential to have this language:

Except as to flour processed from wheat and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade.

That means that the processing tax shall not be carried on down to the retailers; that it is a wholesale tax.

Mr. McNARY. It is a clear substitution of the product of wheat, namely, flour, for wheat itself.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment was, in the same section, on page 54, line 3, after the word "cotton", to insert "or wheat", and in line 6, after the word "trade", to insert "nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour) processed wholly or in chief value from wheat", so as to make the section read:

SEC. 28. The second sentence of subsection (b) of section 16 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "Except as to flour processed from wheat and as to any article processed wholly or in chief value from cotton the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in

retail trade, nor to any article (except sugar) processed wholly or in chief from sugar beets, sugarcane, or any product thereof, nor to any article (except flour) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. CAREY. I ask the Senator from South Carolina why is sugar excepted in the amendment which begins in line 6 on page 54?

Mr. SMITH. The manner in which sugar is manufactured and sold, in the opinion of those familiar with it, puts it in a wholly different class from cotton or wheat, because sugar is imported very often in a semimanufactured state and is refined here. So it would be difficult to impose a tax where it would do the producer the most good, the process in the case of sugar being different from that in the case of the other two commodities, which are simple in their form of manufacture.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment was, in section 29, line 15, after the date "1934", to strike out "and", and in line 16, after the word "hogs", to insert "; and by inserting at the end of such paragraph the following: 'In the case of wheat the provisions of this paragraph shall apply to flour only; in the case of sugarcane and sugar beets the provisions of this paragraph shall apply to sugar only.'

"(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(f) No refund, credit, or abatement of the amount of any tax shall be made or allowed under this section, unless, within 60 days after the right to such refund, credit, or abatement accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10'" so as to make the section read:

Sec. 29. (a) Paragraph (1) of subsection (e) of section 16 of the Agricultural Adjustment Act, as amended, is amended by inserting after the first word in the first sentence a comma and the following: "subsequent to June 26, 1934", by inserting in the proviso after the word "made", the following: "in the case of hogs"; and by inserting at the end of such paragraph the following: "In the case of wheat the provisions of this paragraph shall apply to flour only; in the case of sugarcane and sugar beets the provisions of this paragraph shall apply to sugar only."

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(f) No refund, credit, or abatement of the amount of any tax shall be made or allowed under this section, unless, within 60 days after the right to such refund, credit, or abatement accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10."

Mr. CAREY. Mr. President, I ask that that amendment go over.

The PRESIDING OFFICER. The Senator from Wyoming asks unanimous consent that the amendment on page 54, beginning in line 16, be passed over.

Mr. SMITH. Does the Senator mean the entire amendment or the refund provision?

Mr. CAREY. I mean the refund provision. The reason I ask that it go over is that I understand if a person were entitled to a refund and did not know it and on that account had not made application within 60 days, he would not be entitled to a refund. Am I correct in that?

Mr. SMITH. Yes; the individual has 60 days from the time of the imposition of the tax to request a refund. If he does not avail himself of that privilege within the time, he is not entitled to it.

Mr. CAREY. Presuming that the tax was erroneously collected and the payer did not know it for 60 days, he would

be out of court, so to speak, and could not apply for a refund after that time, as I understand the amendment?

Mr. SMITH. I do not know how we are going to legislate except under general rules, because if we should not provide such a limitation nobody would ever know anything about it, and claims would be made after 60 days. I think that is obvious.

Mr. CAREY. I should like to have the amendment go over today.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. I have to go to a conference for a few minutes. Would the Senator permit the provisions on page 58 and 59 with reference to bringing suits to go over?

Mr. SMITH. We have not reached that portion of the bill as yet.

Mr. BORAH. I understand that, but I have to be gone for a short time, and I ask the Senator if he will permit those provisions to be passed over when reached.

Mr. SMITH. Yes; I understand the Senator has an amendment in reference to that portion of the bill?

Mr. BORAH. Yes, and I should like to have the provisions passed over for the time being.

Mr. SMITH. Very well, I will be perfectly willing to do that, but I hope that we will so govern ourselves as to try to get through with the very pleasant task of passing on the committee amendments. I have no objection, when we reach the provisions prohibiting suits to which the Senator from Idaho refers, to having them go over.

The PRESIDING OFFICER. Without objection, on request of the Senator from Wyoming [Mr. CAREY], the committee amendment beginning on line 21, page 54, and extending to line 7, on page 55, will be passed over.

The question is on the committee amendment in line 15, page 54, striking out the word "and"; and in line 16 on the same page, after the word "hogs", inserting down to and including the end of line 20.

The amendment was agreed to.

Mr. CONNALLY. Mr. President, the committee struck out entirely, on page 66, section 31 of the House bill as well as some of the preceding sections.

Mr. SMITH. Is that the export and import debenture clause?

Mr. CONNALLY. Yes.

Mr. SMITH. Very well.

Mr. CONNALLY. I ask at this time to offer an amendment which seeks to restore the House language, and the motion includes a clause which was stricken out by the House committee. I want to have an agreement that I may have a vote on my amendment, though not at this time, irrespective of the parliamentary situation, because the question would naturally recur upon the committee amendment to strike out all that language, and it might be held, that language having been stricken out, I could not move to reinsert it. So I ask unanimous consent that at the proper time I may offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

Mr. SMITH. As I understand, the Senator desires to offer his amendment now and let it lie on the table until we reach the point indicated?

Mr. CONNALLY. That is correct.

The PRESIDING OFFICER. The amendment will lie on the table, for the time being. The next amendment of the committee will be stated.

The next amendment was, in section 30, on page 55, line 11, after the word "following", to strike out:

"The consignor named in the bill of lading under which any product (if such product or the commodity from which processed is under this title subject to tax) is exported, or the exporter of such product, if the bill of lading bears the proper disclaimer by the consignor, or the manufacturer of such product, if the bill of lading bears the proper disclaimer by the consignor and

the exporter, shall be entitled, upon the exportation of such product to any foreign country (or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, or the island of Guam) to the refund of the amount of tax due and paid under this title with respect to such product so exported, or to a credit against any tax due and payable under this title of the amount of tax which would be refundable under this section with respect to such product so exported."

And in lieu thereof to insert:

"Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this title, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

The amendment was agreed to.

The next amendment was, on page 56, after line 19, to insert the following new paragraph:

(b) Section 2 of the Department of Agriculture Appropriation Act, 1936, is amended by striking out the first word "The" and inserting in lieu thereof the following: "Seventy-five percent of the."

The amendment was agreed to.

The next amendment was, at the top of page 57, to insert the following new paragraph:

(c) Section 19 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any person required pursuant to the provisions of this title to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this title, to make a return, render under oath such statements, or to keep such records as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax."

The amendment was agreed to.

The next amendment was, on page 57, line 19, to strike out the section number "29" and insert "32."

The amendment was agreed to.

The next amendment was, on page 57, line 22, after "(a)", to strike out the following:

No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment.

And to insert in lieu thereof the following:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

Mr. SMITH. Mr. President, that is to be passed over at the request of the Senator from Idaho [Mr. BORAH].

Mr. CONNALLY. Mr. President, what is the wish of the Senator with regard to the amendment which I offered on page 67? Does he desire to proceed with it when we reach it, or is it his desire to let it go over for the day?

Mr. SMITH. Considering the fact there are other amendments, I think it would be the proper thing to let it go over for the day, so we may have time to consider it.

Mr. COPELAND. Mr. President, to what does the amendment apply?

Mr. CONNALLY. The amendment which I offered applies only to manufactured goods.

Mr. COPELAND. It does not relate at all to the amendment to the tobacco act?

Mr. CONNALLY. It might, in the case of tobacco, give the manufacturer an opportunity to come under the provisions of the bill.

Mr. SMITH. The Senator seeks to restore the export bounty on manufactured products.

Mr. COPELAND. May I ask the Senator about the tobacco amendment and if there were hearings on that particular feature of the bill?

Mr. SMITH. No; we did not have any hearings. The fact is that this is practically the same provision which last year worked admirably and agreeably to both the processors and the producers. The point now is that tobacco is the one commodity which reached and exceeded parity.

Mr. CONNALLY. Mr. President, will the Senator yield further?

Mr. SMITH. I yield.

Mr. CONNALLY. Considerable interest has been manifested in the amendment which I have sent to the desk. Therefore, I ask that the amendment may be printed and lie on the table, not to be acted upon today. The Senator from South Carolina indicates his agreement with that request. Supplementing the request, I ask unanimous consent that a vote may be had on that amendment when it is reached, on page 66, regardless of whether or not committee amendments have been disposed of or otherwise.

Mr. SMITH. I think that is all right. The Senator simply wants to test whether the Senate would rather have the amendment he offers than the one the committee has reported. I should like to have that settled.

Mr. VANDENBERG. Mr. President, does the amendment of the Senator from Texas bear any relation to the previous import section, on page 65, which is stricken out?

Mr. CONNALLY. No. The amendment which I offer begins on page 66, line 15, and does not undertake to restore the language stricken out in section 22, on page 65. My amendment is limited to manufactured articles. I should prefer to have it apply to the raw material as well, but there is so much opposition that I have limited it to manufactured goods.

Mr. VANDENBERG. Is the import section, beginning at the bottom of page 64 and continuing over to line 14, page 66, also being passed over, or is that wholly independent of the Senator's amendment?

Mr. CONNALLY. That is absolutely independent of my amendment. The reason why I am asking unanimous consent that I may have a vote on my amendment is that, from a parliamentary standpoint, the question would come on the committee amendment striking out paragraphs 31 and 22. I submit my request.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? The Chair hears none, and it is so ordered.

The Chair would like to be advised how far on page 59 the agreement requested by the Senator from Idaho [Mr. BORAH] applies?

Mr. SMITH. Only insofar as it relates to the prohibition of collecting the tax in case the court declares it to be unconstitutional. It relates to page 57, beginning in line 19, all of page 58, and to the end of line 5 on page 59.

Mr. BORAH. That is correct. I want that all passed over.

The PRESIDING OFFICER. The amendments referred to will be passed over. The next amendment will be stated.

The next amendment of the Committee on Agriculture and Forestry was, on page 59, line 22, before the word "provisions", to insert the word "applicable", and after the words "provisions of" to strike out "law made applicable by section 19", and insert "law, including subsection (d) of this section", so as to make the paragraph read:

"(b) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or

the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

The amendment was agreed to.

The next amendment was, on page 60, line 4, after the word "agriculture", to strike out the word "and"; and after the word "President" to insert the word "and"; in line 8, after the word "taxes", to insert "(together with penalties and interest with respect thereto)"; in line 12, after the word "specifically", to strike out "on May 12, 1933", and in the same line, after the word "by", to insert the word "prior", so as to make the paragraph read:

"(c) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

The amendment was agreed to.

The next amendment was, on page 60, after line 20, to strike out the following:

"(d) No refund or credit shall be made or allowed of any amount of any tax which accrued on or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless (1) the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, (A) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, and that he has not collected from the vendee any part of such amount, or (B) that he has repaid such amount to the producer or the ultimate purchaser of the article, and (C) in the case of hogs that such amount has not been deducted from the price paid to the producer, or (2) the claimant files with the Commissioner of Internal Revenue the written consent of such producer and ultimate purchaser to the allowance of the credit or refund. The provisions of this subsection shall not apply to any refund under section 15 (a), section 16, or section 17.

And to insert in lieu thereof the following:

"(d) No recovery, refund, or credit shall be made or allowed of any amount of any tax which accrued on or after the date of the adoption of this amendment (and, in case any part or application of subsection (a) of this section is held invalid, which may have heretofore accrued) under this title (including any overpayment of such tax), unless the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, or in the case of a judicial proceeding establishes in such proceeding, (1) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, that he has not collected from the vendee any part of such amount, and that the price paid to the producer was not reduced by such amount, or (2) that he has repaid such amount to the ultimate purchaser of the article, or in case the price paid to the producer was reduced by such amount, to such producer; nor shall any judgment or decree be entered by any Federal or State court for damages for the collection thereof, unless the claimant establishes the foregoing facts, in addition to all other facts required to be established. The provisions of this subsection shall not apply to any refund or credit under subsection (a) or (c) of section 15, section 16, or section 17.

The amendment was agreed to.

The next amendment was, on page 62, line 13, after the word "no", to strike out "refund or credit" and insert the words "refund, credit, or abatement", and in line 15, after the words "section 15", to strike out the words "section 16", so as to make the paragraph read:

"(e) No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 15, or section 17, unless,

within 1 year after the right to such refund or credit has accrued, a claim for such refund or credit (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund or credit, except that if the right to any such refund or credit accrued prior to the date of the adoption of this amendment, then such 1-year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

The amendment was agreed to.

The next amendment was, on page 63, to strike out lines 3 to 9, both inclusive, as follows:

"(f) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax which accrued, on or after the date of the adoption of this amendment, under this title, and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax.

And to insert in lieu thereof the following:

"(f) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued on or after the date of the adoption of this amendment (and, in case any part or application of subsection (a) of this section is held invalid, which may have heretofore accrued) under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit under subsections (a) or (c) of section 15, under paragraph (1) of subsection (e) of section 16, or under section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

The amendment was agreed to.

The next amendment was, beginning at the top of page 64, to strike out:

"(g) Whenever in this title a refund of any tax is authorized to be made to any person other than the person required to pay the tax with respect to which an application for refund is made, upon statement under oath by the applicant for refund that he has no knowledge, information, or belief that such tax has not in fact been paid, then for the purpose of such refund to said applicant such tax shall be deemed to have been due from any paid by the person liable therefor. Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of the tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue. Whoever makes any false statement under oath in connection with applying for or securing such refund of any tax shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 6 months, or both."

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, to determine such facts. Such investigation shall be made after such notice and hearing and subject to such regulations as the President shall specify.

"(b) If, after such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by order direct that the entry into the United States of such article or articles shall, for such time as may be specified by him, be permitted subject to (1) such terms and conditions, (2) such limitations on the total quantities thereof which may be imported, or (3) the payment of such compensating taxes as he finds necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with such program or operation undertaken under this title. Any compensating tax imposed under this section shall be in addition to any tax imposed under section 15 (e) and the provisions of such section shall apply thereto.

"(c) Any decision of the President as to facts under this section shall be final.

"(d) Upon information of any order of the President under subsection (b), the Secretary of the Treasury shall permit entry of any article or articles specified therein only in conformity with such order.

"(e) After investigation, report, and finding in the manner provided in the case of an original order, any order or provision thereof may be suspended or revoked by the President whenever he finds that the circumstances requiring the order or provision

no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the provisions of this section."

Sec. 31. There is authorized to be appropriated for each fiscal year an amount equal to 30 percent of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of such fiscal year. Sums appropriated in pursuance of such authorization shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to: (1) Encourage the exportation of major agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation, (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; (3) purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands; and (4) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated in pursuance of this action shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to eliminate unprofitable agricultural and grazing lands, bring about the utilization of only such lands as can be profitably utilized, increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds authorized to be appropriated by this section shall be expended pursuant to (3) or (4) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section.

Mr. SMITH. That is the part of the bill which the Senator from Texas [Mr. CONNALLY] asked to have go over.

Mr. VANDENBERG. Not all of it.

Mr. SMITH. Not all of it; only section 31.

Mr. VANDENBERG. Mr. President, I desire to ask the Senator why the committee is striking out the language beginning at the bottom of page 64 and continuing on page 65, which appears to be the authority to offset increased costs of agricultural production by increased tariffs if, as, and when it is demonstrated that the increased protection is necessary. What is the purpose in striking that out?

Mr. SMITH. Mr. President, we are attempting by this process to bring about a condition where we can more reasonably modify the tariff rather than increase it. Whether or not we are succeeding is another question.

Mr. VANDENBERG. I do not follow the Senator. Will he be more specific?

Mr. SMITH. For instance, if we are intending to raise the price in this country of certain articles, and the subsequent price invites the possibility of importation of foreign goods, we are inviting right then the imposition of the protective tariff to protect us in doing that thing which would raise the price. This bill is not written for the purpose of encouraging any higher tariffs than we have; and my idea is that if the price of our stuff here reaches a point where foreign importations may be brought in under the present tariff arrangement, we shall have then reached a price where there should be no additional taxation.

Let me illustrate: Japan is buying cotton in America today at the American price, shipping it clear around the globe, manufacturing it, shipping it back around the globe, paying the tariff, and underselling American manufacturers. I claim that if, notwithstanding American ingenuity and American skill in manufacturing goods out of cotton which grows right up at the factory walls, the manufacturers of another country can come here and buy raw cotton at the same price our mills pay for it, ship it around the globe, manufacture it, ship it back around the globe, pay the tariff, and undersell the American manufacturer, the American manufacturer ought to go out of business.

Mr. VANDENBERG. Mr. President, I am familiar with the Senator's free-trade philosophy.

Mr. SMITH. That is not a free-trade philosophy.

Mr. VANDENBERG. I am familiar with the Senator's free-trade philosophy, which—

Mr. SMITH. I deny any free-trade philosophy.

Mr. VANDENBERG. Which he has consistently defended in the Senate, and I admire him for his consistency; and I am not complaining about it.

Mr. SMITH. I protest against the Senator putting me in the absurd position of a free-trader. I believe that every foreigner who has the privilege of the American market should pay a tariff equal to the tax and the expenses incidental to American manufacture; but I do not believe the Senator's party ever had the constitutional right to impose a purely protective tariff. It cannot be found in the Constitution.

Mr. VANDENBERG. I do not propose to discuss with the Senator the constitutionality of protective tariffs, which apparently has been sustained for 150 years, where many other constitutional questions are being given far less tender consideration.

Mr. SMITH. Yes; and that is one instance where the Supreme Court did not do its duty, if a case was ever brought.

Mr. VANDENBERG. The question I am raising is entirely beside the abstract argument in which the Senator and I are now engaging. I desire to know if it is not a fact that the original theory of the A. A. A. law was that when the cost of producing agricultural commodities and processing them in the United States was increased by arbitrary taxes, it was contemplated that the President should offset those arbitrary increases by compensatory taxes in the nature of protection. Was not that the original conception of the A. A. A.?

Mr. SMITH. It was not mine. I do not know what others thought about it.

Mr. VANDENBERG. I am not asking the Senator's personal view. The Senator was in complete disagreement with the A. A. A. in the first instance.

Mr. SMITH. Yes.

Mr. VANDENBERG. Therefore, when the Senator gives me his view he does not give me the view of the administration respecting the matter.

Mr. SMITH. I do not know what the view of the administration was.

Mr. VANDENBERG. What is it now?

Mr. SMITH. I do not know, and I am not concerned with the administration's view. I am concerned with the common-sense view, if you can reconcile that. [Laughter.]

Mr. VANDENBERG. Not with the administration's view.

Mr. SMITH. I say I am concerned with the common-sense view. If we are going to raise prices here and use that as an excuse still further to build up a wall that has destroyed most of us—and at last, thank God! is destroying those who built the wall—I do not think this is any time for us to incorporate here directly and expressly a provision that when prices reach a certain point, the taxes may be raised on imports to keep them out—no.

Mr. VANDENBERG. Mr. President, what I wish to know is not whether we are here establishing the rule to which the Senator objects. I am asking the Senator if here we are not striking down that precise rule in the existing A. A. A. law?

Mr. SMITH. No; because in all conscience—

Mr. VANDENBERG. I am not talking about conscience. I am talking about the A. A. A. law. [Laughter.] They are two totally different things.

Mr. SMITH. Yes; from the Senator's standpoint, but I maintain that we have no right to provide here that when prices rise to a certain point, in order to keep outsiders from coming in we shall still further raise the duties and tariffs; no. There is plenty of room within the present tariff, in all reason. The Senator very truthfully says we discard conscience here. We have done so.

Mr. VANDENBERG. Mr. President, may the Senator and I eliminate any argument over whether there should be the thing I am talking about? I inquire whether it is not the fact that the committee amendment striking out this language does change the tariff provisions of the existing A. A. A. law?

Mr. SMITH. I hope so.

Mr. VANDENBERG. Does it or does it not?

Mr. SMITH. It may or may not.

Mr. VANDENBERG. Certainly it may or may not, one or the other. [Laughter.] Which is it?

Mr. SMITH. I think it may not, for the reason that that is only incidental. The main purpose of this provision is to get a better price.

Mr. VANDENBERG. Never mind the reason. At the moment may I not know from the Senator, who is the Senate's expert on this subject, whether this amendment does or does not change the existing A. A. A. law in respect to compensatory tariff rates? Does it or does it not?

Mr. SMITH. It was not in the original law.

Mr. VANDENBERG. Is it in the existing law?

Mr. SMITH. No.

Mr. VANDENBERG. Then it does not change existing law.

Mr. SMITH. That is what I told the Senator.

Mr. VANDENBERG. Does the Senator now say to me that there is no existing law under which the President is permitted and instructed, whenever the use of A. A. A. taxes increases the cost of production in the United States, to inquire into the matter and to adjust the differential with new compensatory taxes? Does the Senator say that does not exist?

Mr. SMITH. In reference to the A. A. A.?

Mr. VANDENBERG. Yes.

Mr. SMITH. My impression now is, and I think it will be verified by reading the original act, that there is no such provision. This provision was incorporated in the House, and was very wisely struck out by our committee.

Mr. NORBECK. Mr. President, I should like to ask the Senator from South Carolina a question. Did the House bill provide that imports of agricultural products might be regulated by the Department by fixing quotas over which they could not be imported?

Mr. SMITH. Yes.

Mr. NORBECK. And that was struck out in the Senate committee, was it?

Mr. SMITH. Yes.

Mr. NORBECK. I should like to have an explanation of that paragraph.

Mr. SMITH. I think the committee were opposed to that provision. Taken in connection with our hope of multilateral and general agreements with the nations of the earth as to our export business, it was too restrictive. There are too many quotas and too many restrictions to enable us to look forward to any healthy recovery of our export business.

Mr. NORBECK. Does not the distinguished Chairman of the Committee on Agriculture and Forestry think that we might be flooded with too great a quantity of imports on occasions, and that there should be a stop-gap somewhere?

Mr. SMITH. We have ample provisions now to take care of such a situation. We have the antidumping clause, the Johnson Act, and the Smoot-Hawley Law with the countervailing duties. God knows what more we would need. I do not.

Mr. NORBECK. The Senator does not think there is need of anything further?

Mr. SMITH. I do not.

Mr. NORBECK. Mr. President, I ask permission to insert a telegram in the RECORD from Mr. W. R. Ronald, a citizen of South Dakota, who has been very active in promoting the A. A. A. as a method of assisting agriculture, and protesting against the proposed change.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

MITCHELL, S. DAK., July 9, 1935.

Senator PETER NORBECK,
Washington, D. C.:

Hope you will do all possible to restore A. A. A. amendment giving Secretary authority to fix import quotas. Either this or higher tariffs necessary to protect parity prices. Please wire prospect for its approval by Senate.

W. R. RONALD,
Editor Daily Republic.

Mr. COPELAND. Mr. President, I should like to discuss this matter a little further. Is the language on pages 64 and 65, proposed to be stricken from the bill, now the law?

Mr. SMITH. No; the Senator from Idaho [Mr. POPE] has the original text of the law and I should like to have

him read in the law as it now stands the very language to which this pertains.

Mr. POPE. On page 21 of the original act is found the provision, which remains the same. It provides:

(e) During any period for which a processing tax is in effect with respect to any commodity there shall be levied, assessed, collected, and paid upon any article processed or manufactured wholly or partly from such commodity and imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, whether imported as merchandise, or as a container of merchandise, or otherwise, a compensating tax equal to the amount of the processing tax in effect with respect to domestic processing of such commodity at the time of importation—

And so forth.

That remains the law and it has not been changed. The provision about which there has been discussion here does not appear in the original law, so it is new.

Mr. VANDENBERG. So the statement I made regarding the existing situation was correct.

Mr. POPE. Yes.

Mr. VANDENBERG. At any rate, I was correct to that extent. The Senator from Idaho says that the committee amendment striking out this language, which seems to refer to at least a kindred type of operation, does not in any way attack the continuing existence of the original provision.

Mr. POPE. That is my understanding.

Mr. VANDENBERG. Which the Senator from South Carolina did not seem to think existed at all.

Mr. SMITH. Oh, yes. But it says here, "a tax equal to the amount of the processing tax." The language here would leave it unlimited, whereas under the original law a foreign article would pay a processing tax exactly equal to the domestic processing tax, to which nobody objected. But the Senator was asking me whether, if we raised the price here, we could still raise the tariff. Under the law as it now stands, if it be found that the importer's commodity is bearing a smaller tax in the form of a tariff than is imposed domestically, then that tax will be made equal to the domestic tax.

Mr. VANDENBERG. What was the purpose of the House in putting this language in the bill?

Mr. SMITH. I do not know. I do not know what is the purpose of a good many things.

Mr. COPELAND. Then, as I understand the situation, the existing law is not changed?

Mr. SMITH. That is correct.

Mr. COPELAND. The House inserted this language which would change existing law?

Mr. SMITH. Yes.

Mr. COPELAND. And the Senate committee saw fit to strike it out.

Mr. SMITH. I think the House inserted it because a cry had gone up that Japan was importing into this country cotton goods and selling them at prices lower than the figure at which American manufacturers could make them. Therefore it was thought that whenever that became apparent the tariff on the imported article should be raised to a point where it would prohibit the importation. That, in my opinion, was the intent of the language we find in the bill.

Mr. COPELAND. And that is contrary to the philosophy of the Senator?

Mr. SMITH. Yes. Under the original act, if it were found that an individual was importing into the United States and was paying a tax less than the processing tax, he should pay a tax equal to the processing tax.

Mr. COPELAND. Then, the House intended to give Americans some further degree of protection, and the Senate committee saw fit to strike out the provision?

Mr. SMITH. Yes. It is in the law as it now stands; and if the Senator will read it he will find that it is in the words I have stated.

Mr. JOHNSON. As I understand, the provision being dealt with now is that which begins on page 64, line 20, and goes down to line 14, on page 66.

Mr. SMITH. That is correct.

Mr. JOHNSON. I do not think it has been so stated, but that relates to compensatory taxes which may be levied under certain circumstances; and, as I understand, that provision has not as yet been acted upon.

Mr. SMITH. The provision for a compensatory tax on rayon has not been acted on.

Mr. JOHNSON. I hope that it will go over until we may have opportunity carefully to study it, because from the information that is given to me it may be a very necessary weapon under certain circumstances.

Mr. COPELAND. Mr. President, will the Senator from California yield?

Mr. JOHNSON. I yield.

Mr. COPELAND. Is it the Senator's thought that the matter now under discussion should go over until we have had a chance to consider the rayon problem?

Mr. JOHNSON. I want it to go over until we have a chance to look into it. The bill came up suddenly today, so far as I was concerned, and I have not had the opportunity to look at many provisions of it which I desire to examine before they ultimately are determined, and I trust that the amendment will not be acted upon at once.

Mr. COPELAND. I share the view of the Senator.

Mr. BARKLEY. Mr. President, I ask unanimous consent to recur to the amendment on page 40 and that the vote by which the amendment was agreed to be reconsidered in order that I may offer an amendment, about which I have spoken to the Senator from South Carolina. I was called from the Chamber at the time the amendment was under consideration. I think there will be no opposition to the amendment I propose to offer.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. COPELAND. Could we not have action on the other matter first?

Mr. SMITH. Mr. President, in view of the fact that we find Senators unprepared to go on with certain paragraphs of the bill, I ask unanimous consent that the amendment relating to imports, beginning, on page 64, line 23, and ending on line 22, page 67, be passed over.

The PRESIDING OFFICER (Mr. MCGILL in the chair). The part of the amendment affecting section 31 has already been passed over by unanimous consent. Without objection, the entire amendment will be passed over for the day.

Mr. JOHNSON. Including section 31?

The PRESIDING OFFICER. Section 31 has already been passed over by unanimous consent.

Mr. SMITH. Mr. President, the Senator from Kentucky has an amendment which he desires to offer.

Mr. BARKLEY. Mr. President, I ask unanimous consent that the vote by which the amendment on pages 40 and 41 was agreed to be reconsidered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the vote is reconsidered.

Mr. McKELLAR. The amendment of the Senator from Kentucky relates to tobacco?

Mr. BARKLEY. It has particular reference to tobacco, but it is general in its application. I will explain it.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to amend section 12 of the bill as reported by the committee by inserting after the second comma, after the word "thereof", in line 19, on page 40, the following words: "or is less than the fair exchange value by not more than 10 percent."

Mr. BARKLEY. Mr. President, I wish to say to the Senator from South Carolina that I had intended to speak to him about the amendment before the bill was taken up, but it was taken up sooner than he or I thought it would be, and I did not have a chance to confer with him about the amendment. I have conferred with representatives of the Department of Agriculture, and they advise me that the amendment is agreeable, and that they can work it out according to that program.

The meaning is this. In the language on page 40 it is provided:

If the average farm price of any commodity, the rate of tax on the proceeding of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection, during the 2 months immediately preceding and the first 10 months of any marketing year—

(1) is equal to, or exceeds by 20 percent or less, the fair exchange value thereof, the rate of such tax shall be reduced—

And so forth.

My amendment provides that if the fair exchange value is not less than 10 percent below, they may, under those conditions, reduce the processing tax.

I have conferred with Dr. Hudson, who is in charge of the tobacco section; I have conferred with Mr. Chester Davis, who will be in charge of the administration of the act, and they all state that they have worked it out and have discovered that they can reduce the processing tax even where the price is within 10 percent of parity, and still have enough money to carry on the operations. Under those circumstances I believe they ought to be authorized to reduce the processing tax.

Mr. McKELLAR. Tobacco is substantially on a parity now, is it not?

Mr. BARKLEY. Yes.

Mr. McKELLAR. Or above parity?

Mr. BARKLEY. It is above parity.

Mr. McKELLAR. It seems to me the amendment should be agreed to by all means, and I hope it will be. I hope the chairman of the committee will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Kentucky to the committee amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. FLETCHER. Mr. President, I ask to have printed in the RECORD a telegram on this subject which is in harmony with the statement made by the Senator from Kentucky.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TAMPA, FLA.

HON. DUNCAN U. FLETCHER,

United States Senate Office Building:

The A. A. A. amendment in bill H. R. 8492, if enacted, will prove ruinous to the cigar manufacturing industry. Farmers now receiving parity for cigar leaf tobaccos. Surpluses in that commodity have been absorbed and a definite shortage is ahead. Processing tax as proposed in H. R. 8492, despite parity have been reached, is absolutely in negation to understandings made between this industry and the A. A. A. at the beginning of the imposition of the processing tax. Proposed amendment will surely mean the elimination of many manufacturers who have up to date cheerfully cooperated with the administration's requirements. Closing of plants and resulting unemployment bound to occur. The entire situation is obviously unfair and unsound. With fair chance for public hearing, which has been denied up to date, opportunity would have been given to present facts upon which intelligent decision could have been made. In the interests of labor, farmer, consumer, and manufacturer we earnestly pray for your cooperation and assistance to the end that H. R. 8492 be referred back to the Senate subcommittee for fair discussion at public hearing.

FLORIDA CIGAR MANUFACTURERS ASSOCIATION,
A. L. CUESTA, Jr., President.

Mr. CAREY. Mr. President, I send to the desk an amendment to the pending bill which I offer and ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

The clerk will state the next committee amendment.

The next amendment of the Committee on Agriculture and Forestry was, on page 67, after line 22, to insert a new section, as follows:

SEC. 33. Section 7 of title 1 of the Agricultural Adjustment Act, as amended by section 221 of the National Industrial Recovery Act (48 Stat. 210, 15 U. S. C., art. 607), is amended by striking it out and inserting in lieu thereof the following:

"SEC. 7. The Secretary shall sell cotton held or acquired by him pursuant to authority of this act at his discretion subject only to the conditions and limitations of title 1 of this act: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

"Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee."

"Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such act."

Mr. KING. Mr. President, I should like the amendment to go over, if it may be done, in order that I may have an opportunity to examine into it.

Mr. SMITH. Mr. President, there is nothing in this section to examine into. This provision, as read, simply means that wherever a loan has been made on cotton, or whenever there is a surplus and the price is below the cost of production, or unsatisfactory, the Secretary of Agriculture may purchase this cotton, and may redistribute it to producers in lieu of production. It was that for which for years and years I worked here, and had the cooperation of Senators on the other side, who worked in harmony with me to bring about that condition. This amendment simply makes it lawful for the Secretary of Agriculture to purchase this cotton, take it in good faith at a price agreed upon between him and the producer, and resell it to the producer in lieu of production in subsequent years.

Mr. KING. Mr. President, the explanation of the Senator may be satisfying to Senators, but I may say that it is not entirely satisfying to me. I do not know what activities have been carried on under existing law with respect to the purchase and disposition of cotton. I do know that a large quantity was purchased, and the price was pegged, as I recollect, at 12 cents per pound; but it seems now that we are to expand the powers of the Secretary of Agriculture—I am speaking without sufficient knowledge of the implications which will arise from this measure—and redistribute purchased cotton to persons who grow cotton.

I have had no chance even to read the amendment and do not understand the purpose for which the cotton is to be redistributed, unless to induce growers of cotton to refrain from producing it. Whether they are to get any monetary advantages from redistribution or distribution I am not able to understand from the explanation made by the Senator from South Carolina. Moreover, I do not understand, Mr. President, what authority the Federal Government or the Secretary of Agriculture has to buy cotton and to deal in cotton, to be a purchaser, a vendor and the vendee, to fix the price of cotton, to peg it at a certain price, to loan money upon it, and to do what this amendment seeks to be authorized to be done, if I understand the statement of the Senator from South Carolina.

A few years ago, Mr. President—and it was when the Republicans were in power—the Congress appropriated \$500,000,000 and placed it in the hands of the Farm Board. The Hoover administration and the Republican Party suffered much criticism because of this act and its administration. They were damned by Democrats and condemned by Republicans. They were damned by farmers and condemned by those who had to buy the cotton. I remember the eloquent speeches which were made by Democrats upon the floor of the Senate condemning that policy, and denouncing the authority which was exercised as being in violation of the Constitution of the United States. Yet it seems to me that this measure, if I understand it, is subject to criticism, perhaps more severe than that leveled against the Farm Board and those responsible for it. If it was wrong—and many said it was—to loan money as was done for the purchase of cotton and wheat, and to speculate in those products, then there may be ground for criticizing the policies supported by this bill. Senators will recall that several hundred million dollars were lost—wasted—by the Government through the operations of the Farm Board.

This amendment seems to me to be an unwarranted attempt to assert authority on the part of the Federal Government and to embark it upon activities entirely foreign to the purposes for which it was created.

I should like an opportunity to examine this amendment, and I again request that it may go over, to be considered tomorrow.

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent that the amendment go over until tomorrow.

Mr. SMITH. Mr. President, before action is taken upon that request, I should like to make a statement.

At the time to which the Senator refers we had an enormous surplus of cotton. All Senators remember that cotton was down to an average of about 5 cents a pound. The Government tried to aid by lending a certain amount. I am not now speaking of the action of the Farm Board in connection with the cotton that it pegged or bought at 15 cents a pound; but I think it is my duty now to say that the Farm Marketing Act passed under the Hoover administration was a splendid piece of legislation. It was miserably administered, however, and it met organized opposition from the trade, which ultimately emasculated it and ruined it.

That bill simply provided that \$500,000,000 should be turned over to a board as a basis of credit, and they were to act as the selling or marketing agent or bargaining agent of the farmer.

Mr. Legge himself said to me that he did not expect to spend any of the \$500,000,000; that the cotton would be turned over in the Southern States to whatever agency they designated, and that the cotton would have financed itself. Had he or the organization been put in possession of 75 or 80 percent of the cotton it would have financed itself, and he could have deducted any reasonable price he saw fit. The same thing, he said, was true of wheat. The appropriation of \$500,000,000 and the creation of the organization was a declaration on the part of the Federal Government that it had provided an organization financed and equipped to do for the farmers the marketing which they could not do for themselves. The result was that they did not have handed over to them a bale of cotton or a bushel of wheat.

Under another provision of the bill, however, in order to demonstrate or hope to demonstrate what they might do, they bought certain amounts of wheat and cotton, thinking perhaps if they entered the market and began to demonstrate what might be done others would voluntarily send in their cotton to have it marketed. They bought at 16 cents, which, at the time they bought or loaned, was from 1 cent to 2 cents under the market. Immediately a raid on the cotton market was made throughout the country, and the price was broken far below the price they had loaned on the cotton.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. ROBINSON. One of the difficulties which arose out of the Farm Marketing Act, to which the Senator is now referring, is that there was no coordination of production with the attempt to regulate marketing.

Mr. SMITH. And no marketing agreements whatever were entered into with any of the farmers.

Mr. ROBINSON. No. So it may be said that the act proved a failure apparently because of that fact. At least, that is one of the reasons why it resulted in failure. That is not true of the Agricultural Adjustment Act. Whatever other criticism may be directed against it, the fact remains that it has been the principal factor in raising and stabilizing the price of cotton and of other basic commodities dealt in, so that those prices are now two and in some cases three times as high as they were before the act was passed.

That does not tell the whole story, nor the most material part of it. The prices at which these basic commodities were selling before the Agricultural Adjustment Act was enacted were so low that they did not compensate the producers for even the major portion of the costs of production; and if it had not been passed, or if something similar had not been done, the agricultural interests of the Nation would have been ruined.

Mr. SMITH. Let me say, in reference to the criticism made by the Senator from Utah, that, as Senators will recall, we had 10,000,000 bales of surplus cotton, in 4,000,000

bales of which the Government had an equity. I introduced a bill in the Senate providing that the Government might purchase that cotton and redistribute it to the farmers at a price of 6 cents, the average price then being about 5 cents. Everyone familiar with cotton production knows that 6 cents was anywhere from 6 to 8 cents below the cost of production. So we devised the cotton option plan, and wherever a farmer was willing to reduce his crop by half the Government would substitute the other half at 6 cents a pound. What was the result? The 4,000,000 bales known as "option cotton", were allocated. The farmers reduced their crop by 4,000,000 bales and the price went to 12 cents a pound.

Mr. ROBINSON. And the surplus to that extent was disposed of.

Mr. SMITH. Yes; to that extent it was disposed of; the Government got back its 6 cents without losing a penny, and the farmers got \$30 a bale on that option cotton, which they had produced in the previous year but had been forced to dispose of below the cost of production. It was simply bought back by the Government at that price and optioned to the farmer in lieu of production by him. The farmer made \$30 a bale; the Government got every penny back, and the surplus was reduced by 4,000,000 bales.

Mr. KING. Mr. President, will the Senator yield?

Mr. SMITH. If the Senator from Utah has a better plan to offer or thinks that the option plan is out of all "whack" with the genius of the American Government, all well and good; but that is all this means, and it has worked to the benefit of those who produced. It has yielded a billion dollars of new money a year to buy commodities produced, in part, in Utah. If the Senator wants to offer an amendment providing that none of the money thus made shall be spent in Utah, I should be very glad to accept it.

Mr. KING. Mr. President, I thank the Senator for his generosity, and I am sorry I have now not time to debate this matter with him; I am compelled to go to a committee meeting now in session; but before leaving the floor I desire to challenge the Senator's attention to the declaration made in the Democratic platform of 1932. It reads as follows:

We condemn the extravagance of the Farm Board, its disastrous action which made the Government a speculator of farm products, and the unsound policy of restricting agricultural products to the demands of domestic markets.

The Senator may find that has not been violated by this bill or by the original act to which the pending bill is supplemental. I think that the original act which was passed has some of the aspects of the farm bill which was condemned, and the policies of the A. A. A. some persons believe are somewhat akin to those of the Farm Board, which was so severely condemned.

Mr. SMITH. No.

Mr. KING. I am speaking of speculation.

Mr. SMITH. Yes; but let me call the Senator's attention to the fact that under the disastrous Republican administration there was necessarily caused a condition from which we are now trying to obtain such salvage as we can. Do not come here and say that we are doing what they did; we are salvaging something from the wreck they created.

Mr. KING. I hope that is true.

Mr. SMITH. Exactly.

Mr. KING. If the Senator will pardon me, I am compelled to leave to attend a committee meeting.

Mr. SMITH. Very well.

Mr. McKELLAR. Mr. President, may I say, before the Senator from Utah leaves the Chamber, that what we are doing here is in exact line with the provisions of the platform from which the Senator from Utah read.

Mr. SMITH. Precisely.

Mr. President, this plan has passed the experimental stage. I wish to state that the officers of the Agricultural Department were so delighted with the operation of the option plan that they desired to incorporate it in this bill as being one of the most essential features. I think we ought to have a vote on the question now, and I ask for a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, the Senator from Utah [Mr. KING] just complained that the Agricultural Department were not following out the Democratic platform, and I think that is a perfectly correct statement. I am sorry that they did not do so, because the Democratic platform on agriculture was much better than the Republican platform. The trouble is, however, the Agricultural Department has followed the Republican platform and not the Democratic platform. I wish to read what the Republican platform says as found on page 347 of the little booklet containing the platform:

We will support any plan which will help to balance production against demand, and thereby raise agricultural prices, provided it is economically sound.

That is just what the Democratic administration is trying to do; that is what they are trying to carry out.

Mr. ROBINSON. Mr. President, does the Senator know of any way by which agricultural prices may be stabilized or put on a profitable basis without some measure of control of production?

Mr. FRAZIER. I think the Democratic platform would have done it if it had been carried out.

Mr. ROBINSON. I think that is what we are doing.

Mr. FRAZIER. No; the majority now are following the Republican platform entirely instead of the Democratic platform.

Mr. SMITH. It is all right. I would ride the devil so long as he were going toward heaven, but I would try to get off when he changed his course.

Mr. ROBINSON. The Senator from North Dakota, who is a Republican, seems to think it is not possible for the Republicans ever to say anything in their platform that has sanity in it; but, so far as the provision that he has read relates to this controversy, it is well worthy of recognition that the failure of the farm marketing act was due to the neglect of the then administration to coordinate its enterprises for the stabilization of prices with regulated production. I do not think anyone, however reckless his views may be, has ever advanced a theory in any platform that you can maintain a sound standard of prices without regard to the amount that is produced, without regard to the supply. Necessarily when you undertake to stabilize prices, say, for instance, with the cost of production, you must have some regard to the amount of production. If you fail to do that, you pile up surpluses until your system, whatever it may be, breaks down or collapses.

Mr. FRAZIER. Mr. President, the Democratic platform mentions control of crop surpluses and giving the farmers a price based on the cost of production.

Mr. ROBINSON. That is exactly what we are trying to do.

Mr. FRAZIER. No.

Mr. ROBINSON. Surpluses cannot be controlled without some measure of regulating production. That is a very practical method of regulating production. I am glad to see the Senator from North Dakota reading the Democratic platform. Perhaps this is the first time in his life he has ever engaged in that venture.

Mr. FRAZIER. Oh, no, Mr. President.

Mr. ROBINSON. The more he reads it the greater will be his wisdom. [Laughter.]

Mr. FRAZIER. My only complaint is that the Agricultural Department did not carry out the Democratic platform instead of the Republican platform.

Mr. ROBINSON. The statute to which all this controversy is germane is designed to carry out that platform. It may not be carrying it out in the manner the Senator from North Dakota would like to see it done, but, nevertheless, it has accomplished the fundamental purpose of farm relief legislation.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. ROBINSON. I will yield in just a moment. Since 1920 and 1921 there has been before the country a fundamental problem which has entered into various other related problems, and that is the disparity existing between the prices of agricultural products and the prices of other com-

modities. Every bill which has been passed has been directed to correcting that condition. The Farm Marketing Act failed, for the simple reason that it did not take regard of production while trying to stabilize prices on a sound basis. The reason the Agricultural Adjustment Act, in spite of all the criticisms that have been directed against it, has performed that function is that it has taken into account the necessity of regulating or controlling production while trying to stabilize prices. If there is anyone here—I do not care what his politics is; I do not care what his views on economics may be—who can find any method of stabilizing the prices of products without regard to production, without regard to surpluses, he will do a favor to the country and to the world by bringing forward his plan.

The difficulty is that those who have tried and failed in connection with this problem content themselves with criticizing what has been done, but their criticism is not constructive in that they themselves fail to provide or suggest any remedy. I now yield to the Senator from Kentucky.

Mr. BARKLEY. Does the Senator understand the position of the Senator from South Dakota to be that we should have gone on producing the surpluses and then have tried to do something about it after the surpluses had piled up rather than undertake to avoid the surplus by some method of controlling production? Is that the view of the Senator from North Dakota?

Mr. FRAZIER. Mr. President, if the Senator will yield—

Mr. ROBINSON. I will yield if I have the floor.

Mr. FRAZIER. It will be remembered, Mr. President, when the three A bill was before the Agricultural Committee of the Senate at the last session, a provision was inserted upon motion of the Senator from Nebraska [Mr. NORRIS] that would guarantee to the farmers a fixed price for the principal farm commodities, based upon the cost of production for the amount used for home consumption, and the surplus was to be taken care of in some other way, regardless of what they got for the surplus; it should be shipped abroad or kept on the farm or carried over; but on the amount used for consumption at home the farmers were to be given the cost of production as is provided by the Democratic platform. The provision to which I have referred was stricken out in the House.

Mr. ROBINSON. Of course, there was advanced the theory that the purpose underlying the bill ought to be made the "parity price", and there was advanced the proposition that it should be made the "cost of production." But there were asserted in connection with the latter proposal at least two difficulties which seemed insuperable. In the first place, there was no consensus of opinion as to exactly what elements enter into the cost of production. There was a wide diversity or difference of conditions throughout the United States as to what the cost of production actually was. There was also a diversity of opinion as to what expenditures should be taken into consideration in determining the cost of production.

The plan finally incorporated in the Agricultural Adjustment Act was the "parity price" plan; that is, to give to agricultural products the same purchasing power possessed by other products during the base period. In order to do that the base period was fixed by statute, and a plan was worked out which was incorporated in the Agricultural Adjustment Act. It is true the parity price has not as yet been reached and maintained, but it is also true that it has been approached so that the purchasing power of staple agricultural products now is two times as great as it was when the bill was passed. That has accomplished a very wholesome purpose. Those who criticize the act and are not satisfied with the results which have been achieved ought to suggest a better plan than that which has been incorporated in the Agricultural Adjustment Act.

I recognize that there are some features of the legislation which are more or less arbitrary and which present difficulties. At the same time, taking the measure as a whole and its effects as a whole, it has been very wholesome, and the Congress dare not abandon it or repeal it. I make that challenge.

Mr. FRAZIER. Mr. President, I agree the plan has been wholesome and has been of benefit, but the parity price is below cost of production. The Secretary of Agriculture admits it. The head of the A. A. A. admits it. The Senator from Arkansas will admit that so long as the farmers get anything less than cost of production they will continue to go broke.

Mr. ROBINSON. Cost of production is in itself an unsatisfactory basis. Who desires to work all his life merely to realize what he has expended in his work? That is what "cost of production" in common sense means. It means what one must expend in order to produce. Cost of production is itself a standard which has no very great uniformity in economics. The parity price is a price under which the farmers may live, carry on their operations, and enjoy some measure of profit. It is much better than the price which existed prior to the enactment of the Agricultural Adjustment Act.

Mr. SMITH. Mr. President, will the Senator yield?

Mr. ROBINSON. Certainly.

Mr. SMITH. The period selected for parity was a time when it was ascertained that the purchasing power of the farm dollar was 100 percent. In other words, the value of the farmer's dollar was exactly equal to the value of the dollar represented by the things he bought.

Mr. ROBINSON. Approximately. "Parity prices", like many other terms which have been used, is a technical term. It is perhaps not entirely accurate to say that in any period the purchasing power of agricultural products was exactly 100 percent compared with all other products. The base period is the time when agricultural commodities were on a fair level with other commodities.

During the war we stimulated production in every way possible. Old men who had long been retired from work were encouraged to resume toiling in the fields, and women and children were encouraged to engage in agricultural production in order that we might be sure there would be an adequate supply for our men at the front and for those of other countries who were associated with us in carrying on the great world conflict. When the great guns were silenced and 4,000,000 of our men were disbanded and sent back from military service into peaceful pursuits, we had a problem which reflected itself in the affairs of the farmers more greatly than in the industrial organizations of the country. There was a disparity.

We were producing more agricultural products than were necessary, more than we could find a market for. There were surpluses and the prices of agricultural products were relatively low compared with industrial products. So the task confronted the country of restoring a measure of parity between agricultural commodities and industrial commodities. That is the task which was undertaken by the enactment of the Agricultural Adjustment Act. It has been nearly achieved. The farmers and the people of the country generally recognize that fact.

Mr. BANKHEAD. Mr. President, the debate on the amendment has drifted into a discussion of the fundamentals underlying the bill. I am pleased that it has done so because it was inevitable and proper that there should be a discussion of the principles involved and the effect which the administration of the Agricultural Adjustment Act had upon agriculture and upon the business of the country. I have been very greatly pleased with the splendid arguments made by the senior Senator from Arkansas [Mr. ROBINSON] and the senior Senator from South Carolina [Mr. SMITH]. It is not my purpose now to attempt to add any contributions to their statements upon the subject.

However, I think it may be well, as we are going to vote on the amendment, to point out the specific purpose of the amendment now under consideration and shortly to be voted on. The amendment has been requested by the administration. It is really pending on calendar of the Senate in the form of a separate bill reported sometime ago from the Committee on Agriculture and Forestry.

It will be recalled that when the original Agricultural Adjustment Act was passed there was incorporated in it—and the senior Senator from South Carolina [Mr. SMITH]

was the author of the plan—a provision for the acquisition of the farm credit cotton and cotton held by the cooperatives, and options were given to cotton farmers to take that cotton in lieu of producing an equal amount of new cotton. This amendment relates solely to that program.

Under the original bill the Department was required by mandatory provisions to dispose of that cotton by the 31st day of March 1936. That will come shortly after the beginning of the next session of the Congress. There may not be time prior to that date for proper consideration and action. It is certainly unwise, from the standpoint of the administration and the cotton grower, to have this quantity of cotton hanging over the market with a mandatory requirement that it shall be sold regardless of the price prevailing at the time.

The amendment, in the first place, simply removes that limitation upon the time of sale and leaves it in the discretion of the Secretary of Agriculture as to when the cotton shall be sold. That is advantageous, of course, as we all know. The sudden placing of a large quantity of cotton upon the market, thereby depressing the price, would be disadvantageous not only to the cotton producer but also from the standpoint of the Public Treasury, because a loan of 12 cents per pound has been advanced upon the cotton and it is not in the public interest, simply because of the original limitation in the act, that the entire quantity of cotton should be forced upon the market next spring.

The next provision in the amendment relates to assignments and transfers of the options granted to farmers under that program. The original bill provided that the contracts should be nonassignable. However, that fact was not thoroughly known throughout the district, and it developed that a number of the contracts were sold. The Comptroller General has held that under that section the purchasers and assignees are not proper holders of those options. The amendment simply provides recognition of those options transferred in good faith, where the Secretary finds that they were for full value and free from evidence of fraud or speculation by the assignees.

The other portion of the amendment extends the time of the R. F. C. loan to correspond to the first part of the amendment, which extends and places in the power of the Secretary the time for disposition of this cotton.

So I think, with this explanation, that there should be no real opposition to the adoption of this amendment, which relates almost entirely to the time of disposition, and is offered at the request of the administration.

THE PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed.

The next amendment was, on page 69, after line 2, to insert:

SEC. 34. Section 6 of the Agricultural Adjustment Act is hereby repealed.

The amendment was agreed to.

The next amendment was on page 69, after line 4, to insert:

SEC. 35. Section 4 (b) of title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by striking out the words "to be available until March 1, 1936" and inserting at the end of said section a new sentence to read as follows: "This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of title 1 of this act, including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture."

The amendment was agreed to.

The next amendment was on page 69, after line 16, to insert:

SEC. 36. Section 4 (f) of title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by adding at the end thereof a new paragraph to read as follows:

"The word 'obligation' when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other

expenses incident to handling, carrying, insuring, and marketing of said cotton."

The amendment was agreed to.

The next amendment was, on page 70, line 1, after "Sec.", to strike out "32" and insert "37"; and in line 8, after the word "for", where it occurs the second time, to insert "scientific", so as to make the section read:

SEC. 37. The Secretary of Agriculture is authorized to use as much as he finds advisable of the funds appropriated by the second paragraph of Public Resolution No. 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the act entitled "An act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes", approved April 7, 1934, for scientific experimentation and efforts to eradicate Bang's disease in cattle. Such funds shall be available to carry out such section 6 and for the purposes for which funds are made available by this section until December 31, 1937, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere.

The amendment was agreed to.

The next amendment was, on page 70, line 16, after the word "Sec.", to strike out "33" and insert "38"; in the same line, after the word "shall", to insert "(a)"; in line 20, after the word "act", to insert "or (b)"; in the same line, after the matter just inserted, to strike out "nor shall anything contained in this act"; and in line 23, after the word "license", to insert: "or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this act, or subsequent to the enactment of this act in connection with a program initiated under such section 8 (1) prior to the enactment of this act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act", so as to make the section read:

SEC. 38. Nothing contained in this act shall (a) invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this act, or subsequent to the enactment of this act in connection with a program initiated under such section 8 (1) prior to the enactment of this act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act.

The amendment was agreed to.

MR. BILBO. Mr. President, I offer an amendment to section 39, and ask unanimous consent to have it printed and lie on the table; and by agreement it is to go over until tomorrow.

THE PRESIDING OFFICER. The amendment will be received, printed, and lie on the table.

MR. COPELAND. Mr. President, I observe that the remaining portions of the bill are new. I ask unanimous consent that on page 73, beginning with line 18, the amendments to the Kerr Tobacco Act, going through to line 9 on page 77, be passed over for the day. I do that—and I apologize for making the request—because I have had some complaints from my State about the amendments, and I should like the opportunity to look at them before we take action here.

MR. BANKHEAD. Mr. President, I am perfectly agreeable to that course. I am temporarily in charge of the bill, the Senator from South Carolina [Mr. SMITH] having been temporarily called from the Chamber. He is the author of the amendments and of the act. If agreeable to the Senator from New York, I prefer to pass over the matter tem-

porarily until the return of the Senator from South Carolina to the Chamber. He will be back in a very short time.

Mr. COPELAND. Very well. I am only asking that I have an opportunity to look over the complaints I have received.

Mr. BANKHEAD. I say, let us just temporarily pass over the amendments. I would rather have that done.

Mr. COPELAND. Very well.

The PRESIDING OFFICER. The amendments referred to will be temporarily passed over.

Mr. FLETCHER. Mr. President, the next section as proposed by the committee, section 39, I contend ought not to be in the bill at all. I think section 39 has no true relation to the proposed legislation. It ought not to be proposed here; and I am going to ask that the committee amendment known as "section 30" be rejected wholly.

I am somewhat familiar with this question by reason of a study we made in the Committee on Banking and Currency and considerable hearings which we held when we had before us the Farm Credit Act of 1935. Last February a bill known as "Senate Bill 1384" was referred to the Committee on Banking and Currency. We had extended hearings on it; and this provision—practically the same thing, word for word—was proposed as an amendment to that bill. The committee examined the subject very carefully. The proposition was submitted in connection with section 12 of that bill, and the effort was to amend section 12 by inserting this sort of thing. The committee voted against it, voted it down, and would not allow it to be put on the bill, as it did not consider the proposition sound. When the bill came to the Senate the same matter was again proposed, and was offered in the Senate as an amendment to the Farm Credit Act of 1935. It was then discussed here, reviewed to a considerable extent, and rejected. Now it appears here as an amendment to this bill. When I read the bill I recognized it as an old acquaintance, and I inquired of Governor Myers about it, and I have a letter from him which I ask to have read by the clerk. I think it will be interesting to the whole Senate.

Mr. JOHNSON. Mr. President, will the Senator yield for a moment?

Mr. FLETCHER. I yield.

Mr. JOHNSON. I had risen merely for the purpose of suggesting, on behalf of the cooperative associations, that the amendment referred to would establish a principle which would return to plague those cooperative associations in the future, and they were hoping it would not be enacted as a part of the bill. I recognize that it does not affect the particular productions of the territory from which I come; but in that territory are located the greatest cooperative associations in the United States, and they feel that to establish a precedent such as would be established here by this amendment might ultimately interfere with the continued good work which those cooperatives are doing.

Mr. FLETCHER. I think the Senator is correct. The language would appear to limit the amendment to the marketing of cotton, but it will undoubtedly refer to the marketing of other commodities.

Mr. McKELLAR. No, Mr. President; it refers only to cotton. It is intended to apply only to cotton. If the Senator has any apprehension about its applying to any other cooperatives, all he will have to do is to suggest the words, and I shall certainly accept them.

Mr. JOHNSON. Mr. President, I recognize that what the Senator from Tennessee says is correct. The amendment does apply only to cotton, it is true; but it establishes a rule concerning loans to cooperative cotton associations which, if applied to other cooperative associations, would be not only detrimental, but in some instances absolutely ruinous.

Mr. FLETCHER. Mr. President, the Secretary of Agriculture discusses that matter in a letter which I have here.

Mr. McKELLAR. I wish to ask that this amendment go over.

Mr. FLETCHER. May I have the letter read?

Mr. McKELLAR. Certainly; but I wish the pending amendment to go over. I myself desire to offer an amendment to it; and I ask that it go over in its entirety.

Mr. FLETCHER. I ask that the letter be read.

Mr. BANKHEAD. Mr. President, when the junior Senator from Mississippi offered an amendment it was my understanding that he then asked unanimous consent, which was granted, that the matter go over until tomorrow. He asked to have the amendment printed and to lie on the table, and that the section go over until tomorrow.

Mr. McKELLAR. That will be entirely satisfactory.

Mr. FLETCHER. I have no objection to that, but I want the letter read.

Mr. McKELLAR. I offer an amendment to be printed and to lie upon the table.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. FLETCHER. Mr. President, I wish to have the letter read, so that it will go into the Record.

The PRESIDING OFFICER. The Senator from Florida asks that the clerk read a letter, and, without objection, the clerk will read.

The legislative clerk read as follows:

FARM CREDIT ADMINISTRATION,
Washington, D. C., July 9, 1935.

HON. DUNCAN U. FLETCHER,
Chairman Senate Committee on Banking and Currency,
United States Senate.

DEAR SENATOR FLETCHER: Receipt is acknowledged of your letter of July 6, 1935, requesting my comments on the effect of the enactment of section 39 of bill H. R. 8492, entitled "An act to amend the Agricultural Adjustment Act, and for other purposes", passed by the House of Representatives on June 18, 1935, and reported with amendments to the Senate on July 3, 1935, by the Senate Committee on Agriculture and Forestry (S. Rept. No. 1011). The section in question reads as follows:

"Sec. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government *unless such association handles the products of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than such bona fide members.*" (Italics added.)

Under the prohibition contained in the foregoing amendment, no cotton cooperative association would be eligible for a loan from any agency of the Government unless such association handles the products or supplies of "bona fide cotton-producing members." The term "any agency of the Government" would prohibit the making of loans from the revolving fund provided for in the Agricultural Marketing Act, and from the Central Bank for Cooperatives and the regional banks for cooperatives created under the Farm Credit Act of 1935, and the Federal intermediate-credit banks, if the conditions stated in the amendment are not complied with.

While section 39 does not purport to amend any act of Congress, it will in fact amend subsection (a) of section 15 of the Agricultural Marketing Act, as amended by section 12 of the Farm Credit Act of 1935. Section 15 as amended reads as follows:

"(a) As used in this act, the term 'cooperative association' means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services: *Provided, however, That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:*

"First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and

"Second. That the association does not pay dividends on stock or membership capital in excess of 8 percent per annum.

"And in any case to the following:

"Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. *All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.*" (Italics added.)

It is evident that the proponents of section 39 are attempting to increase the eligibility requirements for credit of all cotton cooperatives and thereby deny to them the privileges which they now enjoy under the provisions of section 15 just above referred to. For example, these associations would be required to count as a part of their nonmember business any transaction carried on for the Government or any of its agencies.

In reality the amendment would render the American Cotton Cooperative Association ineligible to borrow from the Government or from the Central Bank for Cooperatives. At present this association is the central sales agency of 14 State or regional cooperative associations which are, in turn, owned or controlled solely by cotton farmers. While the association handles cotton of bona fide producers, its membership is made up of local cooperative associations of producers. Furthermore, the American Cotton

Cooperative Association would, in all probability, be rendered ineligible to borrow on account of the volume of cotton which it handles for the Agricultural Adjustment Administration and the Commodity Credit Corporation, all of which cotton would of necessity have to be regarded as a part of the products dealt in for persons other than bona fide cotton-producing members.

You will recall that on February 5, during the hearings before the Senate Committee on Banking and Currency on bill S. 1384 (the Farm Credit Act of 1935), Mr. George B. Coate, of Little Rock, Ark., appeared as a witness on behalf of the American Cotton Shippers Association, a trade association composed of cotton merchants. Mr. Coate objected to section 12 of the Farm Credit Act of 1935, which amended subsection (a) of section 15 of the Agricultural Marketing Act on the grounds that there existed no fundamental distinction between certain cooperative associations, including the American Cotton Cooperative Association, and cotton merchants. He contended, therefore, that the cotton merchants should either be entitled to the same credit facilities that are now extended by the Government to cotton cooperative associations or that there should be placed a definite limitation on the amount of nonmember business which such associations might handle and remain eligible to borrow, and that cotton handled for the Government should be regarded as nonmember business.

In principle I can see no difference between section 39 of bill H. R. 8492 and Mr. Coate's proposed amendment to the Farm Credit Act of 1935, which the Senate Committee on Banking and Currency declined to adopt. For your convenient reference I am attaching hereto a copy of part 2 of the hearings before the Senate Committee on Banking and Currency on bill S. 1384, on pages 66, 69, 70, 71, and 72, of which we have underscored the statements made by Mr. Coate to which I have referred.

I would like also to call to your attention the statements made by Mr. N. C. Williamson, a cotton farmer of Lake Providence, La., and the president of the American Cotton Cooperative Association, appearing on pages 73 to 83, part 2, of the report of the same hearing. I should like for you to consider particularly the statement by the Farm Credit Administration relating to complaints of cotton shippers against American cotton cooperative associations, which begins on page 76.

In this connection it seems to me that there is no basis for the complaints that have been made by cotton shippers and merchants, in view of the fact that the cooperative associations dealing in agricultural commodities are following accepted and recognized business practices. No law has been brought to my attention which prevents a cotton cooperative from functioning in this way. Any earnings which are made are for the ultimate advantage of the growers themselves. In 1934 the American Cotton Cooperative Association returned these surplus earnings to the growers in the form of a patronage dividend paid on a per-bale basis.

Although section 39 is directed only to the sale of cotton, its adoption may seriously affect the orderly marketing of other commodities. For instance, if the marketing of cotton may be made the subject of special legislation, designed to curtail the activities or available credit of the central sales agency for such commodity, local associations of producers of other agricultural products will hesitate to enter into any marketing programs which are dependent upon obtaining a line of credit from the Farm Credit Administration or from any of the institutions under its supervision for fear that the commercial agencies dealing in the same products may successfully promote similar legislation for their benefit.

In the circumstances I recommend that section 39 of bill H. R. 8492 be eliminated.

Sincerely yours,

W. I. MYERS, Governor.

Mr. FLETCHER. Mr. President, I have a copy of the hearings referred to, but I will not bother the Senate now to read from them. They are available, and the arguments and reasons pertaining to this proposition are very clearly set forth in the hearings before the Committee on Banking and Currency.

At the same time I inquired of Governor Myers about the effect of the amendment, in response to which inquiry he wrote the letter which has just been read; I inquired also of the Secretary of Agriculture, and since this matter has come up the reply of the Secretary has come to me. I have it here now, but it is getting late, and I will not ask to have it read. However, I ask to have it printed in the RECORD. He concludes by saying:

If cotton cooperatives can meet the qualifications which Congress has laid down and which are administered by these agencies, there would appear no justification for this provision which apparently discriminates against cotton cooperatives.

I ask to have the whole letter printed in the RECORD.

The PRESIDING OFFICER (Mr. CLARK in the chair). Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, July 10, 1935.

HON. DUNCAN U. FLETCHER,
United States Senate.

DEAR SENATOR FLETCHER: You have asked me for comments on section 39 of H. R. 8492, which relates to cotton cooperatives, and undertakes to render ineligible cotton cooperative associations for Government credit "unless such association handles the products of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than such bona fide members."

Primarily this is a matter of concern to the Farm Credit Administration. Yet the question raised is, of course, of vital importance to the general principle of cooperative marketing. As you pointed out in your letter, the Banking and Currency Committee, in considering the Farm Credit Act of 1935, considered the complaints of the cotton trade which section 39 of H. R. 8492 seeks to relieve. Your committee at that time declined to adopt an amendment somewhat similar to the section under discussion.

There are two points which occur to me to merit special consideration. They are:

(1) By the use of the term "bona fide cotton-producing members" the section purports to qualify the concept of "members" as used in prior legislation pertaining to cooperative associations. Such legislation defining cooperative associations and setting up standards of qualification for them are: (a) The Capper-Volstead Act (42 Stat. 388 (1922)); (b) section 15 (a) of the Agricultural Marketing Act (approved June 15, 1929) (46 Stat. 18); (c) section 55 (a) of the Farm Credit Act of 1933, amending section 15 (a) of the Agricultural Marketing Act (48 Stat. 257); and (d) section 12 of the Farm Credit Act of 1935, amending the Agricultural Marketing Act and the Farm Credit Act of 1933 (Public, No. 87).

Appearing in all of these statutes is a provision that an association "shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members." The Farm Credit Act of 1933 and the Farm Credit Act of 1935 contain a further provision to the effect that the association "shall not deal in supplies for nonmembers to an amount greater in value than such as are handled by it for members." And while no qualification of the term "members" such as appears in section 39 is present in any of these statutes, they all uniformly make producer membership and producer control a basic essential of cooperative organization, with a proviso that operations shall be for the mutual benefit of members as producers. The use of the term "bona fide cotton-producing members" in this section is susceptible of an interpretation restricting farm-credit facilities to local independent cooperative associations, thus excluding organizations composed of local or independent cooperative associations. Although the prior legislation already referred to does not expressly allude to such organizations composed of a group of local or independent associations, the Capper-Volstead Act permits associations to have marketing agencies in common, and an opinion of the Attorney General (36 Op. Atty. Gen. 336 (1930)) has been rendered to the effect that loans by the Federal Farm Board, now the Federal Farm Administration, may be extended to such organizations provided they qualify otherwise.

(2) The second consideration which is of concern to the Agricultural Adjustment Administration relates to business transacted for or on behalf of the Government. In failing expressly to provide that business transacted by any cooperative association for the Government shall be disregarded in determining the volume of member and nonmember business transacted by such association, the section sets up a standard of qualification for obtaining credit facilities with respect to cotton cooperatives different from that applicable to all other classes of cooperatives under section 12 of the Farm Credit Act of 1935. This section provides that in calculating member and nonmember business done by any cooperative association, that transacted for or on behalf of the United States or any agency thereof be disregarded.

It is to be noted that section 12 of the Farm Credit Act of 1935 was enacted to cure a defect in prior legislation which did not contain a reference to business done for the United States and which, therefore, the Federal court in the case of *Board of Trade of City of Chicago v. Wallace* (67 F. (2d) 402 (1933)) interpreted as meaning that all business not done for members was to be regarded as having been done for nonmembers. The effect of section 39 of the proposed amendments, it is suggested, is to follow the interpretation of the court in the case just cited, particularly since the division is on the basis of "members" and "persons other than such bona fide members." It is, therefore, my view that section 39, which is in reality an amendment to the Farm Credit Act of 1935, should be considered apart from the amendments to the Agricultural Adjustment Act now pending. It would appear that if this amendment is adopted Congress would reverse its already established policy relative to farmer-owned and farmer-controlled marketing institutions. The question of membership structure is a matter which is under the jurisdiction of the Farm Credit Administration or the Bureau of Internal Revenue with reference to tax matters. If cotton cooperatives can meet the qualifications which Congress has laid down and which are administered by these agencies, there would appear no justification for this provision which apparently discriminates against cotton cooperatives.

Sincerely,

H. A. WALLACE, Secretary.

Mr. McKELLAR. Mr. President, this matter will be argued tomorrow, so I am not now going to take any time on it, except to say that this provision applies only to cotton cooperatives, and the cotton dealers of my section of the country are absolutely being put out of business by this cooperative association which is backed by the Government. In other words, money is furnished this cooperative association by the Government for the purpose of putting those engaged in the cotton trade absolutely out of business. Hundreds of them in my section of the country are being put out of business, and many are out of business already, as a matter of fact.

What is the result? The result is that the cotton trade is being monopolized by four great companies. What are those companies? One is Weil & Co., the next one is McFadden & Co., the next one is Anderson, Clayton & Co., and the fourth is the Cotton Cooperative Association, backed by the United States Government, and all the money necessary to put the cotton dealers out of business is furnished by the Government.

They do not confine their business to their members; they obtain the business from people who are not members. It was never intended that that should be done. They are going wholly out of bounds. All this amendment does is to provide that dealers who have been in the cotton business all the time, and who have managed it and controlled it well, and who have done a good job for the farmer, shall not be absolutely destroyed by a Government-controlled corporation. What is the result? The result is that these four great concerns—Anderson, Clayton & Co., Weil & Co., McFadden & Co., and the United States Government, through the cooperatives—are monopolizing the business.

What has the cooperative in cotton done? I desire to read a short joint resolution which was introduced by the Senator from North Dakota [Mr. FRAZIER]. I ask Senators to listen to this:

That for the purpose of adjustment and settlement of losses—

Settlement of losses—

sustained by the cooperative marketing associations dealing in grain during the stabilization operations of the Federal Farm Board in the years 1929 and 1930 when such cooperative marketing associations were induced and requested by the Federal Farm Board to withhold grain and/or cotton from the market and to make advances to their members in order to stabilize prices, the Federal Farm Credit Administration—

By the way, the Federal Farm Credit Administration is presided over by Dr. Myers, who has just written the letter which was put into the RECORD by the Senator from Florida [Mr. FLETCHER]—

is hereby authorized and directed to make such adjustments and settlements in accordance with the understanding that such cooperative marketing associations had with the Federal Farm Board, and on the basis of a price or a sum equal to the amount directly loaned or advanced to such associations plus carrying charges and operation costs in connection with such grain and/or cotton from the date of the loans or advances to the date that such grain and/or cotton was finally taken over by the Federal Farm Board or delivered pursuant to its instructions.

What does that mean? It means that the cooperative cotton associations went on the market and gambled in cotton during these years, and sustained enormous losses; and now they are asking the Government to pay back those losses when they gambled in the name of the Government!

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. FRAZIER. I am not interested in any losses of the cotton cooperatives—

Mr. McKELLAR. I thought the Senator from North Dakota was a cotton expert who was here offering a measure in the interest of the downtrodden cotton cooperatives of the South who had been gambling in cotton.

Mr. FRAZIER. No, no, Mr. President.

Mr. McKELLAR. The Senator's joint resolution has that effect.

Mr. FRAZIER. No; this joint resolution does not refer to gambling in cotton at all.

Mr. McKELLAR. Mr. President, it does not refer to it, but it provides that the United States Government shall

make up the losses of the cotton cooperatives. That is what it does. I desire to give the Senator credit for offering to strike out cotton. I admire him and respect him for that; and whenever the joint resolution comes up, if he is willing to strike out cotton, I am perfectly willing that his joint resolution may be passed, because I do not know anything about wheat, and he knows something about it. I am not familiar with it. I know, however, that the cooperatives that this Government is backing is a monopoly, or an attempted monopoly, of the cotton business, have had their losses, and that the Government ought not to stand the losses.

Mr. President, what is the program? The program is that the Government goes into partnership with the cooperatives. If cotton goes down, the Government pays the losses. If it goes up, the cooperatives get the benefit. That is what it is. I do not think that is fair. I do not think it is fair to put all the private cotton dealers out of business for the benefit of cooperatives who have absolutely failed, with two exceptions. One is the Mississippi Long Staple Cotton Growers' Association—that is a splendid association—and the other is a new one which has grown up more recently.

As a matter of fact, if this joint resolution introduced by the Senator from North Dakota [Mr. FRAZIER] shall pass—and what he has to do with cotton I do not know; I do not think any cotton is grown in his part of the country—but if the joint resolution is passed as introduced by the Senator from North Dakota, it will cost the Government millions of dollars. For whose benefit? For the benefit of a lot of gamblers who were in a cotton cooperative association.

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. FRAZIER. I had no interest whatever in the cotton gamblers.

Mr. McKELLAR. The Senator is doing them a great service.

Mr. FRAZIER. The joint resolution as originally introduced applied only to the cooperatives dealing in wheat; but at the request of some of the cotton cooperatives they were included when the joint resolution was considered by the committee.

Mr. McKELLAR. It was a very fine gambling scheme for them to be included in this way, and the joint resolution came very near passing by unanimous consent in the Senate.

Mr. FRAZIER. It did pass the Senate last year.

Mr. McKELLAR. It got through by common consent, without anyone knowing it applied to cotton.

Mr. FRAZIER. The joint resolution simply provided that any losses should be put up to the Farm Credit Administration, which was to pass on the question; and I feel confident that the Farm Credit Administration would not approve the payment by the Government of any losses incurred in gambling on the market.

Mr. McKELLAR. The cooperatives bought cotton futures, just as other gamblers on the market did; and the mere fact that they operated under the title of "cooperatives" did not make it any less gambling. They lost, and the Senator's joint resolution undertakes to have the Government sustain those losses. I am opposed to that measure, and it was for that reason that I offered this amendment.

By the way, someone—I do not remember his name, and it is immaterial anyway—wrote a letter saying that this amendment was put in the bill by stealth. I ask the Chairman of the Senate Committee on Agriculture and Forestry if I did not come before the full committee with the amendment and ask that his committee adopt the amendment, and if I did not make an argument somewhat similar to that which I am making today in the Senate. I do not do things by stealth when it comes to legislation, or when it comes to anything else. That man was simply fabricating his story. That is all there is to it.

Mr. BANKHEAD. Mr. President, I wish to remind the Senator from Tennessee that, in addition to his coming before the committee, he offered the amendment on the floor of the Senate.

Mr. McKELLAR. Of course I did. If ever a matter was dealt with openly and aboveboard, this one was. I think

every Senator here will bear me out when I say I have never undertaken to "put anything over" upon this body or any body else by stealth. I am not that kind of a man.

Tomorrow, Mr. President, I shall finish what I have to say about this matter.

Mr. McADOO. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

Mr. BORAH. Mr. President, I desire to return to a matter which I think we can dispose of without any debate or discussion, and that is the amendment on page 11, line 3, "wool and mohair."

I have canvassed the situation with regard to this amendment, and the Senator from New Mexico [Mr. HATCH] is entirely willing that the amendment should be rejected. So far as I know, the representatives of States which would be particularly interested are of the same view. Has the Senator from South Carolina any objection to that amendment being rejected?

Mr. SMITH. Not the slightest, because I think the amendment was put in the bill under the impression that it was desired by the wool producers; and if their representatives here desire it to go out, the Chairman of the Committee on Agriculture and Forestry has no objection.

Mr. BORAH. Mr. President, I ask that the amendment on page 11, to which I have just made reference, be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 11, line 3, after the word "milk", it is proposed to insert "wool and mohair."

Mr. BORAH. Mr. President, I ask that that amendment be rejected.

The PRESIDING OFFICER. The question is on the committee amendment on page 11, line 3. The amendment is rejected.

Mr. BANKHEAD. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

Mr. SMITH. Mr. President, I understand that we have now reached page 71, together with amendments which are passed over. If we take a recess now, we can begin tomorrow on page 71, with line 19. So far as I am concerned, as chairman of the committee, I should be very glad if we might now take a recess until tomorrow.

Mr. BLACK. Mr. President, I promised the Senator from South Carolina [Mr. BYRNES], who desires to submit some reports from his committee, to call a quorum before recess is taken. I am glad to do so, because I am interested in one of the reports he is to make. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Johnson	Pittman
Ashurst	Coolidge	Keyes	Pope
Austin	Copeland	King	Radcliffe
Bachman	Costigan	La Follette	Reynolds
Bailey	Davis	Lewis	Robinson
Bankhead	Dickinson	Logan	Russell
Barbour	Dieterich	Lonergan	Schall
Barkley	Donahay	McAdoo	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	Frazier	McNary	Smith
Borah	George	Maloney	Steiwer
Brown	Gerry	Metcalf	Thomas, Okla.
Bulkeley	Gibson	Minton	Townsend
Bulow	Glass	Moore	Trammell
Burke	Gore	Murphy	Truman
Byrd	Guffey	Murray	Tydings
Byrnes	Hale	Neely	Vandenberg
Capper	Harrison	Norbeck	Van Nuys
Caraway	Hastings	Norris	Wagner
Carey	Hatch	Nye	Walsh
Chavez	Hayden	O'Mahoney	Wheeler
Clark	Holt	Overton	White

Mr. LEWIS. Mr. President, I announce the absence of the Senator from Nevada [Mr. McCARRAN], occasioned by a death in his family, and the absence of the Senator from

Louisiana [Mr. LONG], detainee matters.

The VICE PRESIDENT. Answered to their names. A quorum.

RESOLUTIONS REPORTED FROM COMMITTEE ON THE CONTINGENT EXPENSES OF THE SENATE

Mr. BYRNES. From the Committee on the Contingent Expenses of the Senate, favorably with amendments Senate Resolution 165 and 169, and Senate Resolution 170. I ask unanimous consent for their report.

The PRESIDING OFFICER. Is the Chair hears none, and the clerk will read which the Senator from South Carolina has introduced.

LOBBYING ACTIVITIES IN CONNECTION WITH HOLDING-COMPANY BILL

The Senate proceeded to consider the resolution (S. Res. 165), submitted by Mr. BLACK on the 2d instant, and reported this day by Mr. BYRNES from the Committee to Audit and Control the Contingent Expenses of the Senate, with amendments.

The amendments of the Committee to Audit and Control the Contingent Expenses of the Senate were, on page 1, to strike out lines 1 to 7, inclusive, as follows:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of the lobbying activities in connection with the so-called "holding-company bill." The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendations.

And insert in lieu thereof the following:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of all lobbying activity and all efforts to influence, encourage, promote, or retard legislation, directly or indirectly, in connection with the so-called "holding-company bill", or any other matter or proposal affecting legislation. The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendation.

On the same page, line 12, after the word "employ", to strike out "such" and insert "and to call upon the executive departments for"; and on page 2, line 7, after the word "exceed", to strike out "\$150,000" and insert "\$50,000"; so as to make the resolution read:

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of all lobbying activities and all efforts to influence, encourage, promote, or retard legislation, directly or indirectly, in connection with the so-called "holding-company bill", or any other matter or proposal affecting legislation. The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendation.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth and succeeding Congresses, to employ and to call upon the executive departments for clerical and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed \$50,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman.

The VICE PRESIDENT. The question is on agreeing to the amendments of the committee.

Mr. McNARY. Mr. President, I ask that the resolution go over for the day under the rule.

Mr. BLACK. Mr. President, may I suggest to the Senator that the resolution, insofar as policy is concerned, was unanimously approved by the Interstate Commerce Committee of the Senate?

Mr. McNARY. I appreciate that; but a request has come to me to have it go over for the day.

Mr. BLACK. Would the Senator object to stating who submitted the request?

Mr. McNARY. I object in my own right.

we notice that tomorrow at 12 convenes, I shall ask to proceed to adjournment, and if there be objection to that effect.

On objection, the resolution will

WOLLENSHIP DISASTERS—LIMIT OF EXPENDITURES

to consider the resolution (S. Res. 160) submitted by Mr. COPELAND on June 3, 1935, reported by the Committee to Audit and Control the Contingent Expenses of the Senate, with an amendment to strike out "\$25,000" and insert in lieu thereof, so as to make the resolution read:

That the sum of \$10,000 be made available to the Senate from the contingent fund of the Senate for the expenses incurred by the committee in the continued exercise of its privileges and duties prescribed by Senate Resolution No. 7, Seventy-fourth Congress, first session.

The amendment was agreed to.

The resolution as amended was agreed to.

PRODUCTION, TRANSPORTATION, AND MARKETING OF WOOL

The Senate proceeded to consider the resolution (S. Res. 160) submitted by Mr. ADAMS and Mr. STEIWER on June 24, 1935, and reported this day by Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, with amendments.

The amendments of the Committee to Audit and Control the Contingent Expenses of the Senate were, on page 1, line 1, before the word "Senators", to strike out "three" and insert "five"; on page 2, line 12, after the word "papers" and the comma, to insert "correspondence"; and in line 13, before the word "documents", to insert "other", so as to make the resolution read:

Wool is one of the major agricultural products of many sections of the United States and is used in many industries and provides a substantial part of the commerce of the country; and Whereas proper methods of marketing wool are essential to the establishment and maintenance of the prosperity of the industry; and

Whereas existing methods of marketing the wool crop have proved unsatisfactory to the wool producers of America: Therefore be it

Resolved, That a special committee of five Senators, to be appointed by the President of the Senate, is authorized and directed to make a full and complete investigation of the production, transportation, and marketing of wool. The committee shall report to the Senate, not later than the beginning of the second session of the Seventy-fourth Congress, the results of its investigations, together with its recommendations, if any, for necessary legislation.

For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth Congress, to employ such clerical and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, correspondence, and other documents, to administer such oaths, to take such testimony, and to make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed \$10,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman.

The amendments were agreed to.

The resolution as amended was agreed to.

LYDA BEERY

The resolution (S. Res. 166) submitted by Mr. COPELAND on the 8th instant and reported this day by Mr. BYRNES from the Committee to Audit and Control the Contingent Expenses of the Senate was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the appropriation miscellaneous items, contingent fund of the Senate, fiscal year 1935, to Lyda Beery, sister of Lottie M. Hart, late an assistant clerk to the Committee on Commerce of the Senate, a sum equal to 6 months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

ALICE L. WOOLMAN

Mr. McKELLAR. Mr. President, I ask unanimous consent that the nomination of Alice L. Woolman to be postmaster at Coweta, Okla., may be recommitted to the Committee on Post Offices and Post Roads.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

STATE ADMINISTRATORS IN WORKS PROGRESS ADMINISTRATION

The VICE PRESIDENT. The Chair lays before the Senate a message from the President of the United States, which will be read; and he will then ask the Senate's pleasure about the matter of the committee to which the nominations should be referred.

The legislative clerk read as follows:

THE WHITE HOUSE,
July 10, 1935.

To the Senate of the United States:

I nominate the following-named persons for appointment as State administrators in the Works Progress Administration, as follows:

Thad Holt, for Alabama.
W. R. Dyess, for Arkansas.
Frank Y. McLaughlin, for California.
Paul D. Shriver, for Colorado.
Matthew J. Daly, for Connecticut.
C. B. Treadway, for Florida.
J. L. Hood, for Idaho.
Robert J. Dunham, for Illinois.
Wayne Coy, for Indiana.
Evan Griffith, for Kansas.
George H. Goodman, for Kentucky.
John H. Mackall, for Maryland.
Harry Lynn Pierson, for Michigan.
Wayne Alliston, for Mississippi.
Victor Christgau, for Minnesota.
Matthew S. Murray, for Missouri.
Ray Hart, for Montana.
D. F. Felton, for Nebraska.
William H. J. Ely, for New Jersey.
Lea Rowland, for New Mexico.
Lester Herzog, for New York.
G. W. Coan, Jr., for North Carolina.
Thomas H. Moodie, for North Dakota.
E. W. S. Key, for Oklahoma.
E. J. Griffith, for Oregon.
Edward N. Jones, for Pennsylvania.
J. Burleigh Cheney, for Rhode Island.
Lawrence Pinckney, for South Carolina.
M. A. Kennedy, for South Dakota.
Harry S. Berry, for Tennessee.
H. P. Drought, for Texas.
Darrell J. Greenwell, for Utah.
William A. Smith, for Virginia.
George H. Gannon, for Washington.

FRANKLIN D. ROOSEVELT

The VICE PRESIDENT. The Appropriations Committee handled the legislation under which the nominations submitted. As a usual thing, very few nominations are

74TH CONGRESS
1ST Session

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed.

AMENDMENT

Intended to be proposed by Mr. BAILEY to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz: At the proper place insert the following:

TITLE —

SECTION . Section 11 of the Agricultural Adjust-
ment Act, as amended, is amended by adding after the word
“ rice ” a comma and the word “ potatoes ” and by adding
at the end of said section 11 a new sentence as follows:

“ As used in this title, the term ‘ potatoes ’ means all varie-
ties of potatoes included in the species *Solanum tuberosum*. ”

SEC. 3. Subsection 1 of section 2 of the Agricultural
Adjustment Act, as amended, is amended by adding after
the word “ tobacco ”, in both the second and third sentences
of said subsection, the words “ and potatoes ”.

1 TITLE —

2 DEFINITIONS

3 SECTION 4. When used in this title, unless the context
4 otherwise requires —

5 (a) The term " person " includes an individual, a cor-
6 poration, a partnership, a business trust, a joint-stock com-
7 pany, an association, a syndicate, group, pool, joint venture,
8 or any other unincorporated organization or group.

9 (b) The term " Commissioner " means the Commis-
10 sioner of Internal Revenue.

11 (c) The term " collector " means a collector of inter-
12 nal revenue.

13 (d) The term " sale " includes any agreement or de-
14 livery whereby the seller transfers the property in, or right to
15 consume, potatoes to another for a consideration, and any
16 sum of money, services, property, or anything of value what-
17 soever, may constitute consideration for such transfer, but
18 does not include the transfer of the right to consume potatoes
19 to a member of the household of a producer of such
20 potatoes or a transfer for consumption by the household of
21 a person employed in the farming operations of the pro-
22 ducer of such potatoes.

23 (e) The term " allotment year " means the period
24 commencing December 1 and ending November 30: *Pro-*

1 *vided*, That the first allotment year shall commence Decem-
2 ber 1, 1935, and shall end November 30, 1936.

3 (f) The term "change in the form of potatoes" means
4 an intentionally effected change in the form of potatoes in
5 preparation for the sale of such potatoes, or any product
6 thereof, as such change is defined by rules and regulations
7 prescribed by the Commissioner, with the approval of the
8 Secretary of the Treasury.

9 (g) The term "tax stamp" means an appropriate
10 stamp or other means of identifying potatoes with respect
11 to which a tax levied by this title has been paid.

12 (h) The term "tax-exemption stamp" means an ap-
13 propriate stamp or other means of identifying potatoes with
14 respect to which an exemption from the tax has been estab-
15 lished.

16 (i) The term "potatoes" means all varieties of
17 potatoes included in the species *Solanum tuberosum*.

18 (j) The term "producer" means a person who has
19 the right to sell, or to receive a share of the proceeds derived
20 from the sale of, potatoes cultivated by him, or on land
21 owned or leased by him.

22 (k) The term "continental United States" means
23 the several States of the United States and the District of
24 Columbia and does not include any territory or possession
25 of the United States.

1 (1) The term "operator" means any person operat-
2 ing his own farm, any tenant operating a farm rented for
3 cash or for a fixed-commodity payment, any crop-share
4 tenant, and any crop-share landlord.

5 (m) The term "farm" means all the land operated
6 by the producer as a single operating unit with work stock,
7 farm machinery, and labor substantially separate from that
8 of any other tract of land.

9 IMPOSITION OF THE TAX

10 SEC. 5. (a) There is hereby levied and assessed upon
11 each first sale of potatoes harvested on or after December 1,
12 1935, in the continental United States a tax, to be paid by
13 the seller, at the rate of three-fourths of 1 cent per pound:
14 *Provided*, That where there is a change in the form of
15 potatoes harvested on or after December 1, 1935 in the
16 Continental United States prior to the first sale thereof, a
17 tax at the rate of three-fourths of 1 cent per pound, to be
18 paid by the owner at the time such change is effected, is
19 hereby levied and assessed upon the effecting of such change,
20 and no tax shall be levied upon the first sale of such
21 potatoes or any product or products thereof. The term
22 "first sale" means the first sale of potatoes occurring on
23 or after the effective date of the taxes levied by this section.

24 (b) If the Secretary of Agriculture finds at any
25 time that the total apportionments to producers in any

1 potato-producing region or regions (as established and
2 defined pursuant to subsection (c) of section 12 of this
3 Act) are in excess of the probable supply of potatoes in
4 the Continental United States during the marketing periods
5 for such region or regions, he shall proclaim such determina-
6 tion, and the provisions of this title shall not be operative
7 during such marketing periods.

8 (c) At least thirty days prior to the beginning of each
9 allotment year after the first allotment year, the Secretary
10 of Agriculture shall conduct a referendum which will afford
11 to producers of potatoes a reasonable opportunity to vote in
12 favor of or in opposition to continuing in effect with respect
13 to potatoes produced during the succeeding allotment year
14 the taxes levied by subsection (a) of this section. Each
15 producer shall be entitled to one vote for each sixty pounds
16 of potatoes apportioned to him pursuant to sections 8, 9, and
17 10 hereof for the last allotment year for which such appor-
18 tionments were made. If one-third of the votes cast in
19 such referendum are cast in opposition to continuing such
20 taxes in effect, the provisions of this title shall not be opera-
21 tive with respect to potatoes produced during such succeed-
22 ing allotment year.

23 (d) If the Secretary of Agriculture determines and
24 proclaims that the taxes levied by subsection (a) of this
25 section, will at the rate therein specified for such taxes,

1 year, and without tending to cause to producers of potatoes
2 disadvantages in competition by reason of an excessive shift
3 in consumption from potatoes to some other commodity
4 or commodities; and the quantity so proclaimed shall, for
5 each allotment year, be apportioned by the Secretary of
6 Agriculture as hereinafter provided.

7 SEC. 7. When a quantity is determined in accordance
8 with section 6 of this Act, the Secretary of Agriculture
9 shall apportion such quantity among the several States.
10 The apportionment to each State shall be determined on
11 the basis of the ratio that the annual average acreage of
12 the four years in which the highest potato acreage was
13 harvested in such State in the years 1927-1934, inclusive,
14 multiplied by the average yield per acre for the four years
15 that the yield of potatoes per acre for such State was highest
16 in the years 1927-1934, inclusive, multiplied by the
17 average annual percentage of the crop produced in such
18 State during the years 1929-1934, inclusive, which was
19 sold, bears to the sum of the products of such average
20 acreages, such average yields, and such percentages of sales
21 for all States: *Provided*, That if the Secretary of Agriculture
22 finds that the application of the foregoing formula alone
23 would, because of differences in production practices and
24 marketing practices among the several States, result in an
25 inequitable and unfair apportionment to any State or States,

1 not in excess of 2 per centum of the quantity of potatoes
2 determined in accordance with section 6 of this Act may
3 be deducted from such quantity and may be used by the
4 Secretary of Agriculture to adjust on the basis of equity
5 and fairness the apportionments made or to be made to
6 any State or States.

7 SEC. 8. Ninety-five per centum of the quantity of
8 potatoes apportioned to any State pursuant to section 7 of
9 this Act shall be apportioned by the Secretary of Agricul-
10 ture to farms on which potatoes have been grown within
11 such State during any one or more years within the period
12 1932-1934, inclusive. Such apportionment to any farm
13 shall be made upon application therefor and may, in order
14 to secure equitable apportionments to producers, be made
15 by the Secretary based upon either—

16 (1) A percentage of the average sales of potatoes
17 produced on such farm for a representative base period, pre-
18 scribed by the Secretary, of any two or more years during
19 the years 1932-1934, inclusive, providing the operators of
20 such farm for the allotment year for which the apportion-
21 ment is made produced potatoes on such farm during at
22 least one of the base-period years. The representative base
23 period prescribed by the Secretary and the percentage
24 applied to the average sales of potatoes produced during
25 such period in establishing apportionments for each farm

produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 5 of this Act upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers

1 which, in accordance with such regulations as the Secre-
2 tary of Agriculture shall prescribe, provide for a division
3 of the tax-exemption stamps received or to be received
4 by any such landlord, any such share-tenant or any such
5 share-cropper, or any or all of them, in accordance with
6 their respective shares in the potatoes or the proceeds thereof
7 to be produced by them.

8 (f) Where a farm is operated by share-tenants, or with
9 the aid of share-croppers, tax-exemption stamps issued for
10 an apportionment made to such farm shall be used by
11 the landlord, the share-tenants, and/or the share-croppers
12 in accordance with their respective shares in the potatoes
13 produced on such farm, during the allotment year for which
14 such apportionment is made, or the proceeds of such potatoes,
15 and the Secretary of Agriculture shall issue regulations pro-
16 tecting the interests of share-croppers and tenants in the
17 issuance and use of such tax-exemption stamps.

18 (g) If accompanied by delivery thereof, tax-exemption
19 stamps may be transferred or assigned in such manner and
20 upon such terms and conditions, including conditions govern-
21 ing the consideration which must be given therefor, as the
22 Secretary of Agriculture may determine are reasonably
23 necessary to prevent (1) transfers and assignments which
24 would tend to depress the market price for potatoes produced
25 in any potato-producing area, (2) speculation in tax-exempt

1 stamps, or (3) fraud or coercion in the transfer of such
2 stamps, or which the Secretary of Agriculture finds to be
3 necessary or desirable to facilitate the identification of tax-
4 paid or tax-exempt potatoes or which the Secretary of Agri-
5 culture finds to be necessary or desirable to protect the
6 interests of tenants and share-croppers in the issuance and
7 use of tax-exemption stamps.

8 SEC. 13. Tax-exemption stamps issued to a person,
9 and a person's right to and claim for, tax-exemption stamps
10 shall be exempt from the claims of the creditors of such
11 person and from any and all process for the enforcement of
12 such claims. The Secretary of Agriculture shall by regula-
13 tion provide for the issuance to, and/or use by, the person
14 who by devise, bequest, or descent becomes the owner of
15 potatoes planted by a person dying during an allotment
16 year, of the tax-exemption stamps which have been, or
17 would have been, issued to such deceased person for such
18 allotment year.

19 PACKAGING

20 SEC. 14. (a) To facilitate the collection of the tax
21 upon the first sale of potatoes imposed by subsection (a) of
22 section 5 of this title, all potatoes harvested on and after
23 December 1, 1935, and sold in the continental United States,
24 during any period such tax is in effect, shall, in accordance
25 with such rules and regulations as the Commissioner with

1 the approval of the Secretary of the Treasury shall pre-
2 scribe, be packed in closed and marked containers to which
3 shall be attached or affixed tax stamps or tax-exemption
4 stamps equal in face value to the amount of tax per pound
5 in effect on the potatoes contained therein: *Provided, That,*
6 subject to such regulations as the Commissioner with the
7 approval of the Secretary of the Treasury may prescribe,
8 packaging may be postponed beyond the time of the first
9 sale of potatoes which are to be stored in bulk, or which
10 are to be graded, at such places as may be designated by
11 regulations prescribed by the Commissioner with the
12 approval of the Secretary of the Treasury. The time and
13 method of such packaging and the time and method of attach-
14 ing or affixing such stamps and the time and circumstances
15 under which packages may be broken shall be established
16 in accordance with such regulations as the Commissioner,
17 with the approval of the Secretary of the Treasury, may
18 prescribe as desirable or necessary to facilitate the collection
19 of such tax. In prescribing and approving rules and
20 regulations for the packaging of potatoes and the attaching
21 or affixing of stamps, the Commissioner and the Secretary
22 of the Treasury shall give due weight to the customs of the
23 industry.

24 (b) To facilitate the collection of the tax upon a
25 change in the form of potatoes imposed by subsection (a)

of section 5 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

RULES AND REGULATIONS

SEC. 15. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancelation, destruction, and disposition of tax stamps and the cancelation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

SEC. 16. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

SEC. 17. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced or sold may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to

1 make such returns, render such statements, give such
2 information, and keep such records as they may deem
3 necessary for the proper administration of this title.

4 (b) Any person willfully failing or refusing to file
5 such a return, render such statement, give such information,
6 or keep such records, or filing a willfully false return, or
7 rendering or giving willfully false statements or information
8 or willfully keeping false records, shall be guilty of a
9 misdemeanor and upon conviction thereof, shall be punished
10 by a fine of not more than \$1,000 or by imprisonment not
11 exceeding one year, or both.

12 REFUNDS

13 SEC. 18. (a) No refund of any tax, penalty, interest,
14 or sum of money paid shall be allowed under this title unless
15 claim therefor is presented within one year after the date
16 of payment of such tax, penalty, interest, or sum.

17 (b) No suit or proceeding shall be maintained in any
18 court for the recovery of any tax under this Act alleged to
19 have been erroneously or illegally assessed or collected, or
20 of any penalty claimed to have been collected without
21 authority, or of any sum alleged to have been excessive
22 or in any manner illegally or wrongfully collected until a
23 claim for refund or credit has been duly filed with the
24 Commissioner according to the provisions of law in that
25 regard and the regulations of the Secretary of the Treasury

1 established in pursuance thereof. No suit or proceeding
2 shall be begun before the expiration of six months from
3 the date of filing such claim unless the Commissioner ren-
4 ders a decision thereon within that time, nor after the expi-
5 ration of two years from the date of payment of such tax,
6 penalty, or sum, unless such suit or proceeding is begun
7 within two years after the disallowance of the part of such
8 claim to which such suit or proceeding relates. The Com-
9 missioner shall, within ninety days after such disallowance,
10 notify the taxpayer thereof by registered mail.

11 (c) The amount of the taxes imposed by subsection
12 (a) of section 5, paid by a person, which taxes would not
13 have been paid had the tax-exemption stamps to which
14 such person was entitled been delivered to such person prior
15 to the payment of such taxes, shall be refunded to such
16 person.

17 APPROPRIATION

18 SEC. 19. (a) The proceeds derived from the taxes
19 imposed by this title are hereby authorized to be appropri-
20 ated to be available to the Secretary of Agriculture for
21 administrative expenses, for all purposes of the Agricultural
22 Adjustment Act, for refunds of taxes and for other pay-
23 ments under this Act. The Secretary of Agriculture and
24 the Secretary of the Treasury shall estimate from time to
25 time the amount of taxes which will be collected during a

1 period following any such estimate not in excess of four
2 months, and the Secretary of the Treasury shall, out of any
3 money in the Treasury not otherwise appropriated, advance
4 to the Secretary of Agriculture the amounts so estimated.
5 The amount of any such advance shall be deducted from
6 such tax proceeds as shall subsequently become available
7 under this subsection: *Provided*, That all taxes imposed by
8 section 33 of this title, collected upon potatoes coming
9 from the possessions or territories of the United States, shall
10 not be covered into the general fund of the Treasury of the
11 United States but shall be held as a separate fund and paid
12 into the treasuries of the said possessions and territories,
13 respectively, to be used and expended by the governments
14 thereof for the benefit of agriculture.

15 (b) The Secretary of Agriculture is hereby authorized
16 to expend, out of the sums available to the Secretary of
17 Agriculture under the Agricultural Adjustment Act, as
18 amended, such sums as may be necessary for administrative
19 expenses, for refunds of taxes and for other payments under
20 this title.

21 (c) The administrative expenses provided for under
22 this section shall include, among others, expenditures for
23 personal services and rent in the District of Columbia and
24 elsewhere, for law books, periodicals, newspapers, and books
25 of references, for contract stenographic reporting services,

1 for the purchase or hire of vehicles, including motor vehicles,
2 and for printing and paper in addition to allotments under
3 the existing law.

4 (d) The Secretary of Agriculture may advance or
5 transfer to the Treasury Department, to the Post Office
6 Department, and to any other department or agency, out of
7 funds available for administrative expenses under this Act,
8 such sums as are required to pay administrative expenses
9 of, and refunds made by, such departments or agencies in the
10 administration of this title.

11 (e) There is hereby authorized to be appropriated to
12 be available to the Secretary of Agriculture such sums as
13 may be necessary for administrative expenses for refunds of
14 taxes, and for other advances or payments under this Act.

15 GENERAL AND PENAL PROVISIONS

16 SEC. 20. If at any time the Secretary of Agriculture
17 finds that any product or products manufactured from pota-
18 toes is of such low value, considering the quantity of
19 potatoes used for its manufacture, that the imposition of the
20 taxes imposed by subsection (a) of section 5 of this Act
21 would prevent wholly or in large part the use of potatoes in
22 the manufacture of such product or products or that potatoes
23 used for the feeding of livestock are of such low value that
24 the imposition of such taxes would prevent wholly or in
25 large part the sale of potatoes for any such use, the Secre-

1 tary of Agriculture shall proclaim such finding and there-
2 after in accordance with regulations prescribed jointly by
3 the Secretary of Agriculture and the Secretary of the Treas-
4 ury, the sale, or change in form, of potatoes for such use or
5 uses by the purchaser thereof shall be exempt from the provi-
6 sions of subsection (a) of section 14, and from the taxes
7 imposed by subsection (a) of section 5 of this Act until
8 such time as the Secretary of Agriculture, after further
9 investigation and due notice and opportunity for hearing to
10 the interested parties, revokes such proclamation: *Provided,*
11 That the right to any such exemption shall be evidenced in
12 such manner as joint regulations of the Secretary of Agri-
13 culture and the Secretary of the Treasury shall prescribe.
14 If such purchaser uses any potatoes sold to him free of tax
15 under this section or uses any product of such potatoes, for
16 other than an exempt use as above specified, then he shall be
17 liable for a tax in the same manner as if such potatoes were
18 sold by him at a first sale.

19 SEC. 21. The Secretary of Agriculture is authorized,
20 in order to carry out the provisions of this title, to appoint,
21 without regard to the provisions of the civil-service law,
22 such officers, agents, and employees and to utilize such
23 Federal officers and employees and, with the consent of
24 the State, such State and local officers and employees, as
25 he may find necessary, to prescribe their authorities, duties,

1 responsibilities, and tenure, and, without regard to the
2 Classification Act of 1923, as amended, to fix the compen-
3 sation of any officers, agents, and employees so appointed.

4 SEC. 22. (a) For the more effective administration
5 of the functions vested in him by this title, the Secretary
6 of Agriculture is authorized to utilize committees and asso-
7 ciations heretofore or hereafter established pursuant to sub-
8 section (b) of section 10 of the Agricultural Adjustment
9 Act and to establish regional, State, and local committees
10 and associations of producers of potatoes.

11 (b) The Secretary of Agriculture, out of any funds
12 appropriated for administrative expenses under this Act, is
13 authorized to advance funds to the proper fiscal officer of
14 associations established or utilized pursuant to subsection
15 (a) of this section 22 of this Act, for expenses incurred
16 or to be incurred in the administration of this title, with the
17 approval of the Secretary of Agriculture by such associa-
18 tions. Payment of such expenses of such associations shall
19 be made upon such evidence and in such manner and at
20 such time or times as the Secretary of Agriculture may
21 direct, and the accounting therefor by the associations shall
22 be solely administrative and to the Secretary of Agriculture
23 only.

24 SEC. 23. Any person who knowingly sells, or offers
25 for sale, or knowingly offers to buy, or buys, potatoes not

1 packaged as required by this title, or any person who know-
2 ingly sells, or offers for sale, or who knowingly offers to
3 buy, or buys, potatoes to the packages of which are not
4 affixed or attached tax-exemption stamps or tax stamps as
5 required by this title shall, upon conviction thereof, be fined
6 not more than \$1,000. Any person convicted of a second
7 offense under the provisions of this title may, in addition
8 to such fine, be imprisoned for not more than one year.

9 SEC. 24. Any person who, in violation of the regula-
10 tions made by the Secretary of Agriculture, speculates
11 in tax-exemption stamps, and any person securing tax-
12 exemption stamps from another person by fraud or coercion,
13 shall, upon conviction thereof, be fined not more than
14 \$1,000 or sentenced to not more than one year's imprison-
15 ment, or both.

16 SEC. 25. Whenever any potato container, to which
17 are affixed tax stamps or tax-exemption stamps, is emptied,
18 it shall be the duty of the person in whose hands the same
19 is to destroy utterly the stamps thereon. Any revenue
20 officer may destroy the tax stamps or tax-exemption stamps
21 upon any emptied potato package.

22 SEC. 26. Any person who willfully violates any pro-
23 vision of this title, or who willfully fails to pay, when
24 due, any tax imposed under this title, or who, with intent

1 to defraud, falsely makes, forges, orders, or counterfeits any
2 tax stamps or tax-exemption stamps made or used under
3 this title or who uses, sells, or has in his possession any
4 such forged, ordered, or counterfeited tax stamps or tax-
5 exemption stamps or any plate or die used, or which may
6 be used in the manufacture thereof, or has in his possession
7 any tax stamp or tax-exemption stamp which should have
8 been destroyed as required by this title, or who makes,
9 uses, sells, or has in his possession, any paper in imitation
10 of the paper or other substance used in the manufacture of
11 any such tax stamp or tax-exemption stamp, or who reuses
12 any tax stamp or tax-exemption stamp required to be de-
13 stroyed by this title, or who places any potatoes in any
14 package which has been theretofore filled or stamped or
15 otherwise identified under this title without destroying the
16 tax stamp and tax-exemption stamps previously affixed to
17 such package, or who gives away or accepts from another
18 or who sells or buys any emptied package which had been
19 previously filled and stamped or otherwise identified under
20 this title without destroying the tax stamps and tax-exemp-
21 tion stamps previously affixed or attached to such package,
22 or who makes any false statement in any application for
23 tax-exemption stamps under this title, or who has in his
24 possession any tax-exemption stamps or tax stamps, obtained

1 by him otherwise than as provided in this title, shall, upon
2 conviction, be punished by a fine not exceeding \$1,000
3 or by imprisonment for not exceeding six months, or both.

4 SEC. 27. Any person who willfully violates any regu-
5 lation issued or approved pursuant to this title, for the viola-
6 tion of which a special penalty is not provided by law, shall,
7 upon conviction thereof, be punished by a fine not exceeding
8 \$200.

9 SEC. 28. All provisions of law, including penalties ap-
10 plicable with respect to the taxes imposed by sections 600
11 and 800 of the Revenue Act of 1926, except section 1121
12 of the Revenue Act of 1926, and except section 614 of the
13 Revenue Act of 1932, shall, insofar as applicable and not
14 inconsistent with the provisions of the Act, be applicable
15 with respect to all taxes imposed by this Act.

16 SEC. 29. In order to facilitate the making of apportion-
17 ments and the collection of the taxes imposed by this title,
18 every producer who sells potatoes during any allotment year,
19 or who changes the form of potatoes, shall keep such books
20 and records as the Commissioner, with the joint approval
21 of the Secretary of the Treasury and the Secretary of Agri-
22 culture, shall by regulations require and such books and
23 records shall be open to inspection by any authorized agent
24 of the Secretary of Agriculture or the Commissioner.

1 SEC. 30. Whenever any potatoes, upon the sale of
2 which a tax is required to be paid, are sold, without the use
3 of the proper stamps, or whenever a change of form of pota-
4 toes upon which a tax is required to be paid occurs, without
5 the payment of such tax, it shall be the duty of the Commis-
6 sioner, within a period of not more than two years after such
7 sale or change of form, upon satisfactory proof, to estimate
8 the amount of the tax which has been omitted to be paid,
9 and to make the assessment therefor, and certify the same
10 to a collector. The tax so assessed shall be in addition to the
11 penalties imposed by law.

EXPORT

13 SEC. 31. Under such rules and regulations as the Com-
14 missioner, with the approval of the Secretary of the Treas-
15 ury, may prescribe, the taxes imposed under subsection (a)
16 of section 5 of this title shall not apply in respect to potatoes
17 sold for export to any foreign country or for shipment to
18 a possession or Territory of the United States, and in due
19 course so exported or shipped. Under such rules and regu-
20 lations the amount of any such tax erroneously or illegally
21 collected in respect to such potatoes so exported or shipped
22 may be refunded to the exporter or shipper of the potatoes
23 instead of the taxpayer if the taxpayer waives any claim for
24 the amount so to be refunded.

IMPORTS

SEC. 32. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 5 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 5 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929–1934, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary under section 6 of this Act is of the annual average of the quantity of potatoes sold in the continental United States during the years 1929–1934, inclusive; and

(b) Allot the quotas provided for by subsection (a) to the importers of such potatoes in the United States in such manner as he may deem fair and equitable, having

1 due regard to the respective amounts of potatoes imported
2 during the years 1932-1934, inclusive, by such persons.

3 SEC. 33. After such quotas have been established,
4 potatoes imported or brought into the continental United
5 States in excess of any such quotas shall, in addition to any
6 import duties, be subject to internal-revenue tax equal to
7 the amount of the tax then in effect on the first sale of
8 potatoes produced and sold in the continental United States.
9 The tax levied by this section shall be represented by tax
10 stamps and shall be paid by the owner or importer prior
11 to release from customs custody and control, or entry into
12 the continental United States.

13 SEC. 34. During any period the tax imposed by sub-
14 section (a) of section 5 is in effect all potatoes imported
15 or brought into the continental United States from any
16 possession or Territory of the United States or from any
17 foreign country shall, prior to release from customs custody
18 and control, in accordance with such rules and regulations
19 as the Commissioner, with the approval of the Secretary of
20 the Treasury, shall prescribe as necessary or desirable to
21 facilitate the collection of the taxes levied by this title, be
22 packed in closed and marked containers. The time and
23 method of such packaging and the time and method of
24 attaching or affixing the stamps required by the preceding

74TH CONGRESS
1ST Session

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BANKHEAD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 45, line 19, strike out the word " subsection "

2 and insert in lieu thereof " subsections ".

3 On page 46, after line 2, insert the following:

4 " (h) There shall be levied, assessed, collected, and

5 paid (during any period after the date of the adoption of

6 this amendment when a processing tax is in effect with

7 respect to cotton) a processing tax on the first domestic

8 processing of silk at the rate of 250 per centum of the

9 per pound rate of the processing tax which is then in effect

10 on cotton.

AMENDMENTS

Intended to be proposed by Mr. BARKER to
the bill (H. R. 8492) to amend the Agricul-
tural Adjustment Act, and for other pur-
poses.

MAY 18 (calendar day, JUNE 10), 1935

Ordered to lie on the table and to be printed

1 " (1) The term ' first domestic processing ' means
2 the throwing, manufacturing, or other processing of
3 silk.

4 " (2) The provisions of paragraph (1) of sub-
5 section (a) of section 16 shall not apply in the case
6 of silk, or the products thereof."

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BIBBO to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the proper place insert the following:

1 SEC. 39. No cotton cooperative association shall be
2 eligible for any loan authorized to be made to cooperative
3 associations by any agency of the Government, unless such
4 association handles the products of or supplies of bona fide
5 cotton-producing members (or the products of or supplies
6 of bona fide cotton-producing members of member associa-
7 tions) in an amount at least equal in value to such as are
8 dealt in for persons other than such bona fide members, but
9 all cotton handled by any cooperative association for or on
10 behalf of the United States or any agency or instrumentality
11 thereof shall be disregarded in determining the volume of
12 member and nonmember business handled by such associa-
13 tion.

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. CAREY to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz: At the proper place insert the following new
section:

1 SEC. . After the date of enactment of this Act,
2 no foreign trade agreement shall be entered into under
3 the provisions of Title III of the Tariff Act of 1930, with
4 respect to any agricultural commodity or manufactured
5 product thereof as to which any program is in effect under
6 the Agricultural Adjustment Act, as amended.

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. CONNALLY to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: In lieu of the matter proposed to be stricken out on page 66, line 15 to line 22, page 67, insert the following:

1 SEC. 32. There is authorized to be appropriated for
2 each fiscal year an amount equal to 30 per centum of the
3 gross receipts from duties collected under the customs laws
4 during the period January 1 to December 31, both inclu-
5 sive, preceding the beginning of such fiscal year. Sums
6 appropriated in pursuance of such authorization shall be
7 maintained in a separate fund and shall be used by the
8 Secretary of Agriculture only to: (1) Encourage the ex-
9 portation of major agricultural commodities and products

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed.

AMENDMENTS

Intended to be proposed by Mr. GORE to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 12, line 8, after the word "fixing" strike
2 out all down to and including the word "and" in line 10.

3 On page 12, line 12, after "producers." strike out all
4 down to and including line 2, on page 15.

5 On page 15, line 3, strike out "(E)" and insert in
6 lieu thereof "(B)".

7 On page 15, line 5, after "producers" strike out all
8 down to and including "(5)" in line 9.

9 On page 15, line 12, strike out "(F)" and insert in
10 lieu thereof "(C)".

1 On page 15, line 21, after "producers" strike out all
2 down to and including "milk" in line 25.

3 On page 16, line 1, strike out "(G)" and insert in
4 lieu thereof "(D)".

5 On page 18, beginning with line 13, strike out all
6 down to and including line 4, on page 19.

74TH CONGRESS
1st Session

H. R. 8492

AMENDMENTS

Intended to be proposed by Mr. Goss to the
bill (H. R. 8492) to amend the Agricultural
Adjustment Act, and for other purposes.

MAY 15 (calendar day, JUNE 10), 1935

Ordered to be on the table and to be printed

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by MR. LAFOLLETTE to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: In lieu of the language proposed to be stricken out beginning on page 64, line 20, and extending to line 14, page 66 (being section 30), insert the following:

1 SEC. 30. The Agricultural Adjustment Act, as
2 amended, is amended by inserting after section 21 the
3 following:

4 "IMPORTS

5 "SEC. 22. (a) Whenever the President has reason to
6 believe that any one or more articles are being imported or
7 are likely to be imported into the United States under such
8 conditions and in sufficient quantities as to render ineffective
9 or materially interfere with any program or operation under-

1 taken under this title, he shall cause an immediate investi-
2 gation to be made by the United States Tariff Commission,
3 which shall give precedence to investigation under this sec-
4 tion to determine such facts. Such investigations shall be
5 made after due notice and opportunity for hearing to inter-
6 ested parties and shall be conducted subject to such regula-
7 tions as the President shall specify.

8 “(b) If, after such investigation and report to him of
9 findings and recommendations made in connection there-
10 with, the President finds the existence of such facts, he
11 shall impose such limitations on the total quantities of any
12 article or articles which may be imported as he finds neces-
13 sary to prescribe in order that the entry of such article or
14 articles will not render or tend to render ineffective or
15 materially interfere with any program or operation under-
16 taken under this title: *Provided*, That no limitation shall
17 be imposed on the total quantity of any article which may
18 be imported from any country which reduces such permis-
19 sible total quantity to less than 75 per centum of the average
20 annual quantity of such article which was imported from
21 such country during the period from July 1, 1928, to June
22 30, 1933, both dates inclusive. Any such import restric-
23 tion shall apply to articles the growth, produce, or manu-
24 facture of all foreign countries, whether imported directly
25 or indirectly.

1 “(c) No import restriction proclaimed by the Presi-
2 dent under this section nor any revocation, suspension, or
3 modification thereof shall become effective until fifteen days
4 after the date of such proclamation, revocation, suspension,
5 or modification.

6 “(d) After investigation, report, and finding in the
7 manner provided in the case of a proclamation pursuant to
8 subsection (b) of this section, any proclamation or provi-
9 sion of such proclamation may be suspended by the Presi-
10 dent whenever he finds that the circumstances requiring the
11 proclamation or provision thereof no longer exist, or may
12 be modified by the President whenever he finds that changed
13 circumstances require such modification to carry out the
14 purposes of this section.”

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. McADOO to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: On page 19, after line 4, insert the following:

1 “(H) Except that as to citrus fruits grown in the
2 State of California, no order, or amendment thereto, shall
3 contain any term, condition, or provision which is intended
4 to or which directly or indirectly has the effect of (1)
5 limiting on the basis of any grade, size, or quality the
6 amount of such quality which may be marketed in or
7 transported to market; or (2) limiting the amount of such
8 commodity which may be exported; or (3) limiting the
9 amount of such commodity which may be transported to

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 17, line 3, after "thereof," insert "trans-
2 ported in interstate or foreign commerce,".

3 On page 17, line 6, after the word "sold" insert "in
4 interstate or foreign commerce".

5 On page 17, line 8, after the word "sales" insert "in
6 interstate or foreign commerce".

7 On page 17, line 15, strike out "market in or trans-
8 port to any or all markets" and insert in lieu thereof
9 "transport in interstate or foreign commerce".

10 On page 17, line 18, after the word "shipped" insert
11 "in interstate or foreign commerce".

12 On page 17, lines 21 and 22, strike out "marketed
13 in or transported to any or all markets" and insert in lieu
14 thereof "transported in interstate or foreign commerce".

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

- 1 On page 26, line 13, after the word "law" insert
- 2 "and/or the facts".
- 3 On page 26, line 20, strike out the word "law" and
- 4 insert in lieu thereof "the law and the facts".

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 27, line 6, strike out the word "law" and
2 insert in lieu thereof "the law and the facts".

3 On page 27, line 9, strike out the word "law" and
4 insert in lieu thereof "the law and the facts".

5 On page 27, line 10, after the word "law" insert
6 "and the facts".

7 On page 27, line 11, strike out "requires." and insert
8 "require. The proceedings instituted pursuant to this para-
9 graph shall proceed as a trial de novo on both the law and
10 the facts."

IN THE SENATE OF THE UNITED STATES

MAY 13. (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

- 1 On page 23, line 22, after the word "title" insert a
- 2 colon and the following: "*Provided, however,* That before
- 3 issuing an order applicable to all production areas or mar-
- 4 keting areas or both, 75 per centum of the producers of the
- 5 commodity in the United States must favor the extension
- 6 of the order, and that any such approval must be determined
- 7 by referendum vote by the producers of the commodity in
- 8 the United States".

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 22, in lieu of the matter proposed to be
2 inserted by the committee, insert the following: " favored
3 by at least 75 per centum of the producers by volume and
4 number, such approval to be determined by referendum
5 vote of said producers, and who during a representative
6 period, determined by the Secretary, have been engaged,
7 within the production area specified in such marketing agree-
8 ment or order, in the production for market in interstate
9 commerce of the commodities specified therein "

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BYRD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 21, line 2, after the word "order" insert a
2 colon and the following: "*Provided*, That no order issued
3 pursuant to this subsection shall be effective unless the
4 Secretary of Agriculture, with the approval of the Presi-
5 dent, determines that the issuance of such order is approved
6 or favored by at least 75 per centum of the producers by
7 volume and number, such approval to be determined by
8 referendum vote of said producers, and who during a rep-
9 resentative period, determined by the Secretary, have been
10 engaged, within the production area specified in such
11 marketing agreement or order, in the production for market
12 in interstate commerce of the commodities specified therein".

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 10), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. SHIPSTEAD to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 38, line 13, after "barley." insert the fol-
2 lowing: "In the case of flaxseed the first marketing year
3 shall be considered to be the period commencing October
4 1, 1935, and ending April 30, 1936. Subsequent market-
5 ing years shall commence on May 1 and end on April 30
6 of the succeeding year.

7 "There shall be levied, assessed, collected, and paid
8 (during any period after the date of the adoption of this
9 amendment when a processing tax is in effect with respect
10 to flaxseed) (a) a processing tax on the first domestic

Mr. COPELAND. Mr. President, I should like to say to the Senator that, regardless of any motives he may have in mind—and I assume they are lofty ones—I agree fully with his idea that Congress ought not to attempt tax legislation at the moment. This is not the way to legislate. The matter of changing our tax laws is very important. I know how agitated my State is over the subject, and if, coupled with the worry they have over the idea of changing taxes, they are to have the additional worry that the bill is to be formulated and passed in a hurry, and, therefore, that it may be careless and perhaps dangerous legislation, that will largely increase the discontent of my immediate constituents.

I am firmly of the belief that tax legislation ought to be had to balance a well-considered Budget. Yet I question if the taxation should be in the form that is now proposed, doubtless I should find myself in opposition to many of the particular taxes proposed.

Regardless of that, there is a firm conviction in my mind that we ought not to attempt such legislation at this moment. It is too important to be considered hastily; the measure should be worked out carefully.

While I spoke somewhat facetiously the other day, I speak solemnly now when I say that the Congress is not in a physical condition to deal wisely with a matter so important as are taxes. I said then that I have seen many operations spoiled when performed by tired surgeons. When we come into the field of economics, where the problems involved are so important that it is necessary to use the very clearest thinking, I am convinced that we ought not now to attempt legislation of this character.

If it were to be legislation covering last year's income, that would be one thing; but no one contends that the taxes are to be retroactive. The point is that the proposed tax law is to apply to taxes due at the end of 1935. If the committees of the two Houses, at their leisure, could work out a tax plan and present it to Congress some time next fall or early in the winter, when it could be enacted after due study and consideration, I am confident it would be very much better legislation and certainly it would be better received by the country. To force upon the country now a radical change in our tax structure would add to the uncertainty and the discomfort felt throughout the business world, and there can be no question of that almost universal feeling of discontent.

There is now some sign of recovery, and it would be, I think, a very great mistake to proceed at this moment when there is no need for haste and when by waiting a few months we would have better legislation.

Mr. HASTINGS. I thank the Senator for his observations.

Mr. COPELAND. Regardless of the motives, worthy as they are in the mind of the Senator, I wanted to say for myself, representing my particular constituency, that I think we would be better satisfied to have more considerate legislation than that which will be hastily prepared. Likewise, I repeat, I am convinced that Congress is not in the frame of mind to operate wisely and conservatively on a matter of so great importance.

Mr. VANDENBERG. Mr. President, will the Senator from Delaware yield?

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Michigan?

Mr. HASTINGS. I yield.

Mr. VANDENBERG. I should like to add to what the Senator from New York has said that there is one further consideration, a very practical one, it seems to me—and I speak in no partisan sense but in an economic sense. The Senator has emphasized the fact that the proposed new taxes are not to be collected until the middle of next March, and that their present determination in no sense will hasten or affect the actual public revenue. In other words, not a penny of prospective Federal revenue is delayed or jeopardized by a decision on the tax bill postponed until next winter after competent, adequate, and deliberative consideration.

I wish to add to the reasons the Senator has given—and I think they are cogent, unanswerable reasons—that there is no possible way that the administration can associate its new tax program with its next Budget program except as it waits until next winter; and I can think of no more fundamental fallacy than to pretend to develop and promote an adequate supplemental tax program except as it be effectively related to paying all the bills which are being incurred by the Government in respect to its obligations. The two things must be effectively related in fairness to the American people and in fairness to the American taxpayer. They must be related in simple tax honesty and tax decency.

I do not believe there is going to be serious objection on the part of taxpayers to whatever assessment is necessary in order to pay the Government's legitimate bills, although this prospectus is becoming increasingly painful. I think the American taxpayer will be willing to face this burdensome duty, provided he can know that he is buying final public solvency, that the spending spree is over, and that he is not merely pouring more money into a bottomless well. I do not think it is fair to the American taxpayer to proceed with a tax program unrelated to the Budget program. If we are still to have an unbalanced Budget in spite of new taxes, then the new taxes have failed to serve their appropriate and essential purpose.

Supplementing the observations of the Senator from New York and the Senator from Delaware, and particularly adding to the reasons advanced by the Senator from New York, in behalf of a rational, considerate, deliberative postponement of this problem, I submit that it has to be postponed in order to relate it to the problem of spending and paying. It is not enough for congressional committees merely to inquire where and how new tax revenues can be obtained. It is more necessary—and it is prerequisite—to inquire how much new revenue is required to produce a balanced Budget after waste, experiment, and extravagance have ceased. We do not and cannot know these things now. There seems to be no thought of presently making any such inquiry. We are merely to soak a few tax victims. Such process is an affront to tax logic and tax sanity. Rational postponement is both desirable and necessary.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H. R. 8632. An act to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933; and

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

COMPENSATION OF PAGES

Mr. GLASS. Mr. President, I ask that the Chair lay before the Senate House Joint Resolution 347, which has just come from the House of Representatives.

The PRESIDING OFFICER laid before the Senate the joint resolution (H. J. Res. 347) to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress, which was read twice by its title.

Mr. GLASS. I ask unanimous consent for the present consideration of the joint resolution.

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. SCHALL. I ask unanimous consent of the Senate to use the eyesight of the clerk to make some remarks upon the pending agricultural bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. PITTMAN. Mr. President, such consent cannot be granted under the rules unless by unanimous consent the rules are set aside for that purpose. This courtesy has been extended to the Senator from Minnesota on several occasions. I do not desire to take away that courtesy from him. However, one of the reasons for the rule is that it is impossible for the Senate to know what is going to be read until it is read. I am not going to object at the present time, but I reserve, during any period of the reading of the speech, the right to object to its further reading. With that understanding, I make no objection at this time.

Mr. McKELLAR. Mr. President, I make the same reservation.

The PRESIDING OFFICER. The Senator from Minnesota has asked unanimous consent that a speech by him be read by the clerk. The Senator from Nevada and the Senator from Tennessee both reserve the right to object later. Is there objection to the request of the Senator from Minnesota? The Chair hears none.

The speech of Mr. SCHALL is as follows:

DO AMERICAN FARMERS NEED A FEDERAL DICTATOR?

Mr. President, I am in favor of crop control by the farmers themselves through their own cooperative organizations, or through State and local or interstate agencies of their own direct control. But I am not in favor of extending until December 31, 1937, or for 2½ years longer, the Federal dictatorship of the A. A. A. which not unlikely may be declared unconstitutional at the next session of the United States Supreme Court.

I am in favor of an American system of crop control under the provisions of the United States Constitution and the constitutions of the respective States. I am not in favor of the Moscow system brought here from Russia by Prof. Rexford Guy Tugwell and his fellow assistant college professors, who know less and care less about the future of American agriculture than any farmer in the United States.

I am not in favor of further extending the processing taxes on farm products until December 31, 1937. Up to date, as shown by the Treasury statement, these processing taxes on farm products have aggregated \$850,000,000. They have burdened every processing industry that makes a home market for American farm products. They have worked to cut down the cash returns of the farm from the crops because every bushel of grain, bale of cotton, or hog or steer is bought subject to the conditions of the tax—and the farmer pays, just as the theatergoer pays, for the nuisance tax, or as the smoker pays the tobacco and cigarette tax.

Processing taxes on food products and fiber products are pyramided through all the industrial processes and commercial transactions and pile up the living costs on 30,000,000 families, increase the difficulty of the unemployed to obtain bare existence, and force the Government to increase the doles until we have 22,000,000 public charges, or 10 times as many as in 1932.

Besides cutting down our home market for the farm, the processing taxes burden both agriculture and American manufactures and destroy the ability of American producers to compete with industry abroad.

One of the outstanding results is the increasing flood of foreign imports. We are not only losing our markets abroad, through this handicap of \$850,000,000 added to American production costs, but for the first time in American history imports for the vast majority of our staple farm products exceed our exports. New England and the cotton South join in the protest against the processing tax on cotton which has brought from Japan in the present fiscal year

10 times the volume of cotton goods that came in 1932 before the processing tax cursed our textile industry.

Moreover, if the N. R. A. is unconstitutional in its attempts to control intrastate industry—and all industries are intrastate, the Court finds, up to the point when their products move in interstate commerce—what can be said for the processing taxes on farm products moving to their home primary markets or mills?

The processing taxes levied by the A. A. A. are unconstitutional not only under the commerce clause of the Constitution, but grossly unconstitutional under the taxation clause—article I, section 8:

1. The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

This power of taxation is exclusive and cannot be delegated by Congress to the President or any of his executive bureaus. The power to tax has been defined by the Supreme Court, since the day of Chief Justice John Marshall in the United States Bank case, 1819, as the "power to destroy." It is the chief power of Congress, as of parliamentary bodies in general under a national constitution. This taxation "power to destroy" is today exercised by an executive bureau, the A. A. A., and this bill, H. R. 8492, proposes to extend the power of the A. A. A. to levy unconstitutional processing taxes up to December 31, 1937.

In the 25 months of the A. A. A. to date, this executive bureau has levied \$850,000,000 of processing taxes without the authority of the Constitution. In defiance of all the Supreme Court decisions since the United States Bank case of 1819, and in defiance of the decision of May 27, 1935, that we cannot delegate our legislative powers to the President and his bureaus, do we now propose to extend these A. A. A. taxes 31 months longer till December 31, 1937?

Do we propose to do this thing in the face of the reasonable likelihood that one or more of the 100 or more A. A. A. cases now pending in sundry courts may do to the A. A. A. in October what the Court did to the N. R. A. in May? We have had fair notice. We have no alibi. Before we meet again in the coming session in January 1936, we have every prospect that the A. A. A. will go the way of the N. R. A. into innocuous desuetude.

It is a shame to vote the great agricultural industry of America into the pending calamity of this A. A. A. mirage. It is like driving a caravan over the precipice in search for water that has no existence except a reflection on a floating cloud. We are presumed to have been elected to Congress to protect our respective constituencies—not to delude them to get their votes. Yet I am unable to persuade myself that there is a lawyer in Congress who does not feel, in his heart, that the A. A. A. has even less chance of a favorable Supreme Court decision, if possible than even the unconstitutional N. R. A.

The N. R. A. was unconstitutional, first, because it involved an unconstitutional delegation of the commerce power of Congress, and, second, because it involved an invasion of the Federal Government into intrastate business subject to State control. The A. A. A. is unconstitutional on both these grounds, involving the commerce power, and, furthermore, is unconstitutional as involving the chief power of all government, namely, the power to tax.

No pretense of emergency can come to the rescue of a processing tax levied by an executive bureau. Even granting an emergency, no one will pretend that the only way to meet it was to give an executive bureau the taxing power of Congress. The processing tax was a meddlesome experiment that has miserably failed, and has even created new dangers for agriculture by destroying both its home market and its foreign market and inviting a flood of imports that constitute a major menace both to agriculture and to all American industries that afford a market for farm products.

On economic grounds and on constitutional grounds, the processing taxes of the A. A. A. are both a menace to agriculture, a menace to the processing industries, a menace to

the chief powers of Congress, and a menace to the perpetuity of this Republic, built upon the "indissoluble Union of indestructible States." They aid the destruction of both the home market and the foreign markets of the American farm. They help agriculture abroad and competing manufacturing industries abroad and help to undermine half the industries at home. They increase our production costs and our living costs. They strike down the industries that employ American labor and pay American taxes. They increase the army of the unemployed, now numbering nearly 12,000,000, and increase the number of public charges, now numbered at 22,000,000. Then why vote to extend their blight until December 31, 1937?

For over two generations, ever since the original homestead acts of the Lincoln administration in Civil War days, Congress has passed laws and voted appropriations to promote agriculture as the foundation of the country's food and clothing supply. The A. A. A. provides for a Federal dictatorship to dominate and destroy agriculture.

The Treasury daily statement carries at the top of its "emergency fund" allocations the vast sum of \$1,722,000,000, subject to the will of our "Russian Commissar of Agriculture" to plow under the crops, convert the pigs into fertilizer, dictate the crops and acreage, fix the farm prices, levy processing taxes, distribute the funds, and commandeer the processors and the various distributing agencies. There are 53 pages of the pending A. A. A. extension bill and over 100 sections and subsections that give the Secretary of Agriculture and his agents autocratic powers over both the farmer and the processing industries which handle the crop and distribute the finished product to the consumer.

Section after section confers upon the Secretary autocratic powers, such as the following, found on page 11:

(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title—

And so forth; or an autocratic taxing power such as the following, found on page 36 of the bill:

SPECIFIC TAX RATES

(2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugar cane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

Congress herewith is asked to delegate to the Secretary of Agriculture the legislative power in fixing the rate and the executive power of the treasurer, assessor, and sheriff in the levy, assessment, and collection of taxes.

Under the head of "Adjustment of rate", we read (p. 42):

And after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title, and shall, subject to such formulae, standards, and requirements, thereafter be effective.

Here the delegation of the tax power to the Secretary is as complete as under Secretary General Stalin in Moscow.

Not only have the farmer and the processor no voice in the taxes laid upon their intrastate industry but Congress itself has no voice in the tax rates which Congress alone, under the Constitution, has the power to exercise.

The taxing power and licensing power of the Secretary of Agriculture appears to be a star-chamber affair, to which even the State authorities may have access only by Federal permission. On page 49, beginning in line 10, we read:

Provided, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential—

And so forth. We are then asked to give a blanket endorsement to legalize and ratify all star-chamber tax levies made by the Secretary or by the approval of the President, or appears herewith on page 60:

(c) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed—

And so forth. We are asked to legalize, ratify, and confirm all the taxation acts of this star chamber, with no possible opportunity to know what we are legalizing.

Congress, which under the Constitution is presumed to exercise the complete legislative power, including the power to govern Federal taxation and commerce, is made by this bill a scapegoat and rubber stamp as completely as are the so-called "parliamentary" bodies of Russia, Italy, and Germany under the new deals over there—simply a "fall guy" for the star-chamber proceedings of a Federal bureau of racketeers.

We are asked, first, to authorize a dictator to ride agriculture; second, to provide a dictatorship for the government of the mills, packing houses, warehouses, and other facilities for marketing farm crops and the products thereof; third, to delegate our legislative functions to a Federal bureau with regard to power over both commerce and taxation; fourth, to legalize and ratify all the acts of this star-chamber proceeding; and, finally, to vote hundreds of millions from a Treasury deficit to aid drought, disease, and bugs to destroy agriculture, and all in the name of "agricultural adjustment" and "recovery."

Were the President to apply the A. A. A. policy of this bill to his weekly or monthly fishing expeditions his economic procedure, or *modus vivendi*, might be something like this:

First. He would prepare for his fishing trip by plowing under the bait supply and converting the angleworms and "shiners" into fertilizer.

Second. He would squander a huge sum on rusty hooks, broken rods, and rotten nets to reduce any possible catch of fish.

Third. He would subsidize all the fishermen likely to aid his expedition by giving them barracuda checks, trout checks, and sucker checks to bribe the fishermen to keep the fish away.

Then he would load his craft down with newspapermen, as he has the A. A. A., to concoct the largest fish stories, and direct the Government Printing Office to publish and distribute these fish stories as official executive documents.

In harmony with such policy he has already made Vincent Astor's fishing yacht *Nourmahal* the Noah's Ark of the new deal. He has also staged Henry A. Wallace as the gullible Jonah, who is trying, under his orders, to swallow the whale.

The next step is to require this Congress to ratify the fish stories, legalize all the Frankenstein foolery, rescue the expedition, and foot the bills under the White House order:

Go and fetch it! Congress! Bring it here to me, the Commander in Chief of the Army and Navy!

There was a day—a long day from March 4, 1789, to March 4, 1933, the American era of 144 years—when American farmers were freemen, the free yeomanry who fought our battles and occupied the chair of President at the White House. Under the plan of the new deal, the planned economy and planned emergency on which this Soviet measure is based, Prof. Rexford Guy Tugwell—or "Comrade Tugwell" as he is known in Moscow—points the American farmer to the European peasant as the model which he should emulate. The American farmer is presumed, under the Tugwellian theory of this bill, to submerge his rights to life, liberty, and pursuit of happiness under a Federal dictatorship which tells him what to plant, what to destroy, what price he shall get, and deliver all his rights to his own soil to a group of political professors in Washington, as completely as the Russian peasant to the Soviet General Council, or the serfs of the Dark Ages to their feudal lords.

As my mind goes back to my early days, when I milked the cows, plowed corn, and drove the harvester on the old homestead, where I began life as a farm boy with my widowed mother, in a sod shanty on Minnesota's prairie frontier, and

when I compare that life of freedom and self-reliant poverty with the condition of the Russian peasant under the Tugwell system of planned agriculture, where the farmer loses first his farm and crop, and then his liberty and his son and daughter, all subject to the rule of Moscow, I cannot bring myself to the support of a bill which sacrifices the freedom of the soil for which we have fought since the first pioneer settlement of America.

Let those who prefer the Russian system of centralized autocracy prove their faith by their works and take up the life of the Russian peasant under Moscow rule. Did you ever hear of a "collectivist", as Tugwell and Stalin call themselves, sticking to the soil of Russia longer than the time required to make a get-away? If there is one collectivist who by choice has pursued the life of a Russian farm peasant subject to the planned economy of Moscow, it is strange that the world has never heard of him. How many of the thousands of Russians who, it appears in census returns, form the leading nationality of New York City, would return to Russia if not deported? There are today in this country, the Sunday press tells us, 5,000,000 aliens embracing collectivist or communist doctrines. Even they prefer American institutions and life and liberty under an American Constitution to the serfdom of planned economy in Russia. I fail to understand why any American legislator can vote to establish on American soil a system which drives even its Russian advocates to get out of Russia and seek this land of liberty and opportunity. The remedy for this kind of bill would seem to be to deport the Tugwellites who like this kind of bill to the country where the Tugwell system belongs.

The American farmer needs no dictator. It was the plowman who, in 1776, as Emerson tells us, "fired the shot heard round the world"; and what American plowmen did in 1776 they are capable of doing again even in 1936. Next year, if we are allowed to have an election, may not be a good year for would-be dictators.

Mr. President, I am in receipt of a letter from Milo Reno, president of the National Farmers Holiday Association, which reads:

NATIONAL FARMERS' HOLIDAY ASSOCIATION,
OFFICE OF THE PRESIDENT,
Des Moines, Iowa, July 1, 1935.
Senator THOMAS D. SCHALL,
Washington D. C.

DEAR SENATOR: The proposed amendments to the triple A, stripped of all deceit, simply mean that the power of the Secretary of Agriculture will be increased.

Both the House and Senate are well aware that the decision of the Supreme Court is entirely clear, that the power to tax or interfere with intrastate business cannot be delegated by Congress or the President to a head of a department, and it is hardly understandable how this measure can be consistently passed.

The effort to protect the Government as to recovery by those who had been robbed through an illegal processing tax is a repudiation of Government responsibility that to the average American mind is unthinkable. It is still more to be regretted that, in order to excuse this perfidious proposal, that its proponents have undertaken to camouflage their real intentions through propaganda, which is to protect the Government from being looted by the big packers. This is the rankest hypocrisy. They well know, or should know, that the packers made a larger profit than for many years, and they were not especially burdened by the processing tax. They lowered the price paid to the farmer to the full extent of the \$2.25 a hundred processing tax and then a slice off of the consumer as well. A careful investigation of prices paid farmers in Canada and in the United States is evidence of this fact. The only one entitled to recover is the farmer, who had too much respect for his manhood, for his American citizenship, to sign a contract making the Secretary of Agriculture his dictator, giving him complete and absolute control of his affairs; who refuses to surrender his rights guaranteed under the Constitution, to appeal to our courts for redress.

This man was fined \$2.25 per hundredweight, or approximately \$5 a head, for every hog he sold. It was the confiscation of his property without due process of law—unconstitutional, un-American, reprehensible in every sense. This man is entitled to recover the \$2.25 a hundred of which he was robbed under the contemptible disguise of a processing tax; so the attempt that is being made, and will perhaps succeed, to immunize the Government from the penalty of its sins will affect only the man who has been deliberately robbed of values he had created and given nothing in return.

I hope that the Senators from the Middle West will have the courage of their convictions, regardless of administrative pressure, and defeat this ungodly and unholy measure.

Very respectfully yours,

MIL0 RENO, President.

AMENDING AN A. A. A. ASSAULT UPON THE CONSTITUTION

Mr. President, pertinent to the consideration of H. R. 8492—the proposed amendment of the A. A. A. enactment now before the Senate—I ask permission to publish in connection with my remarks thereon two wires from Milo Reno and John Bosch, of the National Farmers' Holiday Association, and a number of press articles revealing important country-wide court developments precipitated by this bill. These articles are largely Associated Press and United Press dispatches appearing in the Washington Post and Star and the New York Times and Herald Tribune.

The attempt of this bill to legalize processing-tax levies and collections even if, as we find on page 33, line 15, "finally held invalid by reason of any provision in the Constitution", and to declare such tax levies lawful, as we find in page 33, lines 16 to 20, even if "finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him", has started a host of suits in Federal courts in all the States where food products are milled or processed and in something like 50 leading cities where grain, livestock, or textile products are manufactured.

In my own city of Minneapolis week before last six restraining orders were granted in United States District Court by Judge Molyneux against collection of processing taxes, the industries affected including flour milling, sundry cereal foods, and newsprint. Something like \$2,000,000 of processing-tax collections are tied up in court.

In Chicago, twoscore small packers joined an uprising of textile manufacturers and millers seeking injunctions to be heard in the Federal courts on Monday. They seek both to bar the July 1 collections, and also ask for rebates on past payments held to be illegal under the recent N. R. A. decision in the "sick chicken" case.

Similar cases have arisen in the Federal courts at Indianapolis; New York; Louisville; Salina, Kans.; Philadelphia; Rochester, N. Y.; St. Paul, Minn.; Davenport, Iowa; likewise Dubuque and Fort Dodge, and several in St. Louis and Kansas City. In Sherman, Tex., a temporary restraining order has been granted against collection of tax in a wheat-milling case. In San Francisco cases have been filed by packing companies. In Washington, D. C., the American Newspaper Publishers Association seeks "compensating taxes" on imported newsprint.

There is nothing surprising in this sudden flood of new cases against the A. A. A. to anyone who has carefully read the 53 printed pages of this bill, and especially those provisions which seek to invade the judiciary powers of the United States and declare lawful the provisions held by the Court to be unconstitutional, and to legalize the Executive acts held by the Court to be illegal.

In addition to the hundred or more pending cases brought by the textile industries of the North and South Atlantic States, we may see during this or the coming week several hundred new cases, which the pending bill, which should be entitled "A bill to annul the judiciary powers of the United States and deprive citizens of the rights guaranteed in the fifth and tenth amendments, including the right of due process of law", has inspired throughout the agricultural and industrial States wherever a factory offers the farm a home market.

The original A. A. A. measure raised enough questions of constitutionality. Besides the question of invading the intrastate commerce of the State and seeking to control local industries, such as the farms, mills, warehouses, and stores—in other words, the issued settled in the N. R. A. decision—the A. A. A. raised the even greater issue of a bureau exercising both the tax power of levying and collecting process taxes and the disbursement power by distributing the collected revenues to other producers.

This amendatory A. A. A. bill raises at least two more questions of constitutionality. First, it seeks to invade article III of the Constitution, which provides:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

The bill provides that the processing tax shall be legal that refunds of illegal taxes may not be reco

process of law, notwithstanding the fact that the taxes shall be "finally held invalid by reason of any provision of the Constitution."

It defies the courts, it seeks to annul the rights of citizens for a day in court, and it defies the Constitution itself. It seeks to set up the racketeers of the A. A. A. as superior to the judiciary power of the land.

This bill asks Congress to legalize illegal acts and ignore article V of the Bill of Rights if these illegal acts are committed by the Secretary of Agriculture and his A. A. A. dictatorship. And the victims of the illegal acts are to be deprived of a hearing in court. The Secretary of Agriculture in this bill seeks not only the legislative power of levying taxes and the executive authority to collect and disburse taxes but a superjudiciary power to set aside the powers and jurisdiction which the courts of America have exercised for 146 years.

Consistently the bill should go one step further and give Wallace and his A. A. A. crowd of deputy sheriffs a jail and hangman's noose and a central office off in some safe mountain district, where the gold hoard of Washington, nearly half the gold of the world, is about to be stored under military guard against citizen raids, and after chaos, riots, and revolution have been put down it ought to come in handy to cement the dictatorship of F. D. R. (Fabian-deal Roosevelt).

In order to popularize this high-handed measure a pretense is made of cooperation with "State and local committees" and "to permit cooperative associations of producers." But please read this section of the bill closely, and see if there is anything there but a paternalistic pretense. Read this language on page 46, line 24:

(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8.

In other words, cooperative associations have no initial powers whatever. All they are allowed to do is to act as messengers in the "distribution of payments" if and when in Wallace's "judgment they are qualified to do so."

All that amounts to is this: Wallace's Pullman-car crowd of paid politicians will get the job of passing out the checks which Wallace sends out from Washington. No genuine cooperative associations of local origin, independent of Washington, have any powers under this bill. He will name the "State and local committees." He will permit them to distribute checks "when in his judgment they are qualified to do so." And, of course, they will not be "qualified to do so" unless they follow the political orders of James Aloysius Farley. This "cooperative" provision begins and ends with Federal political association, as, indeed, is the whole present design of the A. A. A.

The successive steps of unconstitutionality involved in this bill proceed as follows:

First. The tax power of Congress, which John Marshall termed the "power to destroy", is delegated to the Secretary of Agriculture and his fellow legislators of the A. A. A., who may impose such levy of processing taxes as he in his omniscience may determine.

Second. Having concluded his legislative job of fixing the tax levy, he proceeds with the executive duty of assessment and collection.

Third. He now assumes a second legislative function, namely, the appropriation and allocation of the collected taxes—taking money from Peter to pay Paul—increasing the production costs of every mill and factory that provides a home market for the farm, and finally passes the whole amount of taxes and administrative costs on to the consumer, namely, the wage earners, employed or unemployed, and the 30,000,000 homes.

Fourth. The amended bill before us then seeks to set aside and annul the powers of the courts and deprive citizens of their constitutional rights under the fifth amendment, which provides that no citizen shall be "deprived of life, liberty, or property without due process of law."

Fifth. The bill likewise ignores the tenth amendment, which provides:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Sixth. In order to forestall any appeal to the courts to seek justice against unlawful seizure of property and against collection of taxes held to invalidate the Constitution, this bill invades the judiciary powers and the civic rights of the fifth amendment in section 21 of the bill, found on page 44, as follows:

SEC. 21. (a) No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed.

This section, if not an ex post facto law per se, and therefore prohibited by the Constitution, is so near the line that it may help to swell the mass of cases now springing up like mushrooms all over the United States against the high-handed provisions of a measure that has no counterpart in the history of republican government.

Section 21 then proceeds through subsections (b), (c), (d), (e), (f), and (g) for five pages of doubtful constitutionality, and winds up with a penalty provision providing that "any false statement" in securing a "refund of any tax" shall be punishable "by a fine of not more than \$1,000 or by imprisonment not exceeding 6 months, or both."

The judge of the false statement regarding the amount of tax due is the Commissioner of Internal Revenue. Then comes this interesting limitation upon the functions of the Comptroller General of the United States, apparently prohibiting the Comptroller from reviewing the fact of the payment of the tax. I refer to pages 48 and 49:

Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue.

Thus the heads of two executive offices, the Secretary of Agriculture and the Commissioner of Internal Revenue, are made supreme in their combined legislative and judicial powers. Levy and collection of taxes, the finding of guilt of "false statement" in securing refund of tax, and the fine of \$1,000 and 6 months' imprisonment follow their decisions. And no suits can be brought to show the illegality of their official acts. Hitler, Mussolini, or Stalin could not write a bill more to his taste than this.

The advance "whitewash" of all illegal acts—which may logically be termed the "permanent immunity" paragraph—is found in section 21 (c), which reads as follows:

(c) The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

A large amount of space could be saved if this section were reduced to the following six words:

The king can do no wrong.

It is here made unlawful for the court to construe illegality to any unconstitutional or illegal act of the Secretary of Agriculture or the President. Other acts of Congress stand the

gantlet of court review, but the taxation power of the new deal's "King John" is so far above that surrendered by his British predecessor at Runnymede in 1215 that no court shall construe to the contrary, and it shall be unlawful for any victim to plead the fifth amendment in demanding due process of law in defense of liberty and property.

The Senate will do well to put a quietus upon this proposal of autocratic tyranny before the country is torn up with strikes and riots, "holiday" raids, martial law, and impeachment trials. The President proposes to double the ranks of his C. C. C. shock troops, although last year the C. C. C. cost \$100,000,000 more than the Regular Army. With the expanded 600,000 of the C. C. C., the sheriffs of the A. A. A., and the Army and training-camp Reserves, all told, together with such State militias as he may be able to muster, he will have a combined military force practically equal to that of Mussolini or Hitler—but he will need them all if such bills as this are foisted upon the American people by usurpation of the legislative power of Congress, by annulment of the judicial power of the courts, and defiance of the rights alike of the States and of their citizens under the Constitution.

These \$880,000,000 of processing taxes, levied by the A. A. A. bureau by an unconstitutional delegation of legislative power to the President, have so thoroughly destroyed the ability of American farms and manufacturers of agricultural products to compete with like industries abroad that this country is now, for the first time in history, flooded with imports of all foreign products having an agricultural content.

During the first quarter of this year alone, as reported on Saturday, June 29, by the United States Chamber of Commerce, agricultural imports, including manufactured food-stuffs, reached the maximum figure of \$496,000,000, or at the rate of nearly \$2,000,000,000 of imports annually in a country whose exports of agricultural products once totaled \$3,000,000,000.

Imports of grain and meat and dairy products exceeded exports in all the staple articles which once developed the 12 States of the Middle West. Under the A. A. A. we have squandered over \$1,000,000,000 of public funds to help drought, weeds, dust, bugs, and disease destroy the greatest agricultural empire on the globe. We have reversed the aims of a century to make two blades of grain grow where one grew before, and helped disaster grow one blade where two grew before.

By unconstitutional delegation of the legislative power of Congress, a "Step-and-fetch-it" Congress has delivered the tax power to an executive bureau to levy a tax burden of \$880,000,000, which has "cracked down" the greatest market on the globe—the American home market, to which every country on earth, unburdened with processing taxes, looks with glee, while our own once independent and self-reliant farm yeomen are living like serfs on the doles of their feudal lord in Washington.

There can be no national recovery unless and until, first, we repeal the processing taxes; second, permit industry its freedom from political domination; third, restore the guarantees of our Constitution to the 128,000,000 Americans of our 48 sovereign constituencies—that "indissoluble Union of indestructible States", which until this new deal was known as the American Republic.

This bill in itself is a confession, first, that the A. A. A. is invalid and a violation of the Constitution; second, that the acts of the Secretary of Agriculture and his A. A. A. "shock troops" are illegal; third, that the taxes levied and collected by them cannot look a judge in the face.

Otherwise, why section 21 (a), providing that "No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, or refund" of taxes levied by the Secretary of Agriculture and/or the President?

Why section 21 (c), providing that all taxes imposed hitherto by the Secretary of Agriculture and/or the President are "hereby legalized and ratified and confirmed"? Lawfully collected taxes need no such whitewash immunity.

Why is it made a crime to construe illegality to "any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made

prior to the date of the adoption of this amendment"? Never before have the courts of the United States been debarred from reviewing the legality of the acts of public servants. If Federal activities under the A. A. A. are lawful, they need no law to prohibit their review by the courts.

Why is the Comptroller General of the United States "directed" to certify payment of amounts scheduled to him by the Commissioner of Internal Revenue, "without review of the fact of the payment of the tax"?

The Comptroller General of the United States is an officer of Congress. It is his lawful duty to "review the facts" of tax-refund payments. That was one of the chief functions of the office—to check the financial operations of the Executive departments to see that they conformed with the law. This attempted prohibition upon the freedom of the Comptroller General is in itself an admission that the acts of the executive bureaus in the levy and collection of processing taxes will not stand public scrutiny. We have here a "planned" alibi and immunity set up in advance of the fiscal crime.

This bill affords the best proof yet advanced to warrant the indictment that the purpose of the new deal is to legalize unlawful acts; to impose upon the country by force of ballyhoo and subsidy foreign policies abhorrent to our Constitution; to substitute a Federal autocracy for a Republic; to substitute "government of men" for what Tugwell calls the "fiction" of "government of laws."

If we are true to our oaths to uphold the Constitution, if we would not see in this country what we have seen happen under Mussolini, Hitler, and Stalin in Europe—the abolition of the Constitution and Bill of Rights—we shall vote to kill this bill.

Mr. SCHALL. Mr. President, I ask unanimous consent that the newspaper items and editorials to which I referred in my speech be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The newspaper articles and telegrams are as follows:

[From the New York Herald Tribune, June 29, 1935]

SMALL PACKERS JOIN FIGHT ON A. A. A. TAXES—NEARLY 40 MINOR FIRMS SUE TO BAR FURTHER PAYMENTS; SOME ASK REFUNDS

CHICAGO, June 29.—The "Big Four" held to the sidelines tonight as nearly twoscore smaller packing concerns joined an uprising of textile manufacturers and millers against A. A. A. processing taxes.

With the next installment of the collections, from which farmers are paid corn, hog, and cotton benefits, due July 1, several of the injunction proceedings seeking to bar further tax payments were scheduled for hearing in Federal courts over the country on Monday.

Some of the concerns ask a refund of taxes already paid. Government officials have estimated that nearly \$900,000,000 in processing taxes have been collected to date.

At Washington Farm Administration authorities scoffed at the triple-headed attack on the taxes and charged rumors of widespread strikes contemplated against their payment were spread by opponents seeking defeat of A. A. A. amendments.

The big Chicago firms of Armour, Wilson, Cudahy, and Swift, which turn in approximately \$1,000,000 a month to the A. A. A., took no steps toward withholding any sums due. Swift & Co. announced it "would pay all processing taxes due at the end of June for which extensions have not been granted."

Firms which have begun actions included Kingan & Co., of Indianapolis; Adolph Goebel, New York; Louisville Provisions Co., Louisville; Butzer Packing Co., Salina, Kans.; F. G. Vogt & Sons, Philadelphia; the Rochester Packing Co., Rochester; J. R. McMillan Co., St. Paul; Kohrs Packing Co., Davenport, Iowa; the American, Heil, Krey, and Laclede packing companies, of St. Louis; J. H. Belz Provisions Co., St. Louis; Dubuque Packing Co., Dubuque, Iowa; and Tobin Packing Co., Fort Dodge, Iowa.

MILLERS GET INJUNCTIONS

MINNEAPOLIS, June 29.—Six temporary restraining orders were granted in United States district court today by Judge Joseph W. Molyneux against the collection of processing taxes. Five of the temporary orders were obtained by milling companies and the other by a paper company. They tied up taxes to have been paid to the collector of internal revenue today amounting to approximately \$1,327,728.

The restraining orders were granted by Judge Molyneux to Gold Medal Foods, Inc., a subsidiary to General Mills, Inc., which was to have paid \$17,862.92; International Milling Co., with a payment of \$269,814.20; King Midas Milling Co., \$100,301.46; Russell-Miller Milling Co., \$165,832.67; Pillsbury Flour Mills Co., \$768,101.65; and the Harvey Paper Mills Co., \$5,816.04.

Hearings were set for 10 a. m., July 8, when arguments will be heard on the requests for temporary injunctions. In practically

all of the requests for relief against the processing taxes, violations of the Constitution were claimed.

[From the Washington Star, June 29, 1935]

MILLIONS INVOLVED IN LEGALITY CONTEST—UNITED STATES CLAIMS LAW PREVENTS EFFORT TO STOP PAYMENTS UNTIL SUPREME COURT TEST

CHICAGO, June 29.—Packers and millers joined cotton manufacturers today in a rebellion against the processing taxes of the administration's Agricultural Adjustment Act.

A survey showed some 35 packing houses had filed petitions for injunctions to restrain collection of the hog processing tax with the next installment, due on July 1.

General Mills, Inc., with headquarters in Minneapolis, joined the attack by filing a similar suit in Buffalo, N. Y., seeking to restrain collection of the Federal wheat-processing tax.

The packers were reluctant to discuss the suits, but it was explained that they are intended to lift the tax until the Supreme Court rules on the validity of the A. A. A. Privately, attorneys for the Chicago packers have been predicting a defeat for A. A. A. since the Court's N. R. A. ruling.

HEARING DUE MONDAY

Many of the injunction proceedings are scheduled for hearing Monday, and a victory for the processors would tie up taxes totaling hundreds of thousands of dollars, although the big Chicago packers, who pay \$250,000 a week, do not figure in the fight.

Among the bigger packing firms which have taken the taxes to court are Kingan & Co., of Indianapolis; Adolf Gobel, New York; Louisville Provision Co., Louisville, Ky.; Butzer Packing Co., Salina, Kans.; F. G. Vogt & Son, Philadelphia; and the Rochester Packing Co., Rochester, N. Y.

Also asking injunctions to halt collection of the processing taxes are three Iowa firms—the Tobin Packing Co., Fort Dodge; the Kohrs Packing Co., Davenport; and the Dubuque Packing Co., Dubuque.

In the St. Louis area alone suits on file would tie up collections of more than \$1,000,000. Firms seeking injunctions include Heil Packing Co., Krey Packing Co., Laclede Packing Co., J. H. Belz Provision Co., and the American Packing Co.

DENY TAX RESTRAINT POSSIBLE

The Government has answered the St. Louis suits with the claim that Federal statutes prohibit the maintenance in any court of a suit to restrain the collection of Federal taxes. A similar answer has been filed to a suit by the Scala Packing Co., Utica, N. Y., over \$17,702 in processing taxes.

The Chicago packers generally said they would pay the July 1 installment and await developments in the court fight.

Cotton processing taxes are under fire in a \$2,500,000 action filed by the Amoskeag Manufacturing Co., seeking to recover taxes already paid.

The packers' suits do not seek recovery, it was explained, since to win would subject the houses to a flood of similar suits for farmers and consumers.

Washington offices of the A. A. A., the Justice Department, and the Internal Revenue Department said a complete list of suits filed and money involved was not available.

A. A. A. WINS ROUND

The A. A. A. tax program, however, has already won an initial victory in the tax fight. This came when Federal Judge Albert L. Reeves, of Kansas City, recently dismissed a petition of the Larabee Flour Mills protesting the processing tax and asking an injunction restraining collection of the wheat processing tax. At the same time the court refused to rule on the constitutionality of the A. A. A. program.

But another Federal Judge, Judge William H. Atwell, at Kansas City last Wednesday granted a temporary injunction to the G. R. Smith Milling Co., of Sherman, Tex., restraining the Government from collecting the Federal processing tax on wheat in the Kansas City district.

The milling company attacked the tax on the grounds it violated the fifth and tenth amendments to the Constitution. The case will be tried September 19 on its merits. The company posted \$125,000 bond to guarantee payment of the tax if it is proved to be legal.

OVER \$496,000,000 FARM PRODUCTS IMPORTED—UNPRECEDENTED FIGURE FOR FIRST QUARTER OF THIS YEAR REPORTED BY CHAMBER OF COMMERCE

Unprecedented importations of agricultural products during the first quarter of this year were reported today by the Chamber of Commerce of the United States.

An analysis issued by the organization said import trade for the quarter was the heaviest in 4 years, value of the goods moving inward amounting to \$496,000,000.

Heavy imports of materials for industry and some agricultural products attracted to the United States by drought needs and high internal prices were described as "prime factors" in the increase.

[From the Washington Post, June 29, 1935]

FOOD INDUSTRY ALLOWED WRITS IN WAR ON A. A. A.—TEMPORARY RESTRAINT PUT ON PROCESS TAX BY UNITED STATES COURT IN WEST

CHICAGO, June 29.—The Nation's food industry, striking as if by prearranged signal, revolted in the courts today against the new

deal's A. A. A. processing taxes from which huge benefits are paid to farmers.

The revolt, which began brewing after the Supreme Court's invalidation of N. R. A., threatened the nucleus of the administration's agricultural recovery program.

General Mills, Inc., largest milling company in the world, and four other concerns obtained temporary restraining orders in Federal court at Minneapolis against further collection of the A. A. A.'s processing taxes.

Other suits will be filed in scattered parts of the country, it was announced.

The packing industry was reported mobilizing for a Nation-wide campaign against the tax on meat packing which pays to the Government benefits given stock raisers. Several scattered injunctions against this division of the tax already have been granted.

Companies in addition to General Mills making application for temporary writs were Pillsbury Flour Mills Co., Russell Miller Milling Co., International Milling Co., and King Midas Mills Co.

In adjoining St. Paul the J. T. McMillian Co. filed a petition in Federal court asking an injunction against further collection of the processing tax on pork.

At Des Moines a joint suit by two meat packers challenging constitutionality of the hog-processing taxes was filed in Federal court by the Korhs Packing Co., of Dubuque, Iowa, and the Davenport (Iowa) Packing Co.

All the suits charged that the tax was unconstitutional because it levied taxes on one class of citizens for the benefit of another. Many lawyers have argued since the Supreme Court's N. R. A. ruling that the A. A. A. is equally illegal.

The first of the General Mills' many subsidiaries to file suit for an injunction was the Washburn Crosby Co. at Buffalo. More than a dozen other similar actions followed in quick order.

A significant gesture toward the Treasury's staff of hard-boiled tax collectors was the reply of Farm Administration officials to talk of a general strike against processing-tax payments.

A. A. A. spokesmen said processing taxes were in the same classification as all other Federal taxes, and that willful failure to pay would make the processors liable for heavy penalties.

But it was reported that many processors have applied to the Government for postponement of payment, hoping to see the tax declared invalid by the Supreme Court.

Under the A. A. A. Act, the Secretary of the Treasury may grant postponements of processing-tax payment for 180 days.

The office of Secretary of Agriculture Wallace announced officially that no reports have been received of a wholesale failure to pay the disputed tax or of any general strike against payment.

[From the New York Times, June 29, 1935]

A. A. A. BILL MODIFIED TO AVOID N. R. A. FATE—SENATE GROUP REVISES AMENDMENTS FOR CONSTITUTIONAL SAFETY AND TO AVERT TAX SUITS—EXPORT SUBSIDY DROPPED—MEASURE DROPS MANY HOUSE PROVISIONS—WRITS HALT \$2,000,000 COLLECTIONS

WASHINGTON, June 29.—Revised in an effort to meet possible constitutional objections and carrying a provision designed to block suits to recover processing taxes, the A. A. A. amendments bill today was ordered favorably reported by the Senate Agriculture Committee.

This new deal measure to give Secretary Wallace broad authority to "order" controlled marketing under growers-processors' agreements is slated for Senate action next week.

Withdrawn hurriedly from Senate consideration when the Supreme Court's N. R. A. decision was handed down, the measure was rewritten, passed by the House, and revised again by the Senate group.

"The feature of the bill, which I believe reconciles it to the decision of the Court in the N. R. A. case, is that all its provisions are made to apply only in reference to interstate commerce", Chairman SMITH, Democrat, of South Carolina, said. "Their effectiveness in intrastate affairs is made possible only by the cooperation of the States in providing the necessary laws and machinery and government to carry on in the State the control provisions the Federal Government has in interstate commerce."

Recently scores of processors have filed suits against the Government for recovery of millions paid in processing taxes. As revised, the measure provides that no suits may be filed against the Government for any operation of the law up to the time of the passage of the amendment bill.

It also is designed to shut out suits for any amounts claimed by some growers to have been collected in excess of parity prices the measure seeks to establish.

Chairman SMITH said the limitation was justified because it was evident that in such cases the tax would already have been passed on to the consumer or deducted from the price paid the grower and that there would be no justice to such suits filed by processors.

As a limitation on any further excess processing taxes, the committee amended the bill to provide that when any farm commodity under the tax schedule is brought up to parity, or near parity, the tax may be reduced or abolished. Its restoration would be permitted only in the event the price sagged. Heretofore the tax has been fixed by the Secretary of Agriculture, subject to little change.

The committee attached a "compensatory tax" on "rayon and all fiber that in physical quality competes with cotton." An extra 25-percent levy was attached, Mr. SMITH explained, because a pound of rayon compared in its cloth-producing ability with more than a pound of cotton.

Provisions permitting the Secretary of Agriculture to use 30 percent of the Nation's customs receipts in financing export of surplus farm commodities and giving regional groups of citrus growers the power to pull out of any control agreement, were stricken out by the committee.

EXPORT PLAN HELD A PERIL

At one time a supporter of the customs receipts export subsidy provision, Mr. SMITH said the committee had been convinced it would work to the detriment of American farmers and processors, particularly in the case of cotton.

"That," he said, "would be inviting disaster."

The citrus-fruit amendment originally was attached at the insistence of Senator FLETCHER, Democrat, of Florida, because some Florida growers objected to quota restrictions sought by California and Rio Grande growers.

Fruits intended for canning were exempted by the bill as passed by the House but restored by the Senate committee. Added also to the list of "controllable" crops were poultry and eggs, wool and mohair. The latter two had been deleted by the House.

Other provisions of the revised bill include:

1. To authorize the Secretary of Agriculture to order marketing agreements for handlers of milk, tobacco, fresh fruits (except apples), fresh vegetables (except those for canning), soy beans, walnuts, pecans, hops, poultry, eggs, wool, and mohair provided 50 percent by volume of the handlers in a given class or region agree with it or if two-thirds of the farmers desire it. Milk is subject also to price fixing and milk retailers to "orders."
2. To permit crop control to move up or down, rather than merely downward as under the present A. A. A. Act.
3. To permit the President to fix quotas or compensating taxes on imports he finds are depressing domestic farm products below the determined "parity prices."

WOULD EXTEND SUGAR QUOTAS

4. To extend the Jones-Costigan Sugar Quota Act from May 9, 1937, to December 31, 1937, and to extend the Bankhead Cotton Control Act and the Smith-Kerr Tobacco Control Act through another crop year.

5. To permit refunds of taxes paid on floor stocks in event the processing tax is dropped.

6. To authorize the Secretary to maintain an ever normal granary by buying up surpluses in bumper years and redistributing to the farmers in lieu of benefit payments in lean years.

7. To promote State cooperation in carrying out for intrastate commerce what is intended by the Federal act for interstate commerce.

To meet complaints that some of the cooperative marketing organizations were merely private merchandising arrangements, the bill was amended to provide that Government loans would be extended to such groups only where 50 percent of the commodity they handled was provided by its members.

PRESS AMENDMENTS ABSENT

WASHINGTON, June 29.—Absent from the draft of the A. A. A. amendments bill, as approved by the Senate committee today, were the freedom-of-the-press amendments proposed by the American Newspaper Publishers' Association, which would have prevented the levying of any compensating taxes on imported newsprint and provided that nothing in the A. A. A. amendments was to be construed as carrying authority to regulate advertising.

Called a "compromise" by some agricultural officials, the Senate tax provisions are calculated to bring about an almost immediate reduction in levies on tobacco and a curtailment of that on hogs and other basic commodities later.

Meanwhile Seth Thomas, counsel of the A. A. A., in a statement late today advised processors that it was unnecessary for them all to rush into court with suits against the A. A. A. to safeguard their legal rights. Chester Davis, A. A. A. Administrator, said he was giving wide publicity to the opinion, since many honest manufacturers undoubtedly feared they would lose out if they did not file suit.

Under the new bill a processing tax of 30 cents a bushel would become effective August 1 on rye, together with taxes of 35 cents a bushel on flaxseed and 25 cents a bushel on barley.

CHANGE IN HOG-CORN PROVISION

Among the several House bill provisions stricken out by the Senate group was one which would have included permission to treat hogs and field corn as one commodity, so that tax collections on pork processing might be used to make benefit payments on corn-production control. Another deleted provision would have required that benefit payments for each commodity be not less than the processing taxes levied thereon.

The new processing tax formula adopted in the Senate committee would provide that when prevailing farm prices surpassed parity prices by 20 percent the processing tax would be at the rate of 20 percent of the parity level. Should the prevailing price go to more than 20 percent above parity the processing tax would be cut to 10 percent. Parity prices are defined as the difference between the current exchange value of such commodities and those prevailing from 1909 to 1914.

The Nation-wide court tests on the legality of the processing taxes, based partly upon charges of an unwarranted delegation to the Secretary of Agriculture of legislative power, indicate a bitter controversy when the new amendments are taken up in the Senate.

An extended controversy between the Senate and House conferees also was foreseen by some observers today as the result of the deletion of important provisions insisted upon by the House Agricultural Committee.

BIG MILLERS WIN TEMPORARY WRITS

CHICAGO, June 29.—A series of temporary orders restraining collection of nearly \$2,000,000 in processing taxes tonight marked a new development in the battle of big millers, textile, and packing concerns to overturn the A. A. A.

Temporary injunctions issued by Federal Judge Joseph W. Molyneux at Minneapolis at the request of five large milling firms and one paper concern, prevented collection of nearly \$1,500,000 and set the site for one of the leading assaults on the statute for that jurisdiction.

The Federal revenue collector for Oklahoma likewise was temporarily restrained against collecting wheat-processing taxes on petition of three milling and elevator firms at Oklahoma City.

The Minneapolis actions were brought by Gold Medal Foods, Inc., a subsidiary of General Mills, Inc.; International Milling Co.; Russell-Miller Milling; King Midas Milling Co.; Pillsbury Flour Mills Co.; and the Harvey Paper Mill Co. They charged generally that the taxes were unconstitutional, and hearings were set for July 8.

The Pillsbury petition said it owed \$768,101.65 in taxes, the largest single amount involved.

In a score of other jurisdictions, suits by nearly twoscore packing firms as well as by other millers and textile manufacturers were pending. The "Big Four" Chicago packers, however, were on the sidelines in the fight.

NEXT INSTALLMENT DUE JULY 1

With the next installment of the collections, from which farmers receive corn-hog and cotton benefits, due July 1, several of the injunction proceedings seeking to bar further tax payments were scheduled for hearing in Federal courts over the country Monday.

Some of the concerns ask a refund of taxes already paid. Government officials have estimated that nearly \$900,000,000 in processing taxes have been collected to date.

The big Chicago firms of Armour, Wilson, Cudahy, and Swift, which turn in approximately \$1,000,000 a month to the A. A. A., took no steps toward withholding any sums due.

Swift & Co. announced it "will pay all processing taxes due at the end of June for which extensions have not been granted."

For the suing packers, it was said unofficially in trade quarters here that the petition of the Rothblum Packing Co., filed in San Francisco yesterday, probably summarized the general stand.

The Farm Administration won one action brought by the Larabee Flour Mills when the Federal court at Kansas City dismissed the company's petition for an injunction, but lost a later action before another Federal judge. The second judge granted the Smith Milling Co., of Sherman, Tex., a temporary order against collection of the wheat-processing tax in that district.

DES MOINES IOWA, July 1, 1935.

Senator THOMAS D. SCHALL:

Triple A amendments increase Secretary's power as agricultural dictator and should be defeated. The proposal to protect the Government from paying back what it has unconstitutionally obtained, through processing taxes, is most reprehensible. The millions of dollars taken from the farmer who refused to sign a contract that made of him a slave is entitled to recover.

MILO RENO.

ST. PAUL, MINN., July 2, 1935.

Senator SCHALL,

Senate Office Building, Washington, D. C.:

Minnesota Farmers Holiday Association opposed to A. A. A. amendments. Particularly the attempt to deprive farmers who refused to sign A. A. A. contracts of constitutional right to recover losses as result of processing tax.

JOHN H. BOSCH.

HURLEY BERATES ADMINISTRATION ON SUBTERFUGE—TELLS G. O. P. GROUP "ATTACK ON CONSTITUTION IS SIGNIFICANT"

CHICAGO, July 10.—The Democratic Party was accused today by Patrick J. Hurley, Secretary of War under President Hoover, of attempting to change the Constitution by subterfuge and of repudiating both its 1932 platform and the preelection promises of President Roosevelt.

In a speech prepared for delivery to a Republican meeting at the Hamilton Club, Hurley declared, "when we do come out of the depression it will not be because of the new-deal policies, but because the new-deal policies have been defeated."

He called upon the Republican Party to lead the revolt of the people against coercion, and said the final defense of the Constitution must be made at the polls.

"The attack of the new deal upon the Constitution is significant," he said. "Certainly it would be easier for a dictator to govern America under a collectivist form of government than under a democracy. * * *

"The attempt to centralize the Government and make it the master of the people has not been completely stopped by the decisions of the Supreme Court. The same Machiavellian language is still being used in the preamble of every act of Congress introduced by the 'new dealers' for the purpose of circumventing the Constitution, while appearing to operate under it.

"The Constitution should not be changed by subterfuge. If it is to be changed, the people have a right to consider the proposed changes and to approve or reject them."

Touching on Democratic promises, Hurley said, "The Democratic Party has repudiated the preelection declarations of its leader, the President. It has repudiated that statesman-like document known as the 'Chicago platform.' What promises can the Democratic Party now make to the people that can reasonably be believed and relied upon by the people?"

Hurley declared that, counter to promises, the new deal "created the greatest bureaucracy in the history of this Republic, created the most stupendous debt in the history of our Nation, and created the greatest deficit our Government has ever had."

Mr. DICKINSON obtained the floor.

Mr. LEWIS. Mr. President, I ask the Senator from Illinois to yield in order that I may offer an amendment to the pending bill.

Mr. DICKINSON. I yield.

Mr. LEWIS. I tender an amendment to the pending bill with the understanding with the Chairman of the Senate Committee on Agriculture and Forestry, in charge of the bill, that the amendment shall lie upon the table for the time being, or be placed in the bill at such point as may be wholly convenient in the arrangement of the proposed legislation. The amendment I tender, if I may be pardoned to intrude further upon the time of the Senator from Iowa, is to cover the production of cotton in Illinois. I may say that the subject of the amendment was accidentally omitted to be presented for consideration by the committee in making up the bill. I have submitted the amendment to the chairman of the committee, and he understands its purpose. I now tender the amendment, which has already been considered in connection with the House measure and has already passed in the House. I ask that this amendment be placed in the bill at such convenient point as will not disturb the harmony of the committee's program in connection with the bill.

Mr. SMITH. Mr. President, I have looked over this amendment and I think it is very pertinent. So far as I am concerned, as chairman of the committee, I should like to have it added at the proper place, or as an independent section, because I think it ought to be in the law.

Mr. KING. Mr. President, I have no objection to the amendment being tendered, but I object to it being inserted in the bill.

The PRESIDING OFFICER. Without objection, the amendment will be printed and lie on the table.

Mr. COPELAND. Mr. President, may I ask what the amendment relates to?

Mr. KING. The production of cotton in Illinois.

Mr. COPELAND. We do not raise any cotton in New York.

The PRESIDING OFFICER. The amendment will be printed and lie on the table for future action.

Mr. DICKINSON. Mr. President, the Senator from Minnesota [Mr. SCHALL] has made reference to the sections of the bill which I desire to discuss for just a few moments. I refer first to section 32, on page 57 of the bill. I read the language beginning on top of page 58:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector—

And so forth. I now read from a provision found on page 59, subparagraph (b), as follows:

(b) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act—

And so forth. On the next page is subparagraph (c), which provides that all acts of the Secretary of Agriculture—

Are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed—

And so forth.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. COPELAND. Is all this material new to this bill? Is there nothing in the present law which is in accord with the provisions referred?

Mr. DICKINSON. Absolutely nothing. This is a new amendment. The report says:

Section 32 also proposes to add a new subsection, 21 (d).

That adds to the original act a new section, 21 (d), which prohibits the bringing of suits for refund or credit of any taxes paid under the act prior to the adoption of the amendment or for damage on account of their collection.

Mr. COPELAND. May I ask the Senator, does that mean that the courts are closed to citizens of the United States who might have a claim otherwise?

Mr. DICKINSON. That means that we are proposing to adopt a policy whereby provisions of that kind are going to be imposed upon the individuals and the business interests of this country; and on top of that, if an unlawful, an unconstitutional, act has been committed, affecting any individual, that act is legalized, and, therefore, there is no recourse to the courts. We might just as well abolish the Department of Justice and close the courts, so far as the Agricultural Adjustment Act is concerned, if this provision goes into the law.

Mr. SMITH. Mr. President, will the Senator allow me to make a statement there, since he has raised the question?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from South Carolina?

Mr. DICKINSON. I yield.

Mr. SMITH. In case the Supreme Court should declare the processing tax unconstitutional, does the Senator think, if a processor who paid the tax and either subtracted it from the price paid to the producer or added it to the price for which he sold the commodity to the consumer, that, in equity, the processor should be entitled to recover a tax which he, himself, has already passed on to the numerous individuals who have either bought the commodity, on the one hand, or have sold the raw material, on the other hand?

Mr. DICKINSON. Let me say that it is my belief that there has been a deliberate effort on the part of the present administration to prevent much of this unconstitutional legislation ever reaching the Supreme Court for a delayed length of time. That being the case, there was no way by which a man who had this tax imposed upon him could really find out what his remedy was. Therefore he had to run the risk; and he has run the risk.

I am not so much interested in that phase of it as I am in the phase of it under the provision of subsection (b) which provides that an individual who has a processing tax imposed upon his business cannot go into court and ask for an order restraining the collection of that tax, and that all taxes are legalized, including penalties, interest, and so forth.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. DICKINSON. Yes.

Mr. VANDENBERG. The Senator from South Carolina is addressing himself to the physical fact of what shall become of the taxes which have been collected in the event the law should be declared to be unconstitutional, and there might be a very practical question involved as to who should be the ultimate beneficiary of a collected unconstitutional tax. But I ask the Senator from Iowa and the Senator from South Carolina, even though it is contemplated to take care of that situation, where is the justification for saying in plain language under clause (2), on page 59, that a citizen shall not even be permitted to use the Federal Declaratory Judgments Act to find out whether or not his rights have been invaded and the law is unconstitutional? That is a totally different question.

Mr. SMITH. I would much prefer to leave such questions to some of those here who are more familiar with the processes of the courts and of the manner of redress; but I understand the provision to which the Senator refers is in strict accordance with the law.

I am fully aware of the fact that there may be a question of the constitutionality of this tax. I, for one, have always opposed it, not on the ground of its constitutionality alone but

for other seasons. However, it must be manifest to every Senator that the tax has been in operation for nearly 2 years, the amount collected has been used under the provisions of the law, and the processor has not been prohibited either from taking it out of the commodity he bought by lowering its price or by adding the tax to the price for which he sold it after it was processed.

Mr. DICKINSON. Is the Senator going to proceed to make a bad matter worse by trying to leave in the statute something which will involve the fundamental right of a citizen of the United States not only as to paying this tax but which will bar the court from having a determination whether he had to pay it or not, and, in addition, provide that what has been done to him is going to be legalized and he cannot complain about it?

Mr. SMITH. I think, Mr. President, in justice to all parties, that this provision takes care of the equities of the case, because it provides, where a tax has been paid upon a floor stock or a surplus stock still in the hands of the processor, which he has not passed on to the consumer or otherwise, that he may recover if the tax is declared to be unconstitutional.

Mr. DICKINSON. Let me ask the Senator who is going to be the loser? The Government has already collected the money and has paid it to the producer. If the Government now should have to pay it back, who would stand the loss? Poor old Uncle Sam—the taxpayer.

Mr. SMITH. To whom is the Government going to pay it if it has to pay it back?

Mr. DICKINSON. To the man who paid the tax.

Mr. SMITH. How are we going to find that man if the processor has manufactured the goods and distributed them to the thousands of people who bought the processed goods? By what process are we going to refund it? The producer has got it. The object of the tax was to bring up the purchasing power of the producer's commodity as near parity as may be. In good faith the Government collected the tax and distributed it product for product in benefit payments. That was the very object of the original law.

Mr. DICKINSON. May I ask the Senator how under subsection (b) one can get into court? That section debars the individual from going into court.

Mr. SMITH. That is only in reference to future taxes; it has nothing to do with this.

Mr. JOHNSON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from California?

Mr. DICKINSON. I yield.

Mr. JOHNSON. What troubles me is whether or not the very fundamental idea of Anglo-Saxon jurisprudence is denied. I have read them only hastily and therefore I venture no dogmatic opinion concerning them, but do these sections deny the right of access to the courts of the land on the part of citizens who complain that they have been injured by some specific action under this bill?

Mr. SMITH. Only in reference to the recovery of taxes already imposed. The provision runs up to and is contemporaneous with the passage of this proposed act as affecting the taxes heretofore collected. As to them the courts shall be denied to those who might want to seek a judgment or to have a rebate apportioned.

Mr. VANDENBERG. Mr. President, I call the Senator's attention to the fact that, in the language of the bill, the prohibition is effective in respect to taxes "on and after the date of the adoption of this amendment."

Mr. SMITH. Certainly.

My attention has been called to the fact that the Senator is now quoting from subparagraph (b) which has reference to future taxes. An individual may sue after the passage of this act, and if he can show damage done he may recover, but the prohibition against the court action only refers to the tax that has already been collected and has already been passed into the different channels for which it was levied.

Mr. DICKINSON. No such interpretation can be read into the wording of the bill, for the reason that it provides—

No suit, action, or proceeding * * * shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed.

That is plain English.

Mr. COPELAND. Mr. President, will the Senator yield there?

Mr. DICKINSON. I yield.

Mr. COPELAND. If a layman were applying his logic to the provision it would be the same as having it read:

No suit, action, or proceeding * * * shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose of preventing the court from sending a man to jail for murder.

It is exactly the same thing. To me it is unthinkable that an American citizen shall be denied the right to go into court.

Mr. SMITH. He is not denied the right to go into court. I am not familiar with the terminology of the law, but, as explained to the committee, and as the lawyers here should readily see, the citizen is prohibited from seeking injunctions and declaratory judgments, but he has every other opportunity to go into court and to have his case adjudicated.

Mr. DICKINSON. If I am faced with the payment of an unconstitutional tax, the very thing I want is the right to go into court and secure an order enjoining the officer of the law from collecting the tax against me.

Mr. BORAH. Mr. President, may I ask the Senator from South Carolina a question?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. DICKINSON. I yield.

Mr. BORAH. I wish to understand what this provision of the bill really does. As I understand—and if I am mistaken, I wish to be corrected—under this bill, if it should be enacted, an individual could not have the right to sue to test the constitutionality of the tax, and could not bring suit to recover an illegal tax.

Mr. SMITH. He could sue for a refund.

Mr. BORAH. Well, could he?

Mr. SMITH. Yes; as to future taxes.

Mr. BORAH. Could he sue as to future taxes?

Mr. SMITH. Yes, sir.

Mr. BORAH. If that be true, let us suppose that in the past a man has paid \$10,000 in taxes, which are found to have been illegally levied and collected, this provision denies him the right to recover, although it should be determined that the tax was illegal.

Mr. SMITH. Yes; up to the time of the passage of this measure on the ground—

Mr. BORAH. I understand the ground. The ground is that he has likely passed it on.

Mr. SMITH. Yes.

Mr. BORAH. I think that is sound. The argument for that proposition is the only argument I can conceive of against giving these people a full right to go into court.

Mr. SMITH. I think that is the only argument.

Mr. BORAH. That perhaps can be remedied by providing that in case of action being brought, the Government shall be permitted to show that the party bringing the action has passed the tax on or has not paid the tax.

Mr. SMITH. My attention has been called to another point, which I think the Senator will appreciate. It may be possible for such a system of bookkeeping to be resorted to by certain individuals as to make it appear that they have not passed the tax on when perhaps they really have done so.

Mr. BORAH. Of course, such matters would have to be dealt with in the lawsuit, and there would be a question whether or not the proof was available. I venture to say that if the Government were permitted to show in advance that the tax had been passed on, the doubt would always be resolved in favor of the Government rather than in favor of the individual. That has been my experience in lawsuits with the Government. It would be very rare indeed that the individual would receive the benefit of the doubt.

It seems to me there is a very fundamental question involved, and that is whether or not we are going to incorporate into our system of legislation a denial of the right of the citizen to go fully and freely into the courts to test the legality of any action of the Government, and, if anything has been done wrongfully, accord him the remedy to which he is entitled.

We are faced with the proposition, of course, that the king can do no wrong, and therefore the Government should not be sued. That is the point we have to reach pretty soon in determining these matters, because we are extending this principle in all directions. Certainly if it be true that the principle that the sovereign may not be sued without his consent has been embodied in our jurisprudence, nevertheless that consent ought very rarely to be denied. There ought to be very rare occasions when the citizen should be denied the right to go into court and litigate the wrong, even if the Government is charged with the wrong.

Mr. SMITH. I heartily agree with the Senator from Idaho, and, were it not for the peculiar circumstances surrounding this individual proposition and the complications which may arise, I should insist along with him that the Government be made to show whether or not the tax has been passed on. But it is establishing a precedent for us to enact such legislation, though it is wholly within our power to do it. The question for us to determine is whether it is better for us to close this matter up to the time of the passage of the bill after the taxes have been collected and distributed, or whether it would be better for us to open the way for endless litigation and leave the Department uncertain as to whether or not the amounts which they have collected are to be refunded or what portion of them is to be refunded, and what they may hope to do in carrying on a work which seems to be meeting the approbation of the agricultural population.

Mr. DICKINSON. Let me suggest to the Senator from South Carolina, in view of the fact that he is speaking in my time, that lines 12 to 14, page 58, provide:

Any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or for damages for the collection thereof.

It is impossible for the Senator from South Carolina to read the meaning of those lines into paragraph (b) on page 59. If that be the case we must absolutely restate the proposal.

Mr. SMITH. One relates to a time prior to the date of the passage of the bill, and the other to a time "on and after" the date of its passage. That is the difference.

Mr. DICKINSON. But paragraph (b) is not bound by the dates mentioned in paragraph (a), and none of the young draftsmen can read it in there.

Mr. SMITH. If the Senator will turn to page 59 he will see, beginning in line 10, that it reads as follows:

Of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on and after the date of the adoption of this amendment.

Mr. DICKINSON. That means absolutely that we are going to bar the individual from going into court, even after the amendment shall be adopted, to obtain an order enjoining the collection of the tax.

Mr. SMITH. Yes; but he can sue for relief.

Mr. DICKINSON. There can be no suit for relief. The tax is legalized and validated in paragraph (b).

Mr. VANDENBERG. Mr. President, will the Senator from Iowa yield?

Mr. DICKINSON. Certainly.

Mr. VANDENBERG. Even in paragraph (b) the first two words are "no suit." It provides that—

No suit . . . shall be brought or maintained.

No suit of any kind or nature whatsoever. Every right of legal recovery is barred.

Mr. DICKINSON. I cannot understand how the Government can ever justify enacting unconstitutional legislation

and imposing it upon the public for a matter of 2 years, collecting money which belongs to the people who paid it, and then say that under no circumstances can they get it back; that they cannot bring a suit for injunction to enjoin its collection, and that the whole transaction is legalized and made valid, and therefore the Government can be just as crooked as it wants to be, and as American citizens we have to like it.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. DICKINSON. I yield.

Mr. BORAH. As I read the phraseology, there is another proposition involved. Not only is suit barred on the question of constitutionality or of fact, but malfeasance and misfeasance in office are protected under this provision. I think, as the Senator from California [Mr. JOHNSON] well stated, the fundamental question involved is not the amount of the taxes which are paid or which may be refunded, but whether we are going to establish practically as a permanent policy that the citizen may not go into court and have his rights adjudicated even when those rights run against the contention of the Government.

Mr. GORE. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. GORE. I wish to submit a question to the Senator from Idaho [Mr. BORAH] as well as the chairman of the committee [Mr. SMITH]. I have had in mind the idea of submitting an amendment of this character, and I did suggest it to the Committee on Banking and Currency this morning in connection with the resolution forbidding suits against the Government for damages resulting from the repeal of the gold clause—an amendment providing that where a taxpayer alleges that actual damages or actual losses have been suffered, and makes proof thereof, in that case he shall be entitled to recover. That would obviate the objection suggested by the Senator from South Carolina. Where the tax has been passed on to the consumer there would be no recovery, but where the taxpayer has suffered the loss himself and has not passed it on, he would be entitled to recover.

I noticed a tobacco case in New York the other day where the taxpayer paid more than \$200,000 processing tax, and his sales had not equalled the amount of the tax. It was self-evident that he had not been able to pass the tax along to the consumer. The report said he was in danger of insolvency or bankruptcy. He certainly ought to have his day in court to prove his damages or loss in the event the processing tax should be adjudged to be an unconstitutional and void tax. I think that he has a right, an indefeasible right, to have the question as to the constitutionality of the tax heard and determined.

Mr. SMITH. Mr. President, if the Senator will yield, let me say that there has been handed to me a decision of the Supreme Court touching the question of injunction, relating to a section of the Revised Statutes, which provides that—

No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

That is now the law of the land. Therefore, the remedy for the individual would be to sue for a refund where he could make it appear that the tax had been collected illegally; but he could not restrain the tax collector or enjoin him. That is now the law.

Mr. GORE. Mr. President, will the Senator from Iowa yield further?

Mr. DICKINSON. I yield.

Mr. GORE. In a recent case, the Board of Trade case—*Hill v. Wallace* (259 U. S.)—the court held that that section did not prevent or prohibit an injunction in a case involving the "extraordinary and exceptional" circumstances presented in that particular case, where a constitutional question was involved, and where the injunction would obviate a multiplicity of suits. That case was entertained in spite of that section, and a part of that act was held to be invalid.

Mr. BORAH. Mr. President—

Mr. DICKINSON. I yield to the Senator from Idaho.

Mr. BORAH. Of course, there has always been a sound principle of law that the collection of taxes should not be restrained by injunction. Otherwise, the operations of the Government might be entirely stopped; and within the limited sphere in which that principle has been permitted to operate, so far as I am concerned, I should have no objection to it here. What I am contending, however, is that, if I read this section correctly, after the citizen has been denied an injunction, he is denied the right to go into court to recover.

Mr. SMITH. No; not as to any future transaction.

Mr. GEORGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Georgia?

Mr. DICKINSON. I yield to the Senator from Georgia.

Mr. GEORGE. Since this question is now before the Senate, I should like to make inquiry to ascertain if my understanding of the bill is correct.

As I read the bill, so far as any taxes are concerned which were assessed, paid, or collected prior to the adoption of the pending amendment, they are entirely cut off. There is no remedy. As I read the bill further, that is true, irrespective of whether such taxes were paid under an unconstitutional law or because of misfeasance or malfeasance of the officers levying them. I direct attention to the language on page 58 as it relates to taxes already paid. The taxpayer is given no remedy whatsoever for—

Any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title.

Even if there had been a double tax payment, due to willful fraud or to mistake, the taxpayer is left wholly without remedy in any court and under any circumstances.

Mr. SMITH. If the Senator will allow me, if he will read further down on the same page, page 58, he will see that the bill provides:

The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15, under paragraph (1) of subsection (e) of section 16, or under section 17 of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

Mr. GEORGE. Yes; but that takes care only of cases where the tax has been doubled merely by mistake.

Mr. SMITH. Or by an error in computation.

Mr. GEORGE. Or by an error; yes.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New York?

Mr. DICKINSON. I do.

Mr. WAGNER. I may be mistaken—I had nothing to do with the drafting of this provision—but I assume its purpose is to prevent the refund of taxes in the event the law should be declared unconstitutional.

Mr. SMITH. That is exactly the purpose.

Mr. WAGNER. I suppose the theory is that, since the processor probably has passed on to the consumer the amount of tax which he paid, he would be recovering a sum that he really did not pay, but which the consumer paid.

Mr. SMITH. That is it.

Mr. WAGNER. Whether or not that is a sound theory I do not know.

Mr. GEORGE. I grant that that is the purpose of the provision, but this language is broader than that. I assert that this language would cut off a suit because of willful fraud or because of actual malfeasance on the part of an officer of the Government in a case where a tax had been imposed and collected. Nothing in the world is taken care of here but a mere error or duplication of tax.

Mr. SMITH. Mr. President, if the Senator will allow me, I take it that all of us are trying our best to formulate some law by which agriculture may be taken care of. We do not wish to punish other people when we are doing that; and if, as the Senator from Georgia contends, we should unwittingly be protecting malfeasance or dishonesty, why can we not amend this part of the bill and provide that it shall not

exclude a suit based upon rascality in carrying out the law, or whatever the case may be? We are not prohibited from doing that.

Mr. DICKINSON. Let me reply to the Senator. There is only one remedy which I think can be applied here, and that is to adopt the amendment which I understand the Senator from Idaho [Mr. BORAH] is going to offer, namely, to strike out section 32.

Mr. GEORGE. Mr. President, if the Senator will yield—I do not wish to take the Senator off his feet—I am trying to understand the section. I would now, in my place in the Senate, repudiate the idea that the American farmer demands any dishonest legislation for his legitimate protection.

Mr. SMITH. That is the very point I am now making. If the attention of those who drafted this section was not called to the possibility that language was left out which would bring to justice someone who had been guilty of a crime, let us amend the section, so that he can be brought to justice; but let us not go back and, under the form of suits for recovery, permit somebody to have the tax paid back to him after he has passed it on, or deducted it from others.

Mr. GEORGE and Mr. WAGNER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Iowa yield; and if so, to whom?

Mr. DICKINSON. I yield to the Senator from Georgia.

Mr. GEORGE. Mr. President, I merely wish to ascertain what the bill means. I am now directing attention to the language which applies to taxes already paid, assessed, accrued, or collected. I again assert that this language is not appropriate to the exclusion of a remedy in the courts merely because the law itself under which it was collected has been declared to be unconstitutional, but it is a legislative ratification of everything that may have been done under that act, although it may have been done in positive violation of the original act. I assert that that is a dishonest suggestion to Congress. I do not charge the committee with it, of course; but it is dishonest. It is essentially dishonest.

Mr. President, I have called attention to that matter because if an appropriate amendment should not be offered by some other Senator I should like to offer it. I can very well understand that, with respect to taxes which have been passed on to the consumer, it may be properly determined by the Congress that there should be no recovery whatsoever. I also concede that where the tax has been collected under a law which it was within the power of the Congress to enact, although there may have been some unlawful delegation of authority or failure to comply with some technical requirement, the Congress may cut off all remedy, that is, with respect to taxes already paid. But this language is far broader than that. While I do not care to indulge in any argument about the matter, I am confident that if, under the original Agricultural Adjustment Act, the power did not exist in the Congress to levy and collect the tax, this whole provision, of course, is void; but if the power resided in the Congress to levy and collect the tax under the original Agricultural Adjustment Act, then, because of any failure of the Congress constitutionally to exercise the power, the Congress may cut off recovery.

So that finally and at last the question which must be presented to the courts with respect to these taxes, whether or not they are passed on to the consumer, is whether the power really existed in the Congress to levy and collect the processing taxes under the Agricultural Adjustment Act. If so, the failure of Congress constitutionally to exercise the power may and can, of course, become the basis of this provision of the bill, and this provision of the bill would be held to be constitutional.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from New York?

Mr. DICKINSON. I do.

Mr. WAGNER. I should like to ask a question. I do not wish, by my statement a moment ago, to defend this particular provision, because—and that is what I was about to

ask the Senator—is there not an injustice involved? We know that in a number of cases the processor himself was compelled to absorb the tax. He was not able to pass it on to the consumer. In those cases we are really doing him a grave injustice, because he has paid a tax which the Government did not have a right to exact, and, at the same time, he has no remedy to recover the tax.

Mr. GEORGE. I think the Senator is correct.

With respect to the taxes to be imposed under this measure, and collected on and after its passage, I can well understand, and I can appreciate the necessity for an enactment by the Congress restraining actions in the courts directed against the collector of internal revenue, or against other officers of the Government; and I can appreciate the necessity of restricting the taxpayer to his legal remedy rather than to the broader equitable remedy, in the interest of maintaining and operating and carrying on the orderly processes of government. I think it would be far wiser to permit a direct attack upon the constitutionality of the act, and in the long run it would be much more in keeping with our theories of the law and of justice, going beyond mere technical law—the fundamental theories upon which we have generally predicated our course of action as a people.

I find here that there is a provision with reference to all future taxes—that is, taxes paid under this amendatory bill—for the recovery of the tax, the burden being thrown upon the taxpayer to show that he had not passed on the tax, or that he had not covered up the tax in the price for which he sold his goods. I rose, however, to call attention to the fact that particularly, with respect to the taxes already paid, the language was far broader than the necessities or justice would seem to justify, because it is not restricted and confined to outlawing the claim to the tax or the refund in the event only that the law under which it was collected or paid is declared unconstitutional, but it goes much further than that.

As the distinguished Senator from New York has well said, while the great bulk of the processing taxes has undoubtedly been passed on, in that event there could be no moral justification for their recovery by the taxpayer. Therefore, in my judgment, no legal remedy should be afforded. But in many instances the processing taxes were not passed on, they were actually absorbed by the processors, sometimes voluntarily, and sometimes involuntarily, because the sales could not be made at the market price plus the additional expenses attached.

Mr. DICKINSON. Mr. President, let me suggest to the Senator from Georgia that in many instances concerns were compelled to absorb the processing tax, and did absorb it, when it practically put them in the red, and in an insolvent condition. Yet if this measure should be enacted into law in the shape in which it now is, any such concern or citizen would have absolutely no remedy.

Mr. BORAH. Mr. President, will the Senator yield to me?

Mr. DICKINSON. I yield.

Mr. BORAH. So far as the provision relating to injunctions against Federal taxes is concerned, I would say it ought to be in the bill. I do not think we ought to stop the processes of the Government by enjoining the collection of taxes, and ordinarily that is the principle to which we have adhered. But I do think that the right to recover the tax in case it is illegally levied ought to be open and free to the citizen, whether it be a future tax or a past tax.

So far as the man who has passed on the tax is concerned, that can be taken care of by a provision in the bill, and it ought to be taken care of. Of course, if a man has passed on the tax, he ought not to be permitted to recover it, and I believe that without any provision of the statute at all he would be denied the right to recover it, if that fact were shown. But that could be included in the statute by providing an efficient injunctive process, and also providing for the defense on the part of the Government that the tax has been passed on. After that it seems to me we ought to leave the matter open and free for the citizen to test the question. I do not believe the nonsuability of the Government should

be innovated in full. I do not think that principle has any sound basis under constitutional government. I recognize that the principle has become imbedded in our system of jurisprudence and that consent must be given, but I am in favor of giving the consent.

The Senator from Georgia has made a distinction which I think is entirely sound, that if the power existed but the method of using it was wrong, that would be a different proposition from the condition when there is no power existing. But the right to test whether or not the power does exist ought to be open to be determined, and the citizen ought not to be embarrassed or impeded in his right to test that question. The very foundation principle of free government is that there is a remedy for every wrong.

Mr. DICKINSON. Let me suggest to the Senator from Idaho that subsection (c) validates the entire transaction. Let me read the first provision of subsection (c), on page 60:

The taxes imposed under this title, as determined, prescribed, proclaimed, and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized.

In other words, it would not make any difference if there were fraud involved in the collection of the tax, it would not make any difference what the conditions were, the citizen would be barred from any remedy.

Mr. BORAH. Mr. President, that raises another question—a very serious constitutional question which I think the friends of the measure would desire to avoid. Can the Government take property from a person illegally and then by process of law provide that it was taken legally or deny the citizen the right to test the question of whether it was taken legally? Would not that be taking property without due process of law? It is the very essence of tyranny to collect taxes illegally and then deny the citizen the right to test the question of whether they were taken legally.

Mr. DICKINSON. Is it not true that the Government took the gold, and is going to give it back when it wants to, and denies the citizen the right to make any claim of his loss?

Mr. BORAH. Of course, the gold contract raises the same question we are now discussing.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. WAGNER. Perhaps those in charge of the bill would accept an amendment simply providing that the burden should be on the taxpayer to show that he did not pass the tax on.

Mr. BORAH. I should think they would accept such an amendment.

Mr. WAGNER. I think that would be a fair provision.

Mr. BANKHEAD. Mr. President, this discussion has proceeded on the theory that the matter being debated is pending before the Senate. It is simply brought to the floor of the Senate by the speech of the Senator from Iowa; it is not in the pending measure. Therefore I think it is unfortunate at this time to talk about a proposed revision of this section. Doubtless when we get to it the whole section will be gone over again.

Mr. SMITH. Mr. President, will the Senator from Iowa yield to me?

Mr. DICKINSON. I yield.

Mr. SMITH. Of course, I recognize that the Senator from Iowa had the right to take the floor and speak; but I desire to call the attention of the Senator to the fact that we have reached a certain point in the committee amendments, on page 71, and when the Senator shall have concluded, unless some other Senator shall desire to discuss the question, I should prefer, if the Senate will permit, to finish the consideration of the Senate committee amendments, and then the bill will be open for presentation of amendments on the floor of the Senate, and we can also take up the amendments which have been passed over.

Mr. DICKINSON. Mr. President, let me suggest to the Senator from South Carolina that it is not my desire to delay the consideration of the committee amendments, but I think that Senators ought to be thinking about some of the phases of the provisions of the bill to which I am referring. Therefore I think it is well to have them advanced at an early date so that we can think them over a little.

I now desire to read a short suggestion which I received this morning, a quotation from the Daily Record, of Baltimore, Md. I read:

[From the Daily Record, Baltimore, Md., July 11, 1935]

LETTER TO THE EDITOR ON THE A. A. A. BILL—ABOLISHING LEGAL REMEDIES DANGEROUS TO LIBERTY

The proposal in the new A. A. A. bill, as it passed the House of Representatives, to destroy the taxpayers' legal remedy for the recovery of an illegally levied processing tax, is a very dangerous proceeding. Such proposal should be defeated in the Senate.

Woodrow Wilson had something to say on that subject as follows:

"A man is not free through representative assemblies, he is free in his own action, in his own dealings with the persons and powers about him, or he is not free at all. There is no such thing as corporate liberty. Liberty belongs to the individual, or it does not exist.

"And so the instrumentalities through which individuals are afforded protection against the injustice or the unwarranted exactions of government are central to the whole structure of a constitutional system. From the very outset in modern constitutional history until now it has invariably been recognized as one of the essentials of constitutional government that the individual should be provided with some tribunal to which he could resort with the confident expectation that he should find justice there, not only justice as against other individuals who have disregarded his rights or sought to disregard them but also justice against the Government itself, a perfect protection against all violations of law. Constitutional government is par excellence a government of law." (Constitutional Government in the United States, by Woodrow Wilson, pp. 16, 17.)

See also Prof. Frank J. Goodnow in his Principles of Constitutional Government to the same effect, where he points out that without such judicial remedy, before a judicial tribunal independent of executive control, constitutional government is impossible.

A citizen and taxpayer who is deprived of his day in court (upon whatever ground), and thus prevented from recovering back a tax he has been illegally compelled to pay, lives under a tyranny. He has no rights which the Government is bound to respect. He does not live under a government of law. He has ceased to be a citizen of a free country. It is difficult to distinguish his position from the subject who lives under fascism.

To say, as the bill says, that he cannot recover back an illegal tax unless he can show that the consumer has not paid to him the amount of the illegal levy does not make the proposition fair or just to either taxpayer or consumer.

The only protection the consumer has against the effect of an illegal tax, in increasing the price of the goods he must purchase, is to have the immediate taxpayer contest the illegality of the tax. So that the effect of the proposal is to preserve the tax notwithstanding its illegality, and thus illegally mulct the consumer.

To deprive the taxpayer of his legal remedy unless he can show a business impossibility; that is, that he did not add the amount of the illegal tax to his price to the consumer only aggravates the injury and injustice. It seems to attempt to make two wrongs into a right. It attempts to justify a wrong because the consumer in the end inevitably suffered the wrong.

It says to the taxpayer, we intend to levy money illegally from you unless you are so virtuous that you refuse to collect the illegal amounts from the consumer. In other words, you must protect the consumer from the illegal effect of the Government's action in levying an illegal tax on you if you expect to recover back the illegal tax.

The business effect of that unfair proposal is to successfully enforce the collection of illegal taxation.

MEMBER OF THE BALTIMORE BAR.

Mr. President, this tax question is going much further than any other phases of what we call the "new deal."

In support of the amendment to strike out section 32 of this bill, I desire to draw the Senate's attention to a special phase of this great question, which not only appears to have escaped proper examination and scrutiny but casts an ever more threatening shadow toward the future. In five momentous decisions the Supreme Court recently has passed upon the delegation of power which Congress can make to the Executive. It has gone to great lengths to point out that by merely declaring an "emergency" no additional powers can be conferred upon the Federal Government. It has also affirmed that, no matter what the circumstances, there can

be no abdication or surrender of legislative authority into the hands of the President without specific direction as to its use.

These are principles inherent in and inalienable from our system of constitutional government. They have won the admiration of the world because, even more than any bill of rights, they constitute practical safeguards for liberty itself. Never throughout the 150 years of our history has this separation of legislative and executive power been a partisan issue; on the contrary, it has been supported unanimously by all parties and by all shades of political opinion. Nor do I need to remind my Democratic colleagues who have so zealously defended that other ark of our liberties—State rights—that maintaining the integrity of Congress against encroachment by the executive branch always has been regarded as a special obligation which rested upon the disciples of Thomas Jefferson.

Yet since the Schechter decision was handed down the Senate has considered and passed the social-security bill and the Wagner industrial-disputes measure. It will soon vote upon the Guffey coal-control bill, amendments to the Agricultural Adjustment Act, and other items on the administration's "must" program. In these bills, as in the original new-deal acts of last year, there rises, like Banquo's ghost, that same broad, underlying question of delegation of power. Many distinguished constitutional lawyers have already laid before the Senate their views upholding the position taken by the Court. Notwithstanding the hasty reconsideration that has been given these measures by both Senate and House committees, misgiving and doubt still persist as to their constitutionality.

ATTEMPTS AT NATIONAL REGIMENTATION

In redefining that control over business, for example, asked by the Secretary of Agriculture under the A. A. A. amendments, it is difficult to see how substituting the word "order" for the word "license" can change the actual authority that it is intended to convey. No matter what the phraseology or the new disguise, the attempt at national regimentation will not down. It will not down because such regimentation is the basic philosophy of the new deal itself. All these measures aim at the same purpose: The conferring of more and more power upon the Executive; yet, by adroitly playing upon words, to conceal or avoid that very limitation which the courts have declared to be inseparable from a grant by Congress. The tenuousness of this authority has been recognized by the administration itself. Let me quote from a recent speech on the social-security bill made by Audrey Williams, second in command of the Federal Emergency Relief Administration:

In the light of the recent unfortunate experience with the N. R. A. great doubt arises as to whether the Federal Government has authority to establish a national system of unemployment compensation, however desirable that may be. There is no constitutional basis for such action except the taxing power and the welfare clause. The latter has never been regarded by the Supreme Court as conferring any powers on the Congress not granted specifically; and the former, while broad, cannot be employed where the Court deems the tax a mere subterfuge for unauthorized regulation.

During the hearings before the House committee on that bill, many witnesses questioned whether Congress could legislate on such sweeping lines; but without effect. For when the bill emerged, the form remained substantially the same as had been received from the White House. In passing let me note that under its provisions taxes are to be laid upon all industry and all workers which by 1950 will total \$1,700,000,000 annually, or nearly the entire taxable corporate income for all business reported last year. Yet when the actuarial basis for such a comprehensive program was under review, only one witness who could be qualified as an expert was heard by the House committee.

Similarly, when the Railroad Retirement Act was passed by Congress last year, it contained a clause making retroactive charges on the carriers totaling \$3,000,000,000. To the merest legal neophyte it would seem obvious that such a provision was almost certainly unconstitutional, and so the courts declared it.

Questions of this character, relating to these measures which the Senate has just passed, have been raised here repeatedly by Senators who are experts on the Constitution. I profoundly respect their judgment. Yet the majority lightly passes over and disregards these considered opinions. By this acquiescence another statute is sent on its way toward almost certain judicial disapproval.

Now I am concerned over the consequences likely to flow from this failure on the part of Congress to discharge fully its own duties. This neglect in examining carefully into the constitutionality of laws enacted so light-heartedly in itself sets up a strain on the Constitution that was never contemplated. Under the unusual circumstances that have prevailed, this point has been overlooked, I fear, on both sides of this Chamber by many who have been reared in what is now regarded in some circles as an old-fashioned reverence for that charter of liberty. Let us be honest and candidly face the facts.

"PASSING THE BUCK" TO THE COURTS

From an examination of these cases, cannot the inference be drawn that Congress has sought, as if deliberately, to hide behind the courts? that, rather than assume responsibility for economic policies in which it did not believe, it adopted the more expedient course of giving the President what he demanded and then "passed the buck", placing upon the judiciary the burden of disapproval? or that, lacking courage to oppose those who had suborned the Democratic Party's solemn platform pledges, Congress itself sought to evade its plain duty in the preparation of legislation?

When the Schechter decision was announced the audible relief of the majority Membership in Congress was plainly evident through comment in the press. They did not share the President's views that abolition for N. R. A. meant economic retrogression, or a return to any "horse and buggy" era. What was more important to them was the fact that, at one stroke, the accumulated political liabilities gathered during the first year of General Johnson's "blue buzzard", had been wiped out. But we must not permit the popularity of that verdict to mislead us in considering its possible consequences.

Let us assume for a moment that, in those equally vital cases which have not yet been passed upon by the Supreme Court, the administration should lose. Let us examine the possibilities that may arise should the T. V. A. be denied its announced function as a "yardstick" for the electric-power industry; should the processing taxes, which Secretary Wallace has set up as "internal tariffs" to equalize price levels between agriculture and industry, be declared invalid as restricting commerce between the States; should the Wagner industrial disputes or the social-security measures be held unconstitutional exercises of Federal power.

In such an eventuality the new deal is at once stripped of the political nostrums through which, like hypodermic injections, it sought to restore the Nation's economic health. The pretense of a planned economy, which, by bureaucratic license, seeks to regulate all economic activity, must then be abandoned. A situation arises without parallel in American history. With the experiment of regimentation revealed to the public for what it really is—a disastrous and monumental failure—the issue is joined between utopian dreams and the actuality of economic law. Faced with such facts, how is the administration to justify itself to the people?

USING THE COURTS TO "ALIBI" THE NEW DEAL FAILURES

Now, the implications from such a contingency—from an unprecedented impasse between the executive and judicial branches of the Government—would be grave enough under any circumstances. How much more serious must they be when the administration, so challenged, is seeking reelection? When it asks, as it must, public ratification either on its record, or by alibi-ing that record?

Is not the strain placed upon the Constitution, to which unintentionally and carelessly Congress has contributed, plainly evident? The Supreme Court is to be dragged into politics, not because it has performed its sworn duty in saying "no" to hastily conceived and imperfectly drawn legislation but because it is charged with having thwarted the public will.

It must be made the scapegoat to hide administrative incompetency. Nor can the Court defend or explain its own acts; it can speak only in the decisions it hands down. It must remain aloof from political battles which may be decisive for the Nation's whole future.

The dangers to the Republic from any such distorted controversy cannot be minimized. They rise above partisanship; they must be repelled by all believers in constitutional government. No one has painted a more realistic picture of what might happen under these circumstances than Gen. Hugh Johnson. Because of his intimacy with those who now guide our national destinies, his comment on the issue that is raised must receive careful attention. Let me quote the general:

A drama is being enacted. The possible catastrophe is the eventual complete destruction of the new deal by the Court, piece by piece. The conclusion will then scream so that all will understand, and it cannot even be debated: "No progressive legislation will be permitted by the Court. Humanity is being crucified on the cross of a reactionary reading of the Constitution of the United States."

Now, this points to revolution. There are more kinds of revolution than one, and blood is not necessary in all of them. * * * When the conclusion toward which events are rushing in the courts becomes plain to everybody—that the Court holds that our Constitution, as it is, prevents social legislation—then an overwhelming popular demand for a radical change in either the Court or the Constitution is as sure as sunrise.

Now that is bad. It is bad because it is pointing up right now to a crisis in a Presidential election. That means bigotry, bitterness, and the red fires and sirens of hot emotion. It means a struggle over something far deeper than the issues of any ordinary campaign. On the one side, people who have any property, much or little, will be made to think they are fighting for all they have. On the other side, people who have been hurt and battered by the depression will be convinced that they are being exploited and enslaved; that "the interests" have taken control even of the courts—in other words, that they are fighting for very freedom against tyranny and oppression.

These are the seeds of civil war. That is a very heavy responsibility on the leaders of both extremes in the controversy. It should cause them to pause and consider. It is a terrific responsibility for the Court, which is being placed between the fires of two extremes on the hottest spot it has ever occupied.

Hasty and equivocal legislation ought not to be rushed. Die-hard resistance to every reasonable and necessary reform in our old do-nothing policies ought to be tempered to the conditions under which we live. The Court would do well to start all over on the basis of the Constitution itself and forget its tangle of interpretations, "judge-made words," and constitutional bypaths onto which some of its opinions have fallen.

REAL ISSUES BEFORE THE PEOPLE

Such is General Johnson's estimate of the situation that we face. It is not a pleasant picture. "A struggle over something far deeper than the issues of an ordinary campaign", says the general. In that diagnosis I agree. But the issue is not between the "haves and have nots", as Federal Relief Administrator Hopkins is reported to have declared.

I cannot conceive of the American people dividing on the proposition of envying one another's goods or engaged in pulling down each other's houses. The real issue is whether as a Nation we have lost our resourcefulness and courage and, in the psychology of despair, embraced a near communism, with Government doles exchanged for those things our forefathers held to be more precious than life itself. I cannot believe that a Nation, born in a struggle for high principles and which has never hesitated to sacrifice blood and treasure in upholding those principles, will now accept regimentation modeled on Hitlerism, its citizenship reduced to the status of robots, blindly goose-stepping to commissars enthroned at Washington.

There is another phase to this question which also requires examination. I turn to it reluctantly because I find it difficult for myself to impugn the motives of the President of the United States. I have long felt, as Members of this body well know, that responsibility for the new deal's errors must be laid where it belongs—on the doorstep of the White House itself. I have not subscribed to the doctrine that, right or wrong, Mr. Roosevelt should be followed blindly and that criticism should be suppressed. That seemed to me a false kind of patriotism, one calculated to raise exactly such issues as now confront us. But I have not been willing to believe that the President would deliberately set out to attack, through the instrumentality of the Supreme Court, the very Constitution that he has sworn to uphold.

Yet one cannot ignore obvious facts or the deductions which must inevitably arise from them. The facts I have cited. The deduction from them is supplied by the distinguished political commentator and historian, Mr. Mark Sullivan. Recently Mr. Sullivan wrote, and it was widely published throughout the United States:

Congress has passed, or is in process of passing, several measures which are widely believed to be unconstitutional, either as a whole or vital parts of them. These measures are pressed on Congress by the President. If Mr. Roosevelt did not press them, Congress would not enact them or would not enact them until after taking the unconstitutional features out of them. President Roosevelt will not permit that. The parts of the measures he insists on are the parts that most plainly raise the doubt about constitutionality.

Mr. Roosevelt is described as pounding his fist on his desk to Democratic leaders of Congress. Some of these leaders are well known to hold private views differing from what they do under Mr. Roosevelt's demand. To get some of the measures through leaders have been obliged to adopt the device of avoiding a roll call, because individual Democrats are unwilling to go on record as favoring the measures. The labor-disputes bill and the A. A. A. measures were adopted by viva voce vote—that is, without a roll call.

One question thus presented is the propriety of a President insisting on passage of measures whose constitutionality is seriously doubted, or which some of those who confer with him tell him are unconstitutional. Another is the question of Democratic leaders insisting on passage of legislation which privately they believe to be unconstitutional. President and Members of Congress alike take an oath to support the Constitution. They are supposed to be just as duty bound to support the Constitution as the Supreme Court is.

A more immediate question is, Just what lies in Mr. Roosevelt's mind; what is his motive in insisting on measures that are believed to be unconstitutional, and especially on the particular parts of the measures which are supposed to violate the Constitution most directly?

The motive, it seems tenable to assume, has to do with the political future and with Mr. Roosevelt's opposition to the Supreme Court and the Constitution. Everybody knows that Mr. Roosevelt was profoundly displeased by the decision in which the Supreme Court, by unanimous action, held N. R. A. to be invalid. It is not so generally known, but Mr. Roosevelt had even more reason to be angered by the other decision, in which the Court, also by unanimous action, curtailed Mr. Roosevelt's power to remove at will members of the Federal Trade Commission and similar governmental bodies. That decision made it difficult for the President to impose his will on such bodies as the Federal Trade Commission, the Federal Reserve Board, and the similar bodies. This deprived Mr. Roosevelt of an important power, one that was essential in bringing about the "new economic order" which Mr. Roosevelt said was his purpose.

A common assumption about Mr. Roosevelt's recent actions is that he has privately dedicated himself to overcoming the handicaps which the Supreme Court decisions have put upon him. Almost certainly this is his purpose, and he is strongly determined to bring it about.

This purpose could be carried out directly. It could be done directly by merely proposing and putting through an amendment changing the Constitution. Or it could be done, also directly, by putting through Congress a measure curtailing the powers of the Supreme Court. It is apparent, however, that Mr. Roosevelt prefers not to do it directly. As was said of Mr. Roosevelt by Mr. Lippmann when Mr. Roosevelt was a candidate for the Presidency and Mr. Lippmann thought less well of him than now, "his purposes are not simple and his methods are not direct."

The common assumption is that Mr. Roosevelt hopes to make the Supreme Court and the Constitution less popular next year than they are now. The Court will be obliged to find unconstitutional the measures now being forced through Congress. Such decisions by the Court can be expected to offend groups of voters. To declare unconstitutional the A. A. A. amendments now being passed would take the cash benefits away from farmers. To declare the labor-disputes bill unconstitutional would offend labor. To declare the Guffey coal bill unconstitutional would likewise offend labor in that industry. To declare anything unconstitutional in the utility holding-companies bill or the Tennessee Valley Authority would offend those who believe in Government ownership and radicals generally. The sum of these groups, offended by decisions handed down by the Supreme Court next year, might give Mr. Roosevelt the support he does not have now, both for his project of changing the Constitution or curtailing the power of the Supreme Court, and also for reelection to the Presidency.

Then Mr. Sullivan adds this conclusion:

However, beneath this assumption about Mr. Roosevelt's motive lie some solid conditions which tend to support the assumption. The new deal cannot go on to fruit except by giving the Government greater power to compel the individual. That means the new deal cannot go on except by depriving the courts of their independence, depriving them of their present function of holding the scales even between the Government and citizen.

Furthermore, the new deal contemplates a centralized government, what in Europe is called a "totalitarian" state. That cannot

be in America except by changing the Constitution so as to take away from the 48 States and giving to the Government at Washington many of the powers which the States now possess.

Now those are sober and measured words; they do not spring from hysterical emotion like those of General Johnson's. Yet they must be read together with the general's statement. They must also be read in connection with the President's own criticism of the Supreme Court's N. R. A. decision. They cannot be dismissed as partisan or inconsequential. For it is the essence of statesmanship, not to await or accept the inevitability of events, but to anticipate and seek to forestall them.

DUTIES LAID UPON THE SENATE

When fundamental principles established under the Constitution are involved, as I stated in the beginning, there are no differences between Republicans and Democrats. Interpretations of basic law cannot be made on the basis of current economic theories. Nor can there be any difference of opinion, I believe, as to the duties laid upon the Senate in this connection. We cannot proceed blindly down a road, ignoring all the danger signals that have been set, to end up at last in that catastrophe predicted by Mr. Roosevelt himself when as Governor of New York he said:

It was clear to the framers of our Constitution that the greatest possible liberty of self-government must be given to each State and that any national administration attempting to make all the laws for the whole Nation—

Those are Mr. Roosevelt's own words—

* * * would inevitably result * * * in a dissolution of the Union itself.

Under those constitutional provisions which require concurrence by the Senate in the ratification of foreign treaties and in the appointment of Federal officials—including members of the Supreme Court—by the President, it was the plain intention of the founders that this body should be charged with the special task of jealously watching any aggrandizement of the Executive power. The mere fact that the Supreme Court has already declared invalid delegations of congressional power establishes that we have been negligent in that duty. With such warnings, must we continue to repeat the same mistakes?

Fortunately, it is not yet too late for amends. Much important legislation remains to be acted upon by the Senate. The prospect seems to be that we will be here most of the summer. In the measures that come before us we must redouble our vigilance as to their unconstitutionality. We must not permit a continuance of this unfair burden to lie upon the Supreme Court.

There is only one further phase of this matter to which I wish to call attention for just a moment, and that is that Congress ought not to disregard its duty to consider the constitutionality of legislation. The theory that legislation should be sent here from the other end of the Avenue, that it should be passed, and that we should give no consideration to its constitutionality is a theory which I think cannot be defended.

I read in the Washington Evening Star of yesterday an article by David Lawrence. Mr. Lawrence quoted from a President's letter, as follows:

I hope your committee will not permit doubts as to constitutionality, however reasonable, to block the suggested legislation.

Then David Lawrence writes:

This is tantamount to saying that it doesn't matter whether a bill is plainly unconstitutional, it should be passed anyhow. If this philosophy were followed there would be an end to the Constitution altogether. For if Congress were to ignore Supreme Court decisions and pass laws in conflict with the Constitution, it might conceivably feel it also had the power to suspend certain articles of the Constitution. Congress could, if it chose, refuse to appropriate money to carry on the judicial branch of the Government.

And so forth. In other words, I do not believe Congress ought to shirk its duty to examine the constitutionality of every piece of legislation which comes to the floor of the Senate.

I am glad to see that this bill is being given some real consideration. I was glad to see the interest shown in the

suggestions I made with reference to section 32. I believe every Member of the Senate ought to look at these questions from the constitutional standpoint.

In support of what I have been saying, Mr. President, I ask that there be printed at this point in the RECORD an article by Frank L. Peckham, of the bar of the District of Columbia, on the subject, Is the Supreme Court guilty of "Usurpation"?

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

IS THE SUPREME COURT GUILTY OF "USURPATION"?

(By Frank L. Peckham, Bar of the District of Columbia; Joseph H. Choate Chapter, 1907)

The right of the Supreme Court of the United States to set aside acts of Congress as being unconstitutional has been the subject of much able discussion in recent months. There are, however, a few points which might be emphasized as conclusively answering those demagogues and radicals who charge the Supreme Court with "usurpation" of power, because that Court has declared unconstitutional some of their pet measures and more especially because they know that the Court would hold unconstitutional a great number of measures which political mountebanks and incompetent experimenters are desirous of foisting on the people.

"Usurpation" means the forcible seizure of place, power, functions, or the like, without right; to commit unjust encroachments. In other words, it means to take or exercise powers or functions rightfully belonging to others.

The strident-voiced radicals create the impression that the Supreme Court has reached out and assumed without right the power to declare legislative enactments unconstitutional; that it has arrogated to itself a function that was not granted to it, and they seek to terrify the public with the bugaboo of threatened government by the judiciary through gradual extension by the courts of their prerogatives.

It would be well to note, in passing, that the judiciary has been most cautious in the exercise of its right to review legislation and has avoided any tendency to exercise its power improperly, as is evidenced by the fact that among the thousands of cases which have been before the Supreme Court during the 135 years that have elapsed since the adoption of the Constitution, in only 48 cases has that Court held acts of Congress to be unconstitutional.

An examination of the provisions of the Constitution, of the history of its development and enactment, of the statements and acts of men, courts, and legislative bodies before and immediately after its adoption, will show that the right to examine into the constitutionality of legislative acts was granted to the judiciary by the Constitution and was intended to be so granted by the framers of that document.

The Supreme Court was created directly by the Constitution. Section 1 of article III provides distinctly and without conditions or qualifications that "the judicial power of the United States shall be vested in one Supreme Court * * *." As to the creation of that one Court, nothing was left to the discretion of that Legislature. It was ordained and established by the Constitution, while the same section left to the discretion of Congress the creation of inferior courts. Certainly that provision and the provisions regarding tenure of office and compensation of judges show an unequivocal intention that the judiciary should be entirely independent of the legislative and executive branches of the Government.

Section 2 of article III provides that "the judicial power shall extend to all cases * * * arising under this Constitution, the laws of the United States * * *." Certainly no judicial function can be exercised by a court without involving the interpretation of the laws applicable to the case under consideration, and it is equally certain that the provisions of the Constitution are applicable to any litigation that possibly could be brought in any court of the United States. In article VI we find the provision, "This Constitution, and the laws of the United States which shall be made in pursuance thereof * * * shall be the supreme law of the land * * *." The framers of the Constitution did not say simply, "The laws of the United States." On the contrary, they qualified the phrase by the requirement that the laws should be made in "pursuance" of the Constitution, not in derogation of it, or contrary to it, or beyond the bounds set by it.

There is ample evidence that the intention expressed in the words of the Constitution squares with the intention of its framers.

Prior to the adoption of the Constitution, and so shortly before its adoption that the circumstances were fresh in the memories of the members of the conventions, at least four State courts in four separate States—New Jersey, Virginia, Rhode Island, and North Carolina—had asserted and exercised the right to set aside legislative acts as being contrary to the constitutions of the States.

In the New Jersey case (*Holmes v. Walton*, decided in 1780) (see *State v. Parkhurst*, 9 N. J. L. (4 Hal.) 444; Prof. A. W. Scott's "Holmes v. Walton, the New Jersey Precedent", Rutgers College Pub. No. 8) a State statute providing for a trial by a jury of six persons was held as being in conflict with the State constitution, which provided that "the inestimable right of trial by jury shall remain confirmed as a part of the law of this Colony, without repeal, forever." Complaint was made to the legislature that the

court had set aside one of its laws as being unconstitutional. The legislature, instead of attempting to curtail the power of the courts, enacted a new law providing for a jury of 12 persons when demanded by a party to litigation, thus confirming by inference at least the judicial finding.

In the Virginia case (*Commonwealth v. Caton*, decided in 1782) (4 Call 5) Judge Wythe said: "If the whole legislature—an event to be deprecated—should attempt to overleap the bounds prescribed to them by the people, I, in administering the public justice of the country, will meet the united powers at my seat in this tribunal and, pointing to the Constitution, will say to them, 'Here is the limit of your authority, and hither shall you go, but no further.'"

In the Rhode Island case (*Trevett v. Weeden*, decided in 1786) (Thayer's Cases on Constitutional Law, vol. 1, p. 73; McMaster's History of U. S., vol. 1, p. 338; Durfee's Judicial History of Rhode Island, pp. 51 et seq.) the court held that a statute of the legislature, providing for the summary conviction of persons declining to receive paper currency, operated to deprive the defendant of the right of trial by jury and, therefore, was void as being contrary to the charter of Rhode Island.

In the North Carolina case (*Bayard v. Singleton*, decided in 1787) (1 Martin (N. C.) 48; N. C. R., Martin & 2d Haywood's Law & Equity, by Battle, 42) the superior court of the State, in May 1787, declared that a certain act of assembly of 1785 was unconstitutional and not binding upon the court. The court held: "The Constitution (which the judicial power was bound to take notice of as much as of any other law whatsoever) standing in full force as the fundamental law of the land, notwithstanding the act on which the present motion was grounded, the same act must, of course, in that instance stand as abrogated and without effect."

In 1785, in a written address to the Assembly of Pennsylvania, Gouverneur Morris, who later represented Pennsylvania in the Constitutional Convention, commenting upon the action of the court in *Holmes v. Walton* as negating any suggestion of unlimited legislative authority, used the expression "the Constitution is no more if it can be changed by the legislature." (Sparks, Life of Gouverneur Morris, vol. 3, p. 438).

These acts of the courts were clearly in the minds of many of the men who participated in the Constitutional Conventions. Some of the delegates had been interested, directly or indirectly, in the litigation. During the debates on the Constitution the right of the judiciary to review legislative enactments was asserted again and again. Gerry, of Massachusetts, stated at one time that the judges could protect the judicial department against encroachment by their exposition of the laws, and said that "judges had actually set aside laws as being against the Constitution, and this was done, too, with general approbation" (Elliott's Debates, 2d ed., vol. V, p. 151). Gouverneur Morris said: "A law that ought to be negative will be set aside in the judiciary department" (Id., vol. V, p. 321).

Luther Martin, of Maryland, said, "As to the constitutionality of laws, that point will come before the judges in their official character; in this character they have a negative on the laws" (Id., vol. V, p. 346). And again, in his report to the Legislature of Maryland, Martin said, "Whether, therefore, any laws or regulations of the Congress, any acts of its President or other officers, are contrary to, or not warranted by, the Constitution, rests only with the judges, who are appointed by Congress, to determine; by whose determinations every State must be bound" (Id., vol. I, p. 380). Other of the delegates made similar assertions. There is every reason to believe that a majority of the delegates assumed that the judiciary would have the right to review legislative enactments unless definitely prohibited by the provisions of the Constitution, and yet they adopted the provisions creating the Supreme Court and neglected to limit its authority.

During the debates in the Virginia convention that vaulted champion of the people's liberties, Patrick Henry, said, " * * * Yes, sir; our judges opposed the acts of the legislature. We have this landmark to guide us. They had fortitude to declare that they were the judiciary, and would oppose unconstitutional acts. * * * I take it as the highest encomium on this country that the acts of the legislature, if unconstitutional, are liable to be opposed by the judiciary (Id., vol. III, p. 324)."

It is particularly interesting to note the views expressed by Samuel Adams in the Massachusetts convention. Adams was not a lawyer. He had at one time commenced to study law, but gave it up because of his mother's disapproval. He was an ardent rebel. He managed the Boston Tea Party. He was one of the two excepted from Governor Gage's proclamation of pardon as being one whose offenses against the Crown were "of too flagrant a nature to admit of any other consideration than that of condign punishment." He consistently failed in all commercial pursuits and even was unsuccessful as a tax collector. Certainly no one will accuse him of harboring capitalistic sentiments. Yet he accepted as a matter of course the right of judicial review of legislative enactments. During the debate, when Governor Hancock had submitted a proposal or reservation containing practically the substance of the first 10 amendments, Adams said:

"This appears to my mind to be a summary of a bill of rights which gentlemen are anxious to obtain. It removes a doubt which many have entertained respecting the matter, and gives assurance that if any law made by the Federal Government should be extended beyond the power granted by the proposed Constitution and inconsistent with the constitution of this State, it would be an error, and adjudged by the courts of law to be void" (Id., vol. II, p. 131).

Similar evidence of the general assumption on the part of all concerned that the judiciary had the power to review legislative enactments is found in the debates in the other State conventions.

In the Draft of a Constitution, reported to the Federal convention August 6, 1787, by the committee of five, section 3 of article XI (now sec. 2, art. III) read: "The jurisdiction of the Supreme Court shall extend to all cases arising under laws passed by the Legislature of the United States * * *." This was amended on the floor of the convention to read "the jurisdiction of the Supreme Court shall extend to all cases arising under this Constitution, the laws of the United States", etc. (Id., vol. I, pp. 229, 268).

In the committee's draft article VIII read: "The acts of the Legislature of the United States made in pursuance of this Constitution * * * shall be the supreme law * * *." The convention amended that provision so as to make it read: "This Constitution, and the laws of the United States made in pursuance thereof * * * shall be the supreme law * * *." (Id., vol. I, pp. 227, 259).

Other incontrovertible evidence as to the intention of the framers of the Constitution and the general acknowledgment of the authority of the judiciary to review legislative enactments is found in the acts of the Legislatures of Delaware, Rhode Island, Massachusetts, New York, Connecticut, New Hampshire, and Vermont in response to the Virginia and Kentucky resolutions seeking to annul the alien and sedition acts. (Id., vol. IV, appendix; Cooper American Politics, book II, pp. 3-14.)

In the latter part of 1798, about 10 years after the ratification of the Constitution, the Legislatures of Virginia and Kentucky, being opposed to the alien and sedition acts then recently adopted by Congress, passed resolutions declaring those acts unconstitutional, and inviting the other States to do likewise. These resolutions proceeded upon the theory that the Constitution was a compact between the States and that the States as parties thereto might decide the question of the constitutionality of Federal enactments. In 1799, having considered the Virginia and Kentucky resolutions, the respective legislatures of seven of the other States passed resolutions refusing to join with Virginia and Kentucky on the issue raised and declaring that the Federal courts could decide the constitutionality of Federal statutes. Thus a majority of the Original Thirteen States, through their chosen representatives, expressed their views about 14 years before the Supreme Court, in the case of *Marbury v. Madison*, first asserted the right of the judiciary to review legislative acts and to declare void such as were contrary to the provisions of the Constitution. It will be interesting to note the expressions used by some of the legislatures in their resolutions.

The Rhode Island resolutions included the following resolve:

"That, in the opinion of this legislature, the second section of the third article of the Constitution of the United States, in these words, to wit, 'The judicial power shall extend to all cases arising under the laws of the United States', vests in the Federal courts exclusively and in the Supreme Court ultimately the authority of deciding on the constitutionality of any act or law of the Congress of the United States."

The Legislature of Massachusetts resolved:

"That this legislature are persuaded that the decision of all cases in law and equity arising under the Constitution of the United States, and the construction of all laws made in pursuance thereof, are exclusively vested by the people in the judicial courts of the United States."

The resolutions of the Legislature of New York included the following:

"And whereas the judicial power extends expressly to all cases of law and equity arising under the Constitution and the laws of the United States, whereby the interference of the legislatures of the particular States in those cases is manifestly excluded."

The New Hampshire Legislature resolved:

"That the State legislatures are not the proper tribunals to determine the constitutionality of the laws of the General Government; that the duty of such decision is properly and exclusively confided to the judicial department."

Said the Legislature of Vermont:

"It belongs not to State legislatures to decide on the constitutionality of the laws made by the General Government, this power being exclusively vested in the judiciary courts of the Union."

Evidence on this subject could be cumulated and multiplied, but there is no need to go further. There can be no doubt in the mind of the unbiased student that the Federal judiciary was intended to have and did receive through the Constitution the authority to interpret the Constitution and to review congressional acts and to declare void such as contravene the provisions of the Constitution. Furthermore, the failure of the judiciary to exercise that authority would constitute a cowardly violation of its manifest duty and a breach of the trust reposed in that branch of the Government by the framers of the Constitution and the people of the United States.

"Usurpation" is simply a catchword used by self-seeking politicians, by radical enemies of American institutions, by misguided intellectual weaklings, who inveigh against the judiciary not because it has usurped any powers but because it stands as a bulwark against usurpation by the National Legislature of powers not delegated to it by the Constitution.

Any enactment which is contrary to any provision of the Constitution would constitute an amendment of that document. If the National Legislature is to be the final judge of the constitutionality of its own acts, it is ridiculous to provide any method of amendment save through legislative enactment by a temporary majority of Congress. Even were the constitutionality of an act

dependent upon a two-thirds vote of both Houses, the entire Constitution might just as well be repealed.

Restrain the courts from declaring legislative enactments unconstitutional, and there will be left solely to the whim of the Congress the preservation or nullification of those guaranties of liberty so dear to the Anglo-Saxon race and so necessary to the happiness and prosperity of a people.

"An elective despotism was not the Government we fought for", said Thomas Jefferson, "but one which should not only be founded on true free principles, but in which the powers of Government should be so divided and balanced among general bodies of magistracy, so that no one could transcend their legal limits without being effectually checked and restrained by the others. (Jefferson Cyclopaedia, p. 392).

With equal certainty can it be said that "legislative despotism", the inevitable result of unrestricted legislative power, has no place in the sort of democracy for which this Nation fought and sacrificed so much in the late war and for the preservation of which our race has struggled from the earliest days of the Republic.

Remove from the Constitution the authority conferred by it on the judiciary to review legislation, and soon the average citizen will have occasion to adopt the words of Patrick Henry, who, as a member of the Virginia ratification convention, protested against what he considered probable oppression by the proposed Federal Government and exclaimed: "Old as I am, it is probable I may yet have the appellation of rebel. I trust that I shall see congressional oppression crushed in embryo. As this Government stands, I despise and abhor it" (Elliott's Debates, 2d ed., vol. III, p. 546).

Without the restraining power of the judiciary, there are no limits to which the legislature might not go. The love of power and the craving for its extension are normal human characteristics. Congress could change the entire form of Government and could make of itself a self-perpetuating body. In one stroke it could nullify all of the principles of the Bill of Rights and violate every guaranty of private liberty. It might by legislation—and there is already ground for sensing a tendency in that direction—wipe out all the rights, prerogatives, and functions of State governments and assert in itself the entire, complete, and exclusive legislative functions of the whole country.

Stifle the courts and revoke their right of interpretation of the Constitution and their power to refuse to enforce, and to prevent the enforcement of legislative acts which violate or transcend the provisions of the Constitution, and, by the proposed changes, make Congress the sole judge of its prerogatives, the final arbiter of its authority, there is no end to which the legislature cannot reach, and there will be no remedy against its impositions save revolution by a people who will have learned too late that protection by force must be resorted to when protection by the courts is no longer available.

Mr. DICKINSON. With these suggestions, I yield the floor to the Senator from South Carolina.

Mr. SMITH. Mr. President, I should like to take up now the next committee amendment, which begins with line 20 on page 71. The Senator from Alabama [Mr. BANKHEAD] is the author of that amendment; and if there should be any questions concerning it, he will answer them.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 71, after line 18, it is proposed to insert the following:

AMENDMENTS TO BANKHEAD COTTON ACT

SEC. 40. (a) Section 2 and the first sentence of section 3 (a) of the act entitled "An act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, are amended by inserting after the phrase "the crop year 1935-36", wherever such phrase appears, the phrase "or the crop year 1936-37 or the crop year 1937-38."

(b) Section 3 (a) of such act, as amended, is amended by adding at the end thereof the following new sentence: "In ascertaining the sentiment of the producers with respect to the crop year 1936-37 or the crop year 1937-38, the vote in favor of the compulsory tax features of this act, by two-thirds of the producers voting, shall be deemed sufficient for the purposes of this subsection."

(c) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935-36 that may be marketed exempt from payment of the tax levied by such act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed specifically by act of Congress.

SEC. 41. Section 17 of an act entitled "An act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate

and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, is amended by inserting "(a)" before the first sentence thereof and by inserting at the end thereof the following new subsection:

"(b) Appropriations for administrative expenses under this act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this act with respect to cotton harvested and ginned during any crop year when the above-mentioned act is in effect, and who applies to the Secretary therefor, compensation at the rate of 25 cents per bale of such cotton ginned by such person."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SMITH. The next amendment begins on page 73, "Amendments to Kerr Tobacco Act." I will state to the Senate that this is practically a continuation of the present act.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 73, after line 17, it is proposed to insert the following:

AMENDMENTS TO KERR TOBACCO ACT

SEC. 42. The title of the act entitled "An act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, and for other purposes", approved June 28, 1934, is amended to read as follows:

"An act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, to raise revenue, and for other purposes."

SEC. 43. Section 1 of said act is amended by adding at the end thereof the following new subsections:

"(l) The term 'Puerto Rican tobacco' means all leaf tobacco classified as type 46 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

"(m) The term 'cigar-wrapper tobacco' means all leaf tobacco classified in class 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

SEC. 44. Section 2 of said act is amended by inserting after the words "consumption of tobacco" a comma and the words "to raise revenue."

SEC. 45. Subsection (b) of section 3 of said act is amended by striking out the period and the remainder of the subsection following the first sentence and inserting in lieu thereof the following: "and to all tobacco harvested in the crop year 1935-36, except Maryland tobacco, Puerto Rican tobacco, and cigar-wrapper tobacco. Thereafter whenever the Secretary of Agriculture determines (1) that the imposition of the tax upon any particular type of tobacco is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this act, and (2) that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco, he shall proclaim such determination at least 60 days prior to the next succeeding crop year, and the tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1939."

SEC. 46. Subsection (a) of section 5 of said act is amended by inserting after the designation "(a)" at the beginning thereof the following: "(1)"; and by inserting at the end of said subsection the following paragraph:

"(2) The Secretary of Agriculture shall issue to any person, who, because of religious or moral scruples, is unwilling or unable to become a contracting producer, similar tax-payment warrants covering the quantity of tobacco produced by such person: *Provided*, That the Secretary determines that such person has not planted a greater acreage of tobacco nor sold a greater quantity of tobacco than he could have planted or sold as a contracting producer."

SEC. 47. Subsection (b) of section 5 of said act is amended by striking out the first sentence of said subsection and inserting in lieu thereof the following:

"There shall be available for issuance by the Secretary of Agriculture further warrants, covering an amount of tobacco of any type equal to 3 percent of the amount of tobacco of such type

covered by the warrants issuable or issued to all contracting producers under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco contracts. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this act and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted: *Provided*, That warrants covering two-thirds of the amount of any type of tobacco to cover which warrants are available under this subsection shall be issued, upon application therefor, only to persons who receive warrants covering 1,500 pounds or less of any type of tobacco."

SEC. 48. Subsection (d) of section 5 of said act is amended to read as follows:

"If any tax-payment warrant is erroneously issued to any person, or if the Secretary of Agriculture determines pursuant to this subsection that any person to whom any tax-payment warrant is issued has failed to comply in any crop year with any provision of any agreement entered into by such person pursuant to the Agricultural Adjustment Act or has failed to comply with any rule or regulation issued by the Secretary of Agriculture pursuant to this act or the Agricultural Adjustment Act, any warrant issued during such crop year to such person shall be void upon demand in writing for the return of such warrant made by the Secretary of Agriculture to the person to whom such warrant was issued. If any tax-payment warrant which has been accepted in payment of the tax imposed by this act upon the sale of tobacco becomes void pursuant to this subsection either before or after such acceptance, the person to whom such warrant was issued shall, notwithstanding such acceptance of such warrant, be liable for the full amount of the tax upon such sale."

SEC. 49. Section 8 of said act is amended by striking out subsection (b) of that section and inserting in lieu thereof two new subsections as follows:

"(b) All persons, in whatever capacity acting, including producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration and collection of the tax. Any person required to make any such return shall render a true and accurate return to the Commissioner of Internal Revenue."

"(c) Any person willfully failing or refusing to file any return required to be filed under this section, or filing willfully any false return, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000."

SEC. 50. Section 9 of said act is amended by adding at the end thereof the following new subsection:

"(c) Any person who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of this act shall, while he is acting as such agent, have the power to administer oaths in connection with the execution of forms required by regulations issued pursuant to sections 7 and 8 of this act, but no fee or compensation shall be charged or received by any such agent for administering such an oath."

SEC. 51. The first sentence of subsection (a) of section 10 of said act is amended to read as follows: "The proceeds heretofore and hereafter derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for rental and benefit payments under the Agricultural Adjustment Act to contracting producers, for administrative expenses, refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 3 of this act, and other payments under this act."

SEC. 52. Subsection (a) of section 11 of said act is amended effective as of the date of the enactment of the said act by striking out the words "6 months" and by inserting in lieu thereof the words "1 year."

SEC. 53. Section 14 of said act is amended to read as follows:

"The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within 30 days after the date of the proclamation by the Secretary of Agriculture, pursuant to subsection (b) of section 3 of this act."

Mr. COPELAND. Mr. President, I wish to ask the Senator from South Carolina whether any hearings were held on this part of the bill?

Mr. SMITH. No, Mr. President, for the reason that it is practically the law as it now stands.

Mr. COPELAND. Did any appeals come in from any concerns to have hearings on this subject?

Mr. SMITH. No; only on the processing tax.

Mr. COPELAND. Not on this part of the bill?

Mr. SMITH. No.

Mr. COPELAND. What part of the bill was it on which these gentlemen desired hearings?

Mr. SMITH. It was with reference to the processing tax?

Mr. COPELAND. Where do we find it in the bill?

Mr. SMITH. It is just the reenactment of the Smith-Kerr bill. That is the point to which I called attention heretofore, that in levying the processing tax, when the parity price was reached, or when the price was above the parity price, the processing tax should be reduced in proportion as it approached parity. That subject was discussed somewhat yesterday.

Mr. COPELAND. What effect will this provision have upon the cigar industry?

Mr. SMITH. It has nothing to do with it.

Mr. COPELAND. Will the Senator point out to me, so that I may not make any mistake about it—because I am unfamiliar with the bill—the part of the bill over which the cigar manufacturers are disturbed?

Mr. SMITH. It is the processing tax.

Mr. COPELAND. Will the Senator point out to me where in the bill that is?

Mr. SMITH. It has already been passed over. That is on page 20 of the bill. The pending amendment has nothing whatever to do with that; and if the Senator will permit us to act on this amendment, I shall return to the matter to which he has referred.

Mr. COPELAND. Very well. With that understanding, I shall be glad to desist.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GERRY. Yesterday I was discussing with the Senator from South Carolina the committee amendment on page 40; and I understood from the Senator that the processing tax, when it reached a certain amount would cease entirely. Apparently that is not the case. It is always 10 percent. Is that correct?

Mr. SMITH. No; it is 10 percent during a current period, but if 2 months preceding the beginning of the next current year it is evident that the conditions are such that the price will be parity or above, then it will be seen that the bill provides that it may be zero.

Mr. GERRY. Where is that provision? I do not understand that.

Mr. SMITH. If the Senator will allow us to get through with the pending amendment, we will return to that question.

Mr. COPELAND. May I say to the Senator from Rhode Island—I assume his interest is the same as mine—that I am taking it for granted that we shall have the opportunity to present the cause of the cigar manufacturers as it should be presented.

Mr. GERRY. I was not thinking of that. I was thinking of the matter in a broader sense.

Mr. JOHNSON. Mr. President, may I ask what section is under consideration?

Mr. SMITH. It is the last committee amendment, beginning on page 73, after line 18.

Mr. COPELAND. I may say to the Senator from California that some of us who live in States where cigars are manufactured have been told of the manufacturers' great distress over the processing tax on tobacco. I thought it was to be found in connection with the amendment which we have just reached, but I have been assured by the Senator from South Carolina, who is all wisdom on this matter, that this is not the place in the bill where it is to be found.

Mr. SMITH. No; this is not the place.

Mr. COPELAND. I am told that it is on page 40, and that it has already been agreed to take it up again. Relying upon that assurance, I am willing, so far as I am concerned, to desist for the moment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment beginning on page 73 and continuing to the end of the bill.

The amendment was agreed to.

Mr. SMITH. Mr. President, the committee amendments now have all been passed upon except those which were passed over. I ask that the clerk now may begin with the first amendment which was passed over.

Mr. LA FOLLETTE. Mr. President, probably the amendments were passed over at the suggestion of Senators who may wish to be present. Therefore, would it not be well to have a quorum call?

Mr. SMITH. That is a good suggestion. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Keyes	Pope
Ashurst	Coolidge	King	Radcliffe
Austin	Copeland	La Follette	Reynolds
Bachman	Costigan	Lewis	Robinson
Bailey	Dickinson	Logan	Russell
Bankhead	Dieterich	Loneragan	Schall
Barbour	Donahey	McAdoo	Schwellenbach
Barkley	Duffy	McGill	Sheppard
Bilbo	Fletcher	McKellar	Shipstead
Black	Frazier	McNary	Smith
Bone	George	Maloney	Steiner
Borah	Gerry	Metcalf	Thomas, Okla.
Brown	Gibson	Minton	Townsend
Bulkley	Glass	Moore	Trammell
Bulow	Gore	Murphy	Truman
Burke	Guffey	Murray	Tydings
Byrd	Hale	Neely	Vandenberg
Byrnes	Harrison	Norbeck	Van Nuys
Capper	Hastings	Norris	Wagner
Caraway	Hatch	Nye	Walsh
Carey	Hayden	O'Mahoney	Wheeler
Chavez	Holt	Overton	White
Clark	Johnson	Pittman	

The PRESIDING OFFICER. Ninety-one Senators having answered to their names, a quorum is present.

The first amendment passed over will be stated.

The CHIEF CLERK. The first amendment passed over, at the request of Mr. McNary, is in subsection (2), on page 10, after line 21, under the heading "Commodities to which applicable."

Mr. JOHNSON. Mr. President, that is the provision, I take it, beginning with the title "Commodities to which applicable", and proceeding from there down through line 10, on page 11?

The PRESIDING OFFICER. The Senator's statement is correct.

Mr. JOHNSON. I wish to offer an amendment perfecting the committee amendment, if I may do so.

Mr. STEIWER. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Oregon?

Mr. JOHNSON. I yield.

Mr. STEIWER. This particular proposal was, as I remember, passed over at the request of my colleague [Mr. McNary]. It happens that my colleague at the moment is not in the Chamber, and I do not know whether or not he is advised that the matter is now being called up. I am wondering if it might not be agreeable to all concerned that the Senate proceed for the moment to the consideration of some other amendment and return to this amendment at a later time?

Mr. BANKHEAD. I have no objection to that.

Mr. JOHNSON. I have none.

Mr. STEIWER. I am sure my colleague would appreciate that courtesy being extended.

Mr. BANKHEAD. Is it agreeable to the Senator from California that the amendment be passed over?

Mr. JOHNSON. It is perfectly agreeable to me, but let me say to the Senator in charge of the bill that what I want to do is to add one item so that it will come under the purview of the bill. It will be observed in lines 5 and 6, on page 11, the words appear "not including vegetables for canning." I want to add to that particular provision so as to make it read "not including vegetables, other than asparagus, for canning." I will not take the matter up now because of the absence of the Senator from Oregon. I am simply submitting that thought for consideration, and, inasmuch as it affects a single product which comes prac-

tically altogether from the State which I have the honor in part to represent, I question if there will be any objection to it.

Mr. GEORGE. Mr. President, I do not now want to argue the matter, but I may have to take issue with the Senator from California, because Georgia is now raising asparagus and is canning asparagus.

Mr. JOHNSON. I congratulate Georgia and welcome her to the fold.

Mr. GEORGE. We do not want to have our growth arrested by too much restriction upon us. However, I understand this particular part of the bill, subsection (2), is to be passed over.

Mr. JOHNSON. May I file my amendment?

Mr. GEORGE. I understand the Senator is offering an amendment, but may I ask that it be passed over until morning, because those of us from the Southeast are very much interested in other phases of this provision.

Mr. BANKHEAD. That will be perfectly agreeable to me.

Mr. COPELAND. May I ask the Senator from Georgia in what particular provision on page 11 he is interested?

Mr. GEORGE. I am very much interested in the House provision which is stricken out beginning on line 4, page 11, which reads "(not including fruits for canning)."

Mr. COPELAND. That is, the Senator wishes to restore the House language?

Mr. GEORGE. I wish to restore the House language.

Mr. COPELAND. I desire to join with the Senator in that wish.

Mr. BANKHEAD. So do I.

Mr. JOHNSON. May I say to the Senator from Georgia, in the language which he used a moment ago in respect to California's famous asparagus that I am sorry, indeed, to take issue with him, but I shall take issue with him upon the particular suggestion he makes.

Mr. President, I may add that this is one of the important amendments to this bill so far as producers and canners are concerned, and it will take some considerable time to dispose of it, I have no doubt. I say that to the Senator in charge of the bill in order that he may govern himself accordingly. With the consent of the Senate I filed my amendment in relation to asparagus.

Mr. COPELAND. Mr. President, I should like to ask the Senator from California a question. He is seeking a modification of the words in parenthesis, in line 5, by inserting in the clause "not including vegetables for canning" the words "other than asparagus." Is that his amendment?

Mr. JOHNSON. Yes; so as not to include asparagus in the exception in the canning process.

Mr. COPELAND. I am not quite clear as to the Senator's objective.

Mr. JOHNSON. If the Senator from New York will observe, the clause reads:

Vegetables (not including vegetables for canning).

In the clause relating to canning I am seeking to include asparagus, which is not included in the bill as presented.

Mr. KING. Mr. President, will the Senator yield?

Mr. JOHNSON. I yield.

Mr. KING. As I understand, the position of the Senator is that vegetables and fruits, particularly to which vegetable he is now addressing himself, should be exempt from the operation of the bill; that is to say, that vegetables which are used by the canners should not be subjected to the tax or to the regimentation provided in the bill?

Mr. JOHNSON. No; I am not saying so. The bill exempts all vegetables that are canned. I am seeking to include in the bill asparagus and exempting it from that particular provision of the bill.

Mr. KING. If I understand the Senator correctly, I agree with him.

Mr. JOHNSON. Very well. Fruits, however, are in a different category.

Mr. KING. I understand; and I would treat them as I would treat vegetables.

Mr. JOHNSON. I would not.

Mr. KING. I understand California has some citrus and other fruits. It merely shows—and I say it with the utmost good feeling—that geography cuts some figure in legislation.

Mr. WAGNER. Mr. President, I understood a moment ago the Senator in charge of the bill to say that the provisions on page 11, subparagraph (2) of section 8 (c), are to go over until tomorrow for consideration?

Mr. BANKHEAD. That is my understanding of the request. I merely want to accommodate those who are interested in the section.

Mr. DUFFY. Mr. President, I have proposed and there is now lying on the desk an amendment striking out the word "hops" in the same section and "hops and their products" in another section. I want to be certain that we have some definite understanding as to when the provision may come up.

Mr. BANKHEAD. Mr. President, in the interest of making progress, I should like to suggest that particular items of this section as to which there is such a request be passed over, and let us finish those which are not in controversy and as to which there is no request that they go over until tomorrow.

Mr. JOHNSON. I am perfectly willing to abide by any decision which may be agreeable.

Mr. BANKHEAD. That will preserve the right to have any amendment go over which any Senator desires to have passed over.

Mr. JOHNSON. That is perfectly satisfactory to me. The amendment in question, as the Senator will understand, was being passed over at the instance of the Senator from Oregon [Mr. McNARY].

Mr. GEORGE. Mr. President, my request related only to the provision affecting fruits and vegetables, if the amendment of the Senator from California should be held in order. I do not know whether that amendment would be in order at this time, though, of course, it subsequently would be. My reason for making the request was that at the moment I did not see the Senators from Florida in the Chamber, and I must leave the Chamber at an early hour this afternoon.

Mr. BANKHEAD. The Senator wants the committee amendment striking out the words "and not including fruits for canning" passed over?

Mr. GEORGE. That is the particular amendment.

Mr. JOHNSON. On that amendment there will be considerable debate.

Mr. GEORGE. I apprehend it will take some time to debate it, and probably its consideration could not be concluded today.

Mr. BANKHEAD. The Senator from California desires his amendment incorporating the words "other than asparagus" passed over.

Mr. JOHNSON. I am ready to take it up, but, as I understand, the entire provision is to be passed over.

Mr. FLETCHER. Mr. President, a parliamentary inquiry. The amendment suggested by the Senator from California [Mr. JOHNSON] is not now in order. It is not an amendment to a Senate amendment. It is an amendment to the House text, and we are now considering committee amendments. The amendment of the Senator from California will come up as an individual amendment at the proper time.

Mr. JOHNSON. That is quite true, as the Senator says. I merely offered it for the purpose of having it before the Senate when this subject should come before it, in order that we might discuss the whole proposition; but, inasmuch as the particular provision which relates to commodities to which the title is applicable has gone over, I have presented the small amendment as to asparagus so that the Senate may know what ultimately is the intention of those of us who are going to argue on one side of this question.

The PRESIDING OFFICER (Mr. BLACK in the chair). Does the Senator from California desire his amendment to lie on the table?

Mr. JOHNSON. I do.

The PRESIDING OFFICER. The amendment will be received and lie on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hattigan, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the joint resolution (H. J. Res. 201) giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in the month of September 1936, and for other purposes, incident to said encampment.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled joint resolution (H. J. Res. 201) giving authority to the Commissioners of the District of Columbia to make special regulations for the occasion of the Seventieth National Encampment of the Grand Army of the Republic, to be held in the District of Columbia in the month of September 1936, and for other purposes, incident to said encampment, and it was signed by the Vice President.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. KING. Mr. President, I was advised during the consideration of this bill by the Committee on Agriculture and Forestry that no hearings would be granted. I had a number of requests for hearings and communicated that fact to the chairman of the committee.

Upon receiving information that no hearings would be held, I made further inquiry and learned that Mr. Chester Davis and representatives of the Department of Agriculture were holding conferences with the committee and aiding in drafting the bill now before us. I am making no criticisms, but cannot understand why the public were afforded no opportunity to be heard when a measure of such vital importance to the country was under consideration. When I learned that no public hearings were to be held, I wrote the following letter to the chairman:

JUNE 23, 1935.

HON. ELLISON D. SMITH,

*Chairman Committee on Agriculture and Forestry,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: I am advised that the so-called "A. A. A. bill" is before the Agriculture Committee of the Senate for consideration. I am not a member of the committee, but I shall be glad to obtain information, which I think is available to your committee, in order that I may be better advised how to vote upon the various provisions of the bill when it shall come before the Senate. I shall be glad to have information regarding the matters herein referred to, all of which, I believe, are pertinent to the questions involved in the bill now before your committee.

A. Under the head of "Operation of processing taxes, benefit payments, and voluntary agreements to reduce production of wheat, corn, and hogs", I shall be glad to have information respecting the following:

1. Amount of money raised by processing taxes—the amounts by commodities and by States.
2. The amounts, by commodities and by States, paid to producers.
3. The amount of reduction of production (a) wheat acreage, by States; (b) corn acreage, by States; (c) sows and pigs slaughtered, by States.
4. Amount of increase in consumers' costs, including increased prices for flour, bread, and typical cuts of pork and beef not only in rural communities, but in typical cities.

Mr. COPELAND. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from New York?

Mr. KING. I yield.

Mr. COPELAND. This is a letter which the Senator addressed to the chairman of the committee, is it not?

Mr. KING. Yes.

Mr. COPELAND. The Senator will be interested to know that in Rochester, N. Y.—familiar to the Senator as near the birthplace of his father—this tax has added to the food costs as regards meat, which the Senator has just mentioned, as follows:

- Pork loins, 4.86 cents per pound.
- Bacon, 4.29 cents per pound.
- Fresh ham, 4.98 cents per pound.

Smoked ham, 5.15 cents per pound.

Pork sausage, 1.71 cents per pound.

Mr. KING. According to the views of some persons the Senator ought not to be interested in the consumers.

Mr. COPELAND. Oh, no; not at all. My people up there should live on sawdust. [Laughter.]

Mr. MURPHY. Mr. President, will the Senator permit a single observation?

Mr. KING. I should prefer to continue reading the letter, but I yield to the Senator from Iowa.

Mr. MURPHY. Will the Senator from New York advise us where he got the figures showing these increases?

Mr. COPELAND. From the Rochester Chamber of Commerce.

Mr. MURPHY. From a chamber of commerce?

Mr. COPELAND. Yes.

Mr. MURPHY. I would expect that. Furthermore, would the Senator advise whether or not all these price increases were due to the processing tax, or was some part of it due to the mark-up made by the retailers?

Mr. COPELAND. I dare say both would enter into it, but there is no question at all that somebody is paying the processing tax, and that "somebody" is the consumer. There is no question, of course, that advantage is taken of the situation and that the price is marked up, as the Senator from Iowa suggests. Nevertheless, the great consuming public are the ones who pay the bill.

Mr. KING. Obviously the Senator from Iowa does not wish the Senate to reach the conclusion that the imposition of a 30-cent tax upon wheat—which I am informed is to be advanced to 33 cents—will add to the cost of flour to the consumer?

Mr. MURPHY. No; I would not make such a contention. I presume that the Senator from New York is prepared to vote for that provision in the bill which denies the right to the processors to recover the processing taxes paid, because he has stated that those taxes were paid by the consumer.

Mr. KING. Mr. President, I shall continue and let my two friends, one from Iowa and one from New York, fight this matter out between themselves; but I do assert that a processing tax upon commodities raises the prices to the consumers, and I fear that Congress and executive authorities too often refuse to consider the interests of the millions of consumers. This has resulted in industrial disturbances, buyers' strikes, and in some cases demoralization in our social and economic life.

Mr. COPELAND. O Mr. President, I do not have to fight with anybody. I do not want to fight with anybody, but I know that when, by reason of legislation, we increase prices the consumers, the public, pay the bill.

Mr. KING. Undoubtedly.

Mr. COPELAND. I am interested, because I have in my State 13,000,000 consumers. They have gone along very patiently with these legislative proposals. Nevertheless, they are paying at least 10 percent of the cost of these taxes. Therefore we have in our State some interest in this matter.

Mr. BANKHEAD. Mr. President, may I ask the Senator from New York a question?

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Alabama for that purpose?

Mr. KING. I yield.

Mr. BANKHEAD. Are not the same consumers paying tariff taxes on manufactured articles in his State?

Mr. COPELAND. Yes; but the manufacturing industries in my State represent a very small proportion of the population. I have thousands and millions of constituents in my State who do not have anything to eat but "the sidewalks of New York", and they are not interested in the tariff which the manufactured products may have; but they have an interest, when somebody gives them a dollar, to be able to go out and buy some food with it. When they have to pay an additional 4 or 5 cents a pound for the meat which they buy with that dollar, then the consumers in my State have a direct personal interest in what this tax may be.

Mr. KING. Mr. President, it seems to me we might rise above local or sectional or geographical lines in dealing with

legislation, especially proposed legislation of the importance of the pending bill, and envision the entire people and seek legislation promotive of the happiness and welfare, not of my State or any particular State, not of one group or another, but of the entire population. Any proposed legislation which discriminates against the millions of consumers, whether it be through the tariff or processing taxes or otherwise, calls for serious scrutiny, indeed, for severe condemnation. Undoubtedly many tariff laws have unduly favored industry and adversely affected agriculture and the wage earners of our country. The farmers for decades blindly followed the powerful captains of tariff monopolies. They supported the Republican tariff policies to their own injury and to the disadvantage of the mass of the American people.

Mr. DICKINSON. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. DICKINSON. I am wondering whether or not the A. A. A. amendments are on the "must" list. I understand representatives of certain interests went to the Executive Offices yesterday and were told by one of the secretaries there that this legislation was not on the "must" list. It is so reported in the New York Herald Tribune of today.

Mr. KING. May I say very frankly that I am not guided by the alleged "must" lists. I attempt to vote my own convictions regardless of the convictions or attitude of others.

I continue reading the letter:

5. The advance in bread prices in various cities; also advance in meat prices in various cities.

6. Estimated cost to consumers by reason of increase of prices in the commodities referred to.

7. Estimated number of consumers not living on farms benefited by benefit payments.

8. Total number of farmer beneficiaries; that is, those receiving benefit payments in wheat, corn, and hog programs.

B. Legality of processing taxes.

1. List of cases already brought to test the validity of processing taxes

2. Present status of each case.

Before we conclude the debate upon this bill I shall place in the RECORD the number of cases which are now pending challenging the constitutionality of the A. A. A. Act; and may I add, judging from the provisions and terms of the measure before us, more such will be instituted, if this bill shall be enacted into law, than have been brought under the original A. A. A. Act. Its provisions are so conflicting, confused, and subtle, and, as I believe, so in contravention of personal and State rights, that numerous actions will be instituted in the courts to restrain its enforcement and to obtain decisions against its validity.

Returning to the letter from which I am reading:

C. Administrative cost of the A. A. A.

1. Number of employees on Federal pay roll in A. A. A. work, including the number for each month since the A. A. A. law went into effect: (a) List of employees receiving above \$5,000 per year; (b) total annual pay roll as of January 1, 1935.

2. Number of county agents and assistants on joint Federal and State pay rolls, and also the number active in the A. A. A. work, giving the number by States.

May I add parenthetically that in President Wilson's administration for the fiscal year ending June 30, 1917, the entire cost of the Government, including Federal employees, the Army, the Navy, and every activity of the Government, was but approximately \$1,000,000,000.

For the fiscal year 1935 the salaries of Federal employees will exceed one and a quarter billion dollars. With the enormous Federal expenditures, it is not to be wondered that there are deficits of three or four billions a year, mounting taxes, and complaints from people in all parts of the United States because of the heavy burdens resting upon them.

3. Number of women and men placed on community or commodity committees working on A. A. A. activities. If possible list by States.

(a) The manner in which these committee men and committee women are paid, and the source of the funds.

(b) The total amount of such payments by States.

D. Activities of Consumers' Council.

1. List of employees and persons engaged in this activity in A. A. A. since its organization.

2. Salaries paid, and to whom, above \$5,000.

3. Sample copy, cost and circulation of Consumers' Guide, and list of other published material and news releases.

4. List of State and city consumers' councils cooperating with Federal Consumers' Council.

E. Operation of marketing agreements and licenses.

1. List of licenses put into effect for each and all commodities.

2. List of licenses now in effect.

3. List of court cases brought against the A. A. A. with respect to licenses, with present status of each case.

4. General statement with respect to number and localities in which A. A. A. or license administrators have made either voluntary or involuntary inspections of books and records of processors and handlers.

As stated, I assume that the committee will have information respecting the matters herein referred to, and for that reason I am respectfully asking for the same.

Sincerely yours,

WILLIAM H. KING.

The chairman of the committee—and I am betraying no confidence in making this statement—told me he thought that the information sought would be available from the Department of Agriculture; and I understood him—if I am incorrect I hope he will correct me—to say that I would receive the information. I shall be glad when I receive the information referred to in my letter.

Mr. COPELAND. Mr. President, may I ask the Senator the date of his letter?

Mr. KING. June 23 of this year.

Mr. COPELAND. That was about 3 weeks ago.

Mr. KING. That was after I learned that the committee would grant no hearings. Believing the data mentioned in my letter was pertinent to the legislation sought and would be helpful in its consideration, I endeavored to secure the same.

Mr. WAGNER. Mr. President—

Mr. KING. I yield to the Senator from New York.

Mr. WAGNER. I wished to have the Senator know that he is not the only one who is complaining of the refusal of the committee to grant a hearing to those affected by the proposed legislation. The Senator knows that there is invested in the rayon industry about \$250,000,000; it employs nearly 200,000 persons; and the industry sought a hearing upon a proposal to impose upon it a compensatory tax of 5½ cents per pound.

The imposition of that particular tax simply means that our domestic rayon industry will have to surrender its market to imported silk commodities. The imposition of the tax is so serious that it may be destructive of the industry; yet the representatives of the industry were not granted a hearing before the committee, and without such a hearing this tax is to be imposed.

Mr. KING. Mr. President, I regret that hearings were not granted. I know that the House Committee on Agriculture held hearings and hearings were had before the Senate committee when it considered either the first or the second bill referred to it for consideration. Four or five bills, as I recollect, have been considered by the Agriculture Committees of the House and Senate during this session, and the one now before us is either the fourth or the fifth. So unsatisfactory to the country have been the bills prepared by the A. A. A. officials and their technical experts and legal and other advisers, that over and over again they have been reconsidered by the committees referred to; and each reconsideration has, in my opinion, made the succeeding bill more oppressive, bureaucratic, and undemocratic.

Mr. BANKHEAD. Mr. President—

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Alabama?

Mr. KING. I yield.

Mr. BANKHEAD. In order that there may be no misunderstanding I desire to say that for about 2 weeks the Committee on Agriculture and Forestry held protracted hearings, and gave an opportunity to come before the committee to everybody who desired to come before us on the bill which was reported to the Senate and was on the floor of the Senate for consideration the day the N. R. A. decision was rendered. Practically all the changes made after the bill went back to the committee were made to put it in line with the decision in the N. R. A. case. The committee felt that after 2 weeks of hearings on all other phases it was unnecessary again to open up the matter and hold additional hearings.

Mr. MURPHY, Mr. WAGNER, and other Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield; and if so, to whom?

Mr. KING. I will yield in a moment. I have the bill which is now reported, 80 pages in length. I have the three or four bills which preceded the one before us, the first one containing but a few pages; but the more the subject was considered the more voluminous were the succeeding bills and the more expansive and drastic were their terms. The evolutionary powers continued until there was born the measure before us containing 80 pages of confused, complex, and subtle provisions.

Mr. WAGNER. Mr. President—

Mr. KING. I yield to the Senator from New York.

Mr. WAGNER. I desire to ask the Senator whether it is not a fact—I have been so informed by those interested in the rayon industry—that not one interested party was heard by the committee before this amendment was included in the bill by the Agricultural Committee?

Mr. BANKHEAD. I will say to the Senator that his information is correct. The amendment was put in by the committee toward the close of its consideration of the bill; but the Senator should know, and I assume he does, that the matter had been the subject of active hearings by the Department for some months, so that the facts were developed.

Mr. WAGNER. Exactly; but I do not think the committee took advantage of those facts, because the matter was under consideration by the Agricultural Adjustment Administration for a period of over a year, and they did not impose the tax which it is proposed to impose under this bill.

Mr. BANKHEAD. They did not render any decision at all.

Mr. WAGNER. My conclusion is that they were persuaded that the imposition of the tax would be an injustice.

Mr. BANKHEAD. They never reached that conclusion so far as any announcement was concerned; but I simply made that statement to indicate to the Senator that the subject had been one of long investigation, and everybody had had an opportunity to go on record.

Mr. WAGNER. Mr. President, will the Senator from Utah yield for just one more question?

Mr. KING. I yield.

Mr. WAGNER. It is a fact that the Agricultural Adjustment Administration did not recommend the particular amendment to which I have reference?

Mr. BANKHEAD. They made no recommendation either way to the committee about it.

Mr. COPELAND. Mr. President, will the Senator from Utah yield to me? He has been very patient.

Mr. KING. I yield for a question.

Mr. COPELAND. I desire to emphasize what my colleague [Mr. WAGNER] has said. There is very great resentment in my State because those interested in rayon and those interested in tobacco were not given an opportunity to be heard. I believe that in fairness to all American citizens there should have been an opportunity for hearings. I am not blaming the committee. I know my own committee has been very active. It has been impossible to hear everybody who desired to be heard. Nevertheless, when there are to be imposed upon this industry and that industry great contributions, it is wise and proper and American that they should be heard upon their request. They have not been heard, and of course they resent it.

Mr. GERRY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Rhode Island?

Mr. KING. I yield for a question.

Mr. GERRY. Since the Agricultural Adjustment Administration did not recommend the imposition of this tax, is it not fair to infer that they did not think it was a wise tax to put upon the industry? They had long hearings, I understand, upon the subject of rayon.

Mr. KING. I shall not attempt to answer the Senator's question as to the views of the A. A. A. officials.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. KING. I yield for a question.

Mr. McKELLAR. I think I can answer the Senator from Rhode Island. Last year's bill provided, I believe, and the original bill provided, that the Department might put a proc-

essing tax on rayon. It gave them the authority to do it. The Department had a hearing, when all sides were heard; and after that hearing they declined to do it, and now have made no recommendation about it. Under those circumstances, it seems to me—

Mr. GERRY. It is very clear, then, that the Department felt that the tax was not a just tax.

Mr. McKELLAR. And ought not to be put on. I think so.

Mr. WAGNER. Mr. President, the Senator from Utah has been so gracious about yielding that I desire to add just one word. I wish to say that under the existing law the Agricultural Adjustment Administration have the power to impose this tax if they think it a fair compensatory tax. They have not done so. This provision is to compel the imposition of the tax by legislative mandate.

Mr. KING. Mr. President, perhaps I was a little inaccurate in stating that I had received no information in response to the letter which I wrote to the chairman of the committee. I wish to modify that statement to this extent: I found on my desk 2 or 3 days ago a number of papers which came from the Department of Agriculture, but had no opportunity to examine them.

During the colloquy since I have had the floor I have hastily glanced at several pages of the same and shall refer to them in a few minutes. First let me refer to the statement made by the Senator from Alabama [Mr. BANKHEAD].

My recollection is that a bill was before the Senate which had been reported by the Committee on Agriculture and Forestry after the decision of the Supreme Court in the Schechter case, perhaps before; I am not quite sure as to the time. The Senator from New Mexico will advise me.

Mr. HATCH. The bill was under consideration in the Senate at the time the decision was handed down.

Mr. KING. The bill was being considered in the Senate, the Senator from New Mexico advises us—and he is a member of the committee—when the famous and important Schechter case was decided by the Supreme Court of the United States. It was evident that the A. A. A. Act of 1933, and the bill pending in the Senate when the Schechter case was decided, were unconstitutional; and the Senate thereupon referred back to the committee the measure then before it.

I had supposed, and I think the public had supposed, that when the bill went back to the committee there would be hearings, because the bill was of vital importance not alone to agriculture but to the American people as a whole.

But the committee granted no hearings. The public were accorded no opportunity to present their views and to meet the situation resulting from the decisions of the Supreme Court, which not only challenged the validity of the A. A. A. Act but in effect declared that provisions such as are found in the bill before us would be violative of fundamental law. I am advised that representatives of the A. A. A. were permitted to meet and confer with the committee, but the public and those who would be affected by the measure were not consulted or heard.

Mr. SMITH. Mr. President—

The PRESIDING OFFICER (Mr. RUSSELL in the chair). Does the Senator from Utah yield to the Senator from South Carolina?

Mr. KING. I yield.

Mr. SMITH. In justice to the committee and to all parties concerned in the bill let me say that the Committee on Agriculture of the Senate waited until the House had completed its investigation and had passed the bill and sent it to the Senate. Hearings were had in the House. They went through all of the procedure that was necessary to take care of the public, and when the Committee on Agriculture and Forestry of the Senate took the House bill under consideration they called in officials of the Department of Agriculture to find out in what respect the amendments now before us conform to the decision of the Supreme Court. We were not asking them for their advice; we simply wanted to know and to be shown what modification should be made so as to make the bill conform to the decision of the Supreme Court.

I think I can show by reading a part of the old law where the Secretary of Agriculture was given blanket power over nearly every agricultural commodity and practically to do

his will. After the decision of the Supreme Court the articles which were to be affected by the bill were named specifically, and provisions were made that those who produced them should go through the process indicated in the law. We went over it line by line and paragraph by paragraph, in the presence of the full committee, with those who had suggested what they called "clarifying amendments", and I state here and now that there is not half the power conferred under the proposed amendments that was provided in the original law or was in the amendments previous to the decision of the Supreme Court.

We did not think it was necessary to hold hearings. We felt that the House had covered the ground, had met the requirements of the decision of the Supreme Court, and the committee, having reached the conclusion they did reach, reported the bill.

Mr. KING. Mr. President, I am not questioning the good faith of the committee; but I cannot resist the conclusion that a measure so vitally affecting the entire country should have been examined, analyzed, and passed through the crucible of public consideration and criticism before being reported back to the Senate. I cannot help but believe that the measure before us, as interpreted by the A. A. A. officials, will produce a radical change in the economic and political life of the people. It projects the Federal Government, through a powerful and Nation-wide organization, into intrastate concerns, and lays the foundation for compounding our political institutions into one colloidal mass.

I repeat that without hearings, without full opportunity to consider the bill and all of its implications, there has been thrust upon us a bill of 80 pages which is so complicated that it is difficult to interpret. As stated, this is the fourth or fifth edition, and each time it is considered and reconsidered it comes out changed, enlarged, and exaggerated. I suppose that if it went back to the committee it would emerge in a more gigantic form, physically and infinitely more complex and difficult of understanding.

Mr. President, I submit this criticism with respect to legislation, and I do it in the utmost good feeling, because committees upon which I serve are just as amenable to the criticism, and perhaps more so, than other committees.

Much of the important legislation enacted by Congress is prepared by so-called "experts", "brain trusters", lawyers from Harvard and New York, rather than by Members of the House and the Senate.

I repeat that many important measures are drafted by the departments. We are drifting into a departmental government, into a bureaucratic government, and, of course, relying, as we do, upon the bureaus and upon the departments and governmental agencies for information and for the preparation of bills, little by little we abdicate the responsibility resting upon us and take the measures which are submitted for our consideration.

So we have before us now a bill comprising 80 pages, whereas in the first bill that was offered and considered by the chairman of the committee, my recollection is that there were only 10 or 15, and it is quite likely it was a better bill than the one before us now. However, I shall not pursue that theme any longer.

The Senator states that the bill is less drastic than the original A. A. A. Act; that act, as many know, in many respects conferred almost unlimited power upon the Secretary of Agriculture to deal with agricultural products, and, though its oppressive and invalid features were pointed out in both Houses and in many parts of our country, it became a law.

Many persons believed that it contained provisions which attempted to delegate legislative power to the Secretary of Agriculture and that it was unconstitutional.

Mr. President, I fear that this measure, if enacted into law, conferring, as it does, such power upon the Secretary of Agriculture, will be regarded as a guide and precedent for further legislation infringing upon individual and State rights. It will be interpreted by many as an abdication by Congress of its authority and an illegal delegation of author-

ity to executive agencies. It is the thought of some that in the near future measures will be presented to Congress recommended by some department of the Government which will compel every person to obtain a license to engage in every form of interstate commerce.

And the railroads under this plan will not be permitted to accept for transportation between States any commodity without having evidence that the producer and the shipper obtained the necessary license from the Department of Agriculture, or some agency set up by the executive department authorizing its shipment.

There is a movement to destroy local self-government, State sovereignty, and many inseparable and natural individual rights. Under the interstate-commerce provision the Constitution will be misinterpreted and distorted and perverted efforts will be made to control through a powerful bureaucracy the business life and the conduct of the people generally. This bill may be a step in that direction.

Mr. President, corroborative of what was said by the Senator from South Carolina [Mr. SMITH], I have here a pamphlet of 24 pages, and there are two or three supplements, prepared by the Department of Agriculture and signed by the Secretary of Agriculture, dealing with the subject of milk in the Los Angeles area; and I presume that similar publications have been prepared with respect to other sections of the United States. I think Senators would be surprised if they were carefully to read the provisions of this pamphlet. It contains provisions for the fixing of prices not only for what shall be paid to the producer, but what shall be paid by the handler; prices are fixed with respect to transportation charges; advisory committees are set up, and the Secretary of Agriculture is authorized in this code of rules, regulations, if not laws, to exercise almost unlimited authority in the selection of agents and in the execution of the rules and regulations which he may formulate.

His agents are authorized to impose a tax upon the producers of milk and the handlers, those who sell it. The fund collected by such agents appointed by the Secretary of Agriculture may be employed to pay their expenses and the expenses of administration.

Mr. President, let me read a few sentences to show how subtle has been the way by which it has been attempted to bring the domestic production and consumption of milk in Los Angeles district under the control of Federal agencies. It might be thought by some that I am reading from a legislative code. We have abdicated the authority to the Secretary of Agriculture, and he promulgates this law.

Whereas section 8 of the Agricultural Adjustment Act, as amended, provides as follows—

Then it quotes section 8—

SEC. 8. In order to effectuate the declared policy, the Secretary of Agriculture shall have power—

Then it quotes subsection 3—

(3) To issue licenses permitting processors, associations of producers, and others to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof.

Such licenses shall be subject to such terms and conditions not in conflict with existing acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof.

This code further declares that the Secretary may—

require any licensee under this section to furnish such reports as to quantities of agricultural commodities or products thereof bought and sold and the prices thereof, and as to trade practices and charges, and to keep such system of accounts as may be necessary for the purpose of part 2 of this title.

And whereas—

Now this is the important part—

R. G. Tugwell, Acting Secretary of Agriculture, acting under the provisions of said act, for the purposes and within the limitations therein contained, and pursuant to the regulations issued thereunder has on the 31st day of May 1934 issued a license for milk in the Los Angeles sales area, which license was subsequently amended on August 21, September 29, and on December 15, 1934.

Keep in mind that issued licenses were amended and again amended, as there is no limitation upon the authority of the Secretary of Agriculture or Mr. Tugwell, who was the Acting Secretary, to issue licenses and amend the same.

And whereas the undersigned finds that the marketing, distribution, and handling of milk and the products thereof covered by this license—

Keep in mind that this is a limited area of the State of California. It is not Nevada or Utah or Oregon. This area is a segment of the State of California. The language is so framed that it may be made to appear that the transactions in milk are intended and subject to the code or regulations of the Secretary of Agriculture. The code continues—

are in the current of interstate and/or foreign commerce since the portion thereof which occurs within the bounds of a single State affects and actually and potentially competes with the marketing, distribution, and handling of commodities and products which occur between or among several States.

This is a clever and subtle way of endeavoring to deal with local and intrastate business as if it were interstate. In effect the order states that the production of milk in Los Angeles affects the production and consumption of milk in other States—perhaps in New York or Maine—and therefore every transaction relating to its production or sale must come within the interstate-commerce clause of the Constitution. I continue to read:

And since the commodity and the products thereof covered by this license cannot be separated into interstate and intrastate portions, the supply and the marketing, distribution, and handling thereof being inextricably commingled, so that it is impossible to regulate the interstate marketing, distributing, and handling without also regulating the intrastate marketing distribution and handling, and the failure to regulate the latter will defeat and obstruct the purposes of the act with respect to the former; and

Whereas the undersigned has found, and does hereby find, as follows:

That on June 1, 1934, the effective date of the license for milk in the Los Angeles sales area, and for a protracted period prior thereto, a severe disparity existed between the prices received by producers of milk supplying the Los Angeles sales area and the prices of nonagricultural commodities, which disparity had largely destroyed the purchasing power of such producers for industrial products, had broken down the orderly exchange of commodities, had seriously impaired the assets of such producers, had affected the marketing and distribution of milk in the Los Angeles sales area—

Not other States, but a limited part of the State of California—

with a national public interest, and had burdened and obstructed the normal currents of commerce in milk in the Los Angeles sales area—

Mr. COPELAND. Mr. President, will the Senator yield at that point?

Mr. KING. I yield.

Mr. COPELAND. The testimony of milk producers in my State is exactly what the Senator from Utah is bringing out with reference to California. My State is the greatest dairy State, so far as potable milk, beverage milk, is concerned, and I do not know of any dairy farmer in my State who is not in bitter opposition to this provision.

Mr. KING. Absolutely; and yet the dairy interests there would be brought under the powerful hand of the Secretary of Agriculture by virtue of the statutes which he promulgates.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. TYDINGS. I wonder if the Senator will permit me in his time to ask the chairman of the committee [Mr. SMITH] if any substantial number of dairy farmers have asked that this milk provision be inserted in the bill?

Mr. SMITH. From the facts submitted to the committee I think every member of the Senate now knows that there has been no more notorious chiseling of the producer and the consumer than with respect to milk, even if only half of what was brought before the committee was true. The producers throughout the country, according to the statements given to the committee, were desirous of having made some provision by which they could be assured that in the channels of interstate commerce they could be protected, so at least they could get some return for the milk they produced.

Mr. TYDINGS. Mr. President, will the Senator yield for another question?

Mr. KING. I yield.

Mr. TYDINGS. I was dealing primarily, of course, with intrastate licensing such as is now being described by the Senator from Utah. I did not want to intrude on the Senator, but I thought I was going to get a shorter answer from the Senator from South Carolina; and I say that respectfully. My question was whether any considerable number of farmers—hundreds of thousands or millions—were represented at the hearings by petition or telegram or otherwise, or was this bill written by those who know better than the farmers themselves know what is good for them?

Mr. SMITH. My impression is that of all the commodities outside of the staple crops which are under a processing tax—and milk is not—this provision is one which met the approval of all the farm organizations. How many people they represented is quite a different proposition.

Mr. TYDINGS. May I ask the Senator if the farmers of Pennsylvania asked for this provision?

Mr. SMITH. I am of the impression that the farm organization leaders, both of Pennsylvania and New Jersey, which is contiguous to the metropolitan territory of the Senator from New York [Mr. COPELAND] known as "Greater New York", did ask for it.

Mr. TYDINGS. I wonder if the milk farmers of New York asked for this bill?

Mr. SMITH. I am rather of the opinion that those of the State did.

Mr. MURPHY. Mr. President, I can answer that question "yes", and that the New York State authorities asked for it.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. COPELAND. I wish to say a little more about the milk business. I had a visit the other day from Mr. Homer Jones, who is one of the largest producers of milk in New York State. I am speaking of the man who owns a herd and sells milk. He is not in the creamery business. He is a private individual and represents a large group of men I know. It so happens that once my job was to supervise the quality of milk sold in my city, and so I came in contact with these gentlemen. It is my judgment, from the testimony given to me by these actual producers of milk, that they are in bitter opposition to the bill.

Mr. KING. Mr. President, I do not intend to discuss the question of the attitude of the milk producers throughout the United States at this time. I can only say that I have received many protests against the assertion of authority by the Secretary of Agriculture over the production and handling of milk and milk products.

If I may be pardoned a personal allusion, the Senator from Nevada [Mr. McCARRAN] and myself conducted hearings 2 years ago with respect to the milk shed in the District of Columbia. There were violent protests against Professor King, who was in the Department of Agriculture, attempting to formulate measures I assume analogous to those from which I am now reading.

I believe that a State has the right, under its police powers, to deal with the question of the protection of those within its limits, subject, of course, to constitutional limitations, State and National. What I am complaining about is the unlimited and unrestricted authority given under the A. A. A. Act, which authority the Secretary of Agriculture attempts to exercise, to handle not only the producers of milk but the distributors, and to fix prices and to exercise by licenses or orders absolute control over the milk industry in all parts of the United States, regardless of State lines and regardless of wise legislation which many States have enacted to deal with this important industry.

Mr. TYDINGS. Mr. President, will the Senator yield again?

Mr. KING. I yield.

Mr. TYDINGS. Not only can the constitutionality of this bill be questioned under the N. R. A. decision insofar as intrastate commerce is concerned, but I may point out to the Senator from Utah, with whose argument I am in general

agreement, that many of the producers of milk have formed cooperatives and have their own organizations. In my opinion, they are perhaps better off than almost any other general class of farmers of the country. I am loath to interfere, particularly in intrastate commerce, where they are getting along perhaps better than they will after the Federal Government meddles with them.

Mr. KING. May I say to my friend from South Carolina that the farmers' cooperative associations have done a great deal of good, and I have been in favor of them. I fear that their usefulness may be impaired by the policies of the A. A. A. and the army of agents which it employs and uses in all parts of the land.

Mr. SMITH. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. SMITH. If the Senator would study the bill he would find that the cooperatives are assimilated. They are taken care of. Their activities and their rules and regulations are not disturbed. The bill attempts to promote them, to try to add to their influence.

So much so is that true that under the authority which we have under the interstate commerce clause, the cooperatives of the States, the cooperatives engaged in intrastate business, are asked to cooperate with the regulations applying to interstate commerce, and wherever there is within the State an organization which is doing the work that is proposed to be done in interstate commerce, it is hoped that the officers will cooperate with the Federal officers.

Mr. KING. Mr. President, there is much truth in what my friend says, but I am expressing my opposition to the efforts which are being made by some officials in the Government to control every activity and regiment individuals to socialize industry, to bring the Government under the influence of great socialistic organizations or oppressive Federal bureaus and agencies.

I believe our fathers were wiser than we are, and that the Government which they handed down to us, if preserved in letter and in spirit, will enable this Nation to increase in influence, in power, and in moral leadership until its influence will be pervasive throughout the world.

If, however, we socialize this Republic, socialize industry, destroy private initiative and private property, and subject the people to the rule of a powerful bureaucracy here in Washington, this Nation will fail in reaching the goal which the fathers envisioned; and in accomplishing here and throughout the world the good which it was hoped by them, and is hoped by patriots now, it will accomplish.

I have been interrupted by my friends. I shall now recur to this code enacted by the Secretary of Agriculture:

That in order to maintain the prices required to be paid to producers for milk in and by said license for milk, Los Angeles sales area, as amended, it was and is necessary (a) to classify the prices which distributors shall pay for milk—

Price fixing; and if there was anything that made the N. R. A. unpopular it was the determination of big and little officials of the organization to fix commodity prices—

In accordance with the form in which it is ultimately consumed; (b) to provide for the equitable distribution among all producers supplying milk to the Los Angeles sales area of the aggregate return realized by all producers from the sale of such milk; and to encourage the production of milk at a uniform level throughout the year.

7. That all of the terms and conditions of said license—

The returns and conditions are to be prescribed by the representative of the Department of Agriculture—

for milk—Los Angeles sales area, as amended, were and are necessary to establish and maintain prices for milk specified in said license, as amended—

And it has been amended several times, as I have indicated—

and were and are necessary to and do (a) effectuate the policy of the Agricultural Adjustment Act, as declared by Congress in section 2 thereof—

And so forth. Then I find another provision as follows:

Whereas the undersigned has determined to modify—

"The undersigned" promulgates the rules, enacts the law, and then modifies it—

modify the terms and provisions of said license for milk, Los Angeles sales area, as amended, by issuing this amended license pursuant to section 8 (3) of the Agricultural Adjustment Act and applicable general regulations of the Agricultural Adjustment Administration; and

Whereas the undersigned finds that the subject matter of this amended license is embraced within the scope of a hearing heretofore held on a marketing agreement pursuant to applicable general regulations of the Agricultural Adjustment Administration; and

Now, therefore, the undersigned, acting under the authority vested in the Secretary of Agriculture under the provisions of the Agricultural Adjustment Act, as amended, hereby amends and modifies the terms and conditions of said license, as amended, and hereby licenses each and every distributor to engage in the business of distributing, marketing, or handling milk or cream as a distributor in the Los Angeles sales area, subject to the terms and conditions set forth in this amended license, hereinafter called the "license."

Then follow, on page 3, definitions, and, on page 4, further provisions—"Market administrators", for example. They are to be designated and named, with but little limitation upon their authority. The statute continues—and I have not time to examine its 24 pages—dealing with that question down in Los Angeles—not an interstate area but an intrastate area. Prices are fixed; producers and consumers and all others are placed under this blanket authority which is asserted by the Secretary of Agriculture.

Mr. President, the A. A. A. has been a rather costly experiment, and I have no doubt that if the bill before us is enacted into law, its demands upon the Government and the public will be greater than the exactions under the present A. A. A. Act.

I stated a few moments ago that I have some data sent to me by the Agricultural Department, which are, in part at least, a response to the request for information which I submitted to the chairman of the committee to supply.

The statement I have before me is headed:

Summary of expenditures through April 30, 1935, analyzed by State and character.

The total expenditures of the Agricultural Adjustment Administration, as certified here by the office of the comptroller of that organization, amount to \$1,001,596,291.48.

The general administration amounts to \$48,774,996.27.

The rental and benefits which have been paid amount, as stated here, to \$727,391,226.08.

The amount paid for removal of surplus amounts to \$225,430,069.48.

As stated, these items aggregate over a billion dollars. Who have paid for these enormous expenditures? The consumers of the country have paid the bill.

I find in the same list another statement, signed by John B. Payne, Comptroller, which shows that \$225,985,152.40 have been paid for rental and benefit for cotton; \$163,592,147.41 for wheat; \$33,573,077.23 for tobacco; \$293,354,931.17 for corn-hogs—these being listed together—\$10,885,917.87 for sugar.

Those are rental and benefit items. Then for the removal of surplus, and so forth, of hogs, wheat, dairy products, cattle, sheep, and goats, seeds, sugar, peanuts, rice, and cotton tax-exemption certificates, the total amount is \$225,430,069.48; so that the total expenditures, as stated, amount to \$1,001,596,291.48.

Mr. President, I shall have more to say in regard to some of the provisions of this bill before the discussion upon the bill shall be concluded.

I desire to read a few paragraphs from a pamphlet, Revised A. A. A. Amendments.

I should like to read the following:

The bill, H. R. 8492, revised from earlier drafts to meet legal points raised as a result of the Supreme Court's decision in the Schechter case invalidating codes under the National Industrial Recovery Act, represents both a confession of the unconstitutionality of the present law and an attempt to postpone as long as possible a verdict by the highest court.

Provisions of the bill which embody specific admissions of the invalidity of the existing statute include the following:

1. Enactment of present rates of processing taxes in lieu of an existing undue delegation of blanket power to the Secretary of Agriculture.

2. Retroactive ratification of the assessment and collection of nearly \$900,000,000 in processing taxes.

3. A prohibition against the bringing of suits for refunds or credits of processing taxes on the ground of their invalidity.

4. A prohibition against suits to enjoin the collection of processing taxes or to obtain a declaratory judgment in connection with them.

5. Repeal of the present general authority to the Secretary of Agriculture with respect to rental or benefit payments to producers and substitution of lengthy new language setting forth methods and policies in detail.

6. Repeal of the present licensing section and substitution of new language authorizing the issuance of "orders" applicable to processors and other handlers of a restricted list of agricultural commodities.

I may say in passing that the word "orders" is as much abhorred as the word "licenses", and is just as offensive to provisions of constitutional authority and right as is the word "licenses." In other words, the word "orders" means "licenses", and it is proposed under this bill to license processors as well as producers and others; and the word "others" is susceptible of a multitude of interpretations. It may mean the man who produces and sells some of his products. He may be a producer and a processor, a vendor or a vendee, and he is to be subject to orders, which means, of course, to licensing. I read further:

7. Nominal restriction of orders and marketing agreements to interstate commerce, but in language designed to make possible continued control of a considerable volume of intrastate business.

Under a mass of verbiage is concealed a recognition of the complete demolition of the A. A. A. by the Schechter case decision. Scarcely anything of importance was left in the act within constitutional bounds, judging from the repeal of virtually all important sections and substitution of entirely new language. The bill bears little resemblance in text either to the present law or to the earlier drafts of amendments to the act which have been before the Congress throughout the present session.

In effect, the bill conveys an admission that the entire A. A. A. structure is unconstitutional. Nevertheless it is attempted to validate everything that has been done and to continue the same regimentation of agriculture without substantial change. The draftsmen who drew the original act failed to make it conform to the Constitution. It is now proposed to try a different set of legal phrases to accomplish the same purposes.

While in some particulars the powers of the Secretary of Agriculture are strengthened as contemplated by the earlier bills, it is obvious that the immediate objective now is to delay a final determination of the constitutionality of the Agricultural Adjustment Act by the Supreme Court.

The pending legislation has had a remarkable history. H. R. 8492 is the fifth draft of the bill actually introduced in the House during the present session. An even earlier draft, different from any of the five, was offered in the 1934 session of the Congress.

Each time the bill has been revised it has been expanded. The 1934 version consisted of only about eight pages. It was sidetracked after protests were voiced against its far-reaching character. H. R. 5585, introduced on February 12, 1935, consisted of 10 pages. H. R. 7088, introduced on March 28, and H. R. 7713, introduced on April 24, each contained about 20 pages. H. R. 8052, introduced on May 14, had 23 pages. H. R. 8492, introduced on June 14, less than 3 weeks following the decision of the Supreme Court in the Schechter case, has 53 pages.

Mr. President, the bill now before us contains 80 pages. As stated by me a short time ago, if we had another draft, it would pass the century mark. I read further:

Several of the drafts were actually reported to the House, the bills being withdrawn for reconsideration as new developments occurred.

The substitution of H. R. 8492 for the previous draft, which was less than half as long, took place upon the recommendation of the Secretary of Agriculture.

Not the consumers, not the people, but the Secretary of Agriculture.

It was reported to the House one day after its introduction.

I might say that the standing vote as announced by the Speaker was 168 to 52. The 220 Members thus shown to have voted represented only slightly more than a quorum of the Membership, which amounts to 435.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. WALSH. Is it not a fact that there are several cases pending before the Supreme Court raising the question as to the constitutionality of the provisions of the A. A. A.?

Mr. KING. I am not sure, although I have a list here of all the cases pending, but I have not had time to examine it, and I do not know whether any of the cases on the list have reached the Supreme Court.

Mr. WALSH. I understand there are several cases which raise serious question as to the constitutionality of the processing tax, and also as to the licensing provisions of the A. A. A., and that these cases are likely to be heard next winter.

Mr. KING. There are a number of decisions in the district courts and, as I am advised, in the circuit courts of appeals, challenging the validity of the act in the respects referred to by the Senator from Massachusetts.

Mr. WALSH. In view of that fact, does not the Senator think that we should postpone any action on this measure at the present time.

Mr. KING. Of course, but the Senator knows what the result of any effort to postpone consideration would be.

Mr. President, I yield the floor.

Mr. BAILEY. Mr. President, I desire to give notice of a motion to reconsider the vote by which the amendment in subsection (B) on page, 40, including subsections under subsection (B); that is, the subsections marked "(i)" and "(ii)", going over to page 41. I will undertake to bring the motion up tomorrow. I am giving this notice after consultation with the Chairman of the Committee on Agriculture and Forestry.

Mr. SMITH. Mr. President, in view of all the circumstances I think it might be well for us to take a recess at this time; but I wish to make an observation. I hope that we may be able to conclude the consideration of the bill tomorrow. Every Member of the Senate is familiar with all the terms of the bill, and I trust the lengthy speeches have all been made and that we may proceed to vote tomorrow on the amendments which have been passed over. I plead with Senators to cooperate with the committee. Let us conclude the consideration of the bill.

I ask the leader on this side whether it is now desired to have an executive session.

Mr. BURKE. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and lie on the table.

DEPARTMENT OF AGRICULTURE EXTENSIBLE BUILDING

Mr. COPELAND. Mr. President, I ask unanimous consent that Senate bill 3192 may be considered at this time. There is a reason for its present consideration, as failure to pass the bill is interfering with the completion of a building well known to the Committee on Public Buildings and Grounds.

The VICE PRESIDENT. The Clerk will read the bill by title.

The CHIEF CLERK. A bill (S. 3192) to increase the limit of cost for the Department of Agriculture Extensible Building.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. BANKHEAD. Mr. President, I desire to know what the bill is.

Mr. ROBINSON. Mr. President, the bill provides for an increase in the limit of cost of the building referred to from \$12,800,000 to \$13,150,000. The building is the Department of Agriculture Extensible Building.

Mr. McNARY. Mr. President, I shall have to object.

The VICE PRESIDENT. Objection is heard.

TENNESSEE VALLEY AUTHORITY

Mr. NORRIS. Mr. President, I ask the Chair to lay before the Senate the House bill in regard to the T. V. A.

The VICE PRESIDENT laid before the Senate the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama; and for other purposes", approved May 18, 1933, which was read twice by its title.

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 11), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. LEWIS to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the proper place insert the following:

1 That section 5 (a) of the Act entitled "An Act to place
2 the cotton industry on a sound commercial basis, to prevent
3 unfair competition and practices in putting cotton into the
4 channels of interstate and foreign commerce, to provide
5 funds for paying additional benefits under the Agricultural
6 Adjustment Act, and for other purposes", approved April
7 21, 1934, as amended, is amended by inserting before the
8 period at the end of the first sentence thereof a colon and
9 the following: "*Provided further*, That no State shall
10 receive an allotment for any crop year beginning with the
11 crop year 1935-1936 of less than four thousand bales of cot-
12 ton if during any one of the ten crop years prior to the date
13 of the enactment of this Act the production of such State
14 exceeded five thousand bales".

1 processing of perilla seed at the rate equal to the per pound
 2 rate of the processing tax which is then in effect on flaxseed,
 3 and (b) a processing tax on the first domestic processing of
 4 hempseed at the rate of 84 per centum of the per pound
 5 rate of the processing tax which is then in effect on
 6 flaxseed."

79th CONGRESS }
 1st Session

H. R. 8492

AMENDMENT

Intended to be proposed by Mr. SHIPSTEAD
 to the bill (H. R. 8492) to amend the Agricul-
 tural Adjustment Act, and for other pur-
 poses.

MAY 13 (Wednesday) MAY 10, 1967

Ordered to lie on the table and to be printed

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 11), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. JOHNSON to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

1 On page 11, lines 5 and 6, strike out "(not including
2 vegetables for canning)" and insert in lieu thereof "(not
3 including vegetables, other than asparagus, for canning)".

4 On page 16, line 10, strike out "(not including vege-
5 tables for canning)" and insert in lieu thereof "(not includ-
6 ing vegetables, other than asparagus, for canning)".

74TH CONGRESS
1st Session

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 11), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BURKE to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the end of the bill insert the following:

1 ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

2 SEC. 54. It is hereby declared to be the policy of
3 Congress to insure the maintenance of an adequate supply
4 of anti-hog-cholera serum and hog-cholera virus by regulating
5 the marketing of such serum and virus in interstate and
6 foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade
7 practices in such marketing.
8

9 SEC. 55. In order to effectuate the policy declared in
10 section 54 of this Act the Secretary of Agriculture shall have

1 the power, after due notice and opportunity for hearing, to
2 enter into marketing agreements with manufacturers and
3 others engaged in the handling of anti-hog-cholera serum
4 and hog-cholera virus only in the current of interstate or
5 foreign commerce or so as directly to burden, obstruct, or
6 affect interstate or foreign commerce in such serum and virus.
7 Such persons are hereafter in this Act referred to as "han-
8 dlers". The making of any such agreement shall not be
9 held to be in violation of any of the antitrust laws of the
10 United States, and any such agreement shall be deemed to be
11 lawful.

12 SEC. 56. Marketing agreements entered into pursuant
13 to section 55 of this Act shall contain such one or more
14 of the following terms and conditions and no others as the
15 Secretary finds, upon the basis of the hearing provided for
16 in section 55, will tend to effectuate the policy declared in
17 section 54 of this Act:

18 (a) One or more of the terms and conditions specified
19 in subsection (7) of section 8c of the Agricultural Adjust-
20 ment Act, as amended.

21 (b) Terms and conditions requiring each manufacturer
22 to have available on May 1 of each year a supply of com-
23 pleted serum equivalent to not less than 40 per centum of
24 his previous year's sales.

1 SEC. 57. Whenever all the handlers of not less than 75
2 per centum of the volume of anti-hog-cholera serum and hog-
3 cholera virus which is handled in the current of interstate
4 or foreign commerce, or so as directly to burden, obstruct,
5 or affect interstate or foreign commerce, have signed a mar-
6 keting agreement entered into with the Secretary of Agri-
7 culture pursuant to section 55 of this Act, the Secretary of
8 Agriculture shall issue an order which shall regulate only
9 such handling in the same manner as, and contain only such
10 terms and conditions as are contained in such marketing
11 agreement, and shall from time to time amend such order
12 in conformance with amendments to such marketing agree-
13 ment. Such order shall terminate upon termination of such
14 marketing agreement as provided in such marketing agree-
15 ment.

16 SEC. 58. Subject to the policy declared in section 54
17 of this Act, the provisions of subsections (6), (7), (8),
18 and (9) of section 8a and of subsections (14) and (15)
19 of section 8c of the Agricultural Adjustment Act, as
20 amended, are hereby made applicable in connection with
21 orders issued pursuant to section 57 of this Act, and the
22 provisions of section 8 (d) of the Agricultural Adjustment
23 Act, as amended, are hereby made applicable in connection
24 with marketing agreements entered into pursuant to sec-
25 tion 55 and orders issued pursuant to section 57 of this Act.

1 The provisions of subsections (a), (b), (2), (c), (f),
2 (h), and (i) of section 10 of the Agricultural Adjustment
3 Act, as amended, are hereby made applicable in connection
4 with the administration of sections 54 to 58, inclusive, of
5 this Act. The sums appropriated by section 12 of the
6 Agricultural Adjustment Act, as amended, are hereby ap-
7 propriated to be available to the Secretary of Agriculture
8 for administrative expenses (including those described in
9 section 12 (c) of the Agricultural Adjustment Act, as
10 amended), in connection with sections 54 to 58, inclusive,
11 of this Act.

deal with individual students; 200,000 teachers at present wholly unemployed; a much larger number of teachers not receiving remuneration for a substantial portion of the regular teaching period; a host of children of school age receiving far less than full-time education; about 5 million pupils occupying unsafe or insanitary rural schools; and compensation for teachers deplorably below the level of proper subsistence, with about one-third receiving approximately \$750 per year and about two-fifths less than \$1,000 per year. In other words, on the material side, school buildings are today inadequate in number and frequently neither safe nor sanitary, and suitable textbooks are often unavailable; and, on the side of mental training, pupils are at a sad disadvantage educationally in many parts of America because of the restricted number of teachers, the small compensation many of them receive, and the corresponding lack of dignity and leadership suffered by a profession which is discounted because it is ill-rewarded and left without the stimulus which comes from proven public appreciation of the importance of the task teachers discharge.

Already certain constructive efforts on a Nation-wide scale to free educators from economic difficulties and widen the opportunities for pupils are urgently and federally required. Not only pupils, but teachers also, should be given the largest possible opportunities for liberal training as part of the gratifying development of a science of education. The priceless possibilities of children must be concretely affirmed in enlarged privileges during years of sensitive and responsive growth, alike in school equipment and inspiration from those who guide awakening minds. Our Nation should lend the stimulus of appropriations to States and localities under conditions which will reasonably promote the great ends in view. America should hold itself ready to do regularly for education what heretofore it has done spasmodically. It should be prepared to sacrifice, if need be, lesser values for the illimitable possibilities of a future of wholly free and thoroughly sound popular education.

In support of these necessary steps I bring you assurances that many progressive leaders in public life stand ready to assist and will prove helpfully responsive to any well-conceived, human program of Federal aid to education which your united authority is prepared to recommend.

Certainly we ought to be able, without further argument, to agree on such minimum Federal steps as these:

First. Grants-in-aid by the Federal Government to States, where necessary, for free public education designed to liberalize and equalize opportunities for teachers and students, without undermining traditions of wholesome local school control and direction. As suggested, this does not mean the sacrifice, but rather the strengthening, of values which have long marked our school system. Undoubtedly today reasonable Federal contributions are needed to keep sound local forces alive and effectively functioning. The precedents already set by federally donated lands for State schools and Federal grants in aid of vocational education—not to mention the Nation's experiment with public works, State relief grants, and our public-roads policy—demonstrate the adaptability, with safeguards for uniform standards and decentralized management, of a Federal-State program.

Second. Nation-wide insistence on minimum school facilities and attendance for a period of from 8 to 9 months of every school year.

Third. Teachers in all schools adequately trained and fairly compensated for their professional responsibilities.

Fourth. Safe, healthful, and modern schools in all parts of the United States, with proper school and mechanical equipment, including suitable textbooks available to all pupils.

In undertaking these and other experiments in education, as in government, we must have, of course, a sane and natural merger of State and Federal activities, with broad opportunities for effective local agencies, side by side with the beneficial stimulus flowing from our national living principles and destiny. If America is fairly to follow the path of its logical development, we must continue the values of our interwoven local and national educational system. The significance of the task justifies us in demanding from those who benefit by such an educational program both personal development and dedication to community welfare. We are all partners in building and perpetuating our country and contemporary civilization. The modern world, through education and aroused morality, if it is to pay its debt to the past, must steadily eliminate such fatal flaws as weakened and wrecked earlier governmental experiments. This can be done as always by substituting good for bad and better for worse, by widely distributing educational resources and opportunities for national human life, and by modern invention and scientific achievements which override the demands of human selfishness by insistence on universal brotherhood.

We are aided in all such efforts by those subtle forces of the universe that keep alive, despite all odds, beauty, virtue, and truth. We have, too, the support of nature's latent and reborn life and powers. Recognizing the imperfections of any individual contribution, we refuse to accept any education which claims to be "finished." We demand, instead, a better and more progressive humanity, inspired by our world's evolutionary plan. We adopt Professor Breasted's conclusion that man throughout history has followed, and must continue to follow, "a rising trail."

What I have been trying in part to express or imply is the wisdom of the old Athenian message that all citizens, teachers, and students alike should have, or acquire, and faithfully perpetuate a living interest and participation in public affairs. Perhaps it is natural, in view of my own activities, that I should conclude that no other test of truly educated men or women is so final or unerring

as that of active and effective citizenship. Our Nation's ideals of a perfect Union, established justice, insured domestic tranquillity, provision for the common defense, and assured general welfare must stand or fall with education. There is no substitute. If I am to be permitted to leave with you one remembered word, it is that. Happily in so saying, I do not speak either presumptuously or as a voice crying in the wilderness. Others with higher educational authority than mine, leaders in your profession, have not failed to speak in candid criticism of the economic, social, and political failures of the modern world as the product of defective education. Indeed, educators have spoken as frankly of the shortcomings of their magnificent profession as have prophets of the practice of divine religion. They know and you know—though the fault rests in some degree on all of us who in our separate spheres contribute to the educated mind—that when civilization has failed education has failed, and by the same token when civilization has succeeded education has triumphed. It may be added, with equal confidence, that when the America our forefathers planned shall have succeeded in establishing sound political and industrial equality and self-government, and in utilizing the resources of this continent for the general welfare, American education will have come to its own. Either way, whether our banners rise or fall, the major responsibility must in the long run be borne by American educators in every walk of life.

In what has been thus far said, it has been assumed that there will be little difficulty in agreeing on a modest beginning of a national effort to underwrite the improvement and renovation of our American educational system. The purpose is to adapt that system to our rapidly changing civilization and to fit the youth of a new generation to take their proper place in the front ranks of priceless living citizenship. If it be argued that, in so doing, we are cutting across inherited traditions and experiences, the answer is that the New World makes new attitudes unavoidable. We must remember that we have, under State and Federal Constitutions, both State and National citizenship. We must, accordingly, educate every new generation to meet its new responsibilities. Educational leadership will certainly not oppose the common-sense view that Nation and States can only coexist in harmonious efficiency if we continue, through education, to promote equipment for essential services and the general welfare. If we fail to achieve those ends by reason of conflicts between limited respective jurisdictions, the General Government will surely find public opinion rallying to endow the Nation with ample authority to grapple with important problems which States, by reason of limited territorial authority, are admittedly unable to control.

Recently in Washington an important decision of the United States Supreme Court has been interpreted by some as revitalizing the authority of States to deal with problems within their borders, and as excluding the Federal Government from legislating on subjects not obviously interstate in nature and effect. That decision has temporarily involved in chaos the far-reaching Federal experiment of the National Industrial Recovery Act of 1933, which had increased employment, raised wages, largely abolished child labor, and at least substituted a form of industrial planning for previous industrial planlessness. The decision has also clouded with confusion the assumed authority of the Federal Government to legislate effectively on Nation-wide industrial problems. Uncertainty is added by the fact that not many years ago the United States Supreme Court likewise denied to States the right, among other activities, to fix minimum wages, even for women workers who are especially handicapped in bargaining with employers, or otherwise secure wages for work assuring a decent level of subsistence. It has similarly become apparent that some States, seeking industrial advantages over others, by the employment of children and other cheap labor, have brought us face to face with competitive national problems which can be solved, if at all, only by uniform national legislation.

It follows that if the Supreme Court adheres to such precedents we must, soon or late, decide whether this Nation can afford to ignore resulting human tragedies, or by constitutional amendment is to secure enlarged power enabling it to legislate for proper and indispensable national objectives. Indeed, a constitutional crisis may be approaching in America similar to those stirring historical controversies, which in the past have taken the Nation into new legislative paths and have given it new constitutional guaranties of human rights and liberties. We have long rejoiced over the immortal 10 first amendments to the Federal Constitution. They are our personal Bill of Rights. With their inspired safeguards before us, if the denial of flexibility to the Federal Constitution continues, we may soon be called upon to write other amendments to our Constitution, defining the standards of an economic bill of rights.

To many it will be startling to discover that we are being driven into the crosscurrents and delays of amendments to the Federal Constitution. It has long been the boast of liberal leaders of the American bench and bar that, under the present powers of the Constitution, authority may be found enabling our Nation boldly and with originality to experiment for the general welfare. On that reasonable and happy constitutional theory Congress enacted much humane legislation between 1933 and the present hour. However, the recent unanimous decision of the Supreme Court indicates a regrettably inflexible change of judicial mood. Indeed, many qualified constitutional lawyers view that decision as nothing less than one of those legislative declarations of our highest judicial tribunal, which in the past have proven vital turning points in history.

The justification of nationally uniform and often humane legislation, which, from time to time, has thus been halted by unex-

pected judicial construction, is to be found in the essential purposes—including the general-welfare clause—of our Federal Constitution. In an address in November 1787 before the Pennsylvania Convention, which was elected to consider the adoption of our American Federal Constitution, James Wilson, one of the ablest of the Constitution's framers, gave the following as his view of the merger under the Constitution of State and National authority:

"Whatever object of government is confined, in its operation and effects, within the bounds of a particular State, should be considered as belonging to the government of the State; whatever object of government extends, in its operation or effects, beyond the bounds of a particular State, should be considered as belonging to the Government of the United States."

We have even higher authority. Our hero-worshippers are making us forget that George Washington was a great forward-looking liberal, who smashed precedents at will. Virginia was the first State to act on the proposal to call the Convention at Philadelphia, which wrote our Federal Constitution. The Journal of James Madison discloses that George Washington headed the Virginia delegation which took a leading part in the work of that Convention. That delegation was specially instructed by the General Assembly of Virginia "to join—in devising and discussing all such alterations and farther provisions as may be necessary to render the Federal Constitution adequate to the exigencies of the Union. * * * " The Virginia delegation, undoubtedly with the approval of George Washington, subsequently submitted proposals for the consideration of the Philadelphia Convention, including the declaration that "the National Legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confederation and moreover to legislate in all cases in which the separate States are incompetent or in which the harmony of the United States may be interrupted by the exercise of individual legislation. * * * " Thus we discover the incomparable name and approval of George Washington behind a liberal interpretation of the intent of the enumerated powers granted Congress by the Constitution. Here is but part of the persuasive evidence in the proceedings of the Constitutional Convention of Washington's far-sighted view that Congress was designed to be free, within expressed and implied constitutional grants, to legislate in behalf of general well-being in the United States in all cases where the States, acting separately, are unable to cope with national problems.

These expressions of our forefathers are but other ways of declaring that this Nation should be equipped to deal, in peace as in war, with all pervasive problems of the general welfare which cannot be solved by State action. It was the failure to act on that assumption which resulted in the sword of Civil War carving into the body of our Federal Constitution its thirteenth, fourteenth, and fifteenth amendments.

Is it not evident that the best assurances of the survival of our self-governing institutions lies in minds which place rights and duties beyond the temptation of profit; and which insist at all cost on free discussion, religious liberty, a free press, the right of free assemblage, fair trials, and other priceless guarantees of our Bill of Rights, as well as the industrial democracy which is the inevitable, modern sequence of those earlier assertions of individual liberty and equality? We must never forget that the framers of the Constitution provided the authority to adopt constitutional amendments. In this connection, let us recall that the Federal Constitution went into effect on March 4, 1789, and that on September 25, 1789—little more than 6 months later—Members of the First Congress, under the Constitution and the Presidency of George Washington, showed their readiness to use the amendatory method by submitting to the States 12 amendments, 10 of which were subsequently ratified by the original States, have ever since been retained, and are today known to the world as "the American Bill of Rights."

The founders of the American Union were well aware that free government, like free education, must be subject to change; that the ultimate governmental issue in the world is between flexible popular rule and ever-encroaching inflexible dictatorships; and that only under popular sovereignty, with the aid of expanding education, can life be permanently desirable and liberated from the threats of ever-increasing tyranny, under which the alternatives for human beings are submission to arbitrary rule, revolt, or suicidal wars. Equally important to bear in mind is the truth that, under free government, education forever leads those who teach and those who learn toward illimitable horizons of science, literature, free utterance and criticism, and triumphant fraternity. Soon or late it will be apparent that our world's progressive evolution discards the evils of one age to make way for the glories of another.

Fortunately, we are an adaptable and practical people, and there can be little doubt that, in the long run, we shall continue to advance with reasoned judgment along the highways of necessary national authority, in the exercise of which our final security must be guaranteed by government of, by, and for the people. Certainly, in that forward drive, we can do no harm by adopting, through constitutional amendments Federal authority, favored by George Washington, adequate to meet national problems and serve the whole Nation's well-being. Thus, from the largest to the least governmental units, the Federal-State plan of the founders of our system of government will rule the length and breadth of the land, giving assurances of a mighty destiny in which education will accept as its highest duty the support of the general welfare.

REGULATION OF HOLDING COMPANIES

Mr. BONE. Mr. President, I ask unanimous consent to have printed in the RECORD two brief editorial observations of the Philadelphia Record of July 11, 1935, the first dealing with the pending utilities bill, and the second discussing the attitude of the reactionary newspapers toward the President of the United States.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Record of July 11, 1935]

AS THOUSANDS DO NOT CHEER

The holding companies are still celebrating their great victory for the little investor in the House defeat of the Wheeler-Rayburn bill "death clause."

Unfortunate that a sour note should zoom over the horizon to annoy the celebrants.

In New York Federal District Court Monday, 23,000 little investors in Insull holding-company securities were denied the right to recover \$30,000,000, represented by securities which Insull pledged with a group of New York banks.

These little investors believed what they read on their debenture certificates—or what they thought they read:

"In Insull Utility Investment Corporation 'covenants' not to pledge 'any of its assets without securing the debenture holders equally, except for short-term loans in the usual course of business.'"

But the court ruled that when Insull put up \$30,000,000 worth of the good securities of his operating companies—the real assets behind these debentures—he was merely obtaining a loan "in the usual course of business."

In other words, the "covenant" was worthless. It didn't mean a thing, even back in 1929.

How tragic that the power lobby wasn't on hand then to protect the right of the little investors.

DAMNED IF HE DOES, DAMNED IF HE DOESN'T

On one thing the reactionary newspapers of the United States are agreed:

That whatever Mr. Roosevelt does—it's wrong.

Two years ago the Record warned the President that no matter what he did, no matter how conciliatory he might wish to be, he couldn't please the Tories, because the Tories would simply refuse to be pleased.

Last week the New York Herald Tribune, commenting on the Wheeler-Rayburn bill, denounced Mr. Roosevelt as a President "who has so lost his sense of perspective as to try to assume dictatorial powers over Congress."

This week the New York Herald Tribune, commenting on the Roosevelt tax program, denounces the President for "passing the buck" to the House Ways and Means Committee as to how much the new taxes should raise. And it adds: "Beyond the very general recommendations contained in the President's message, the administration refuses to be of assistance. * * * "

Damned as a dictator yesterday.

Damned for lack of leadership today.

Commenting on the holding-company bill, the Philadelphia Inquirer upheld the House for "defending the rights of the people from destruction by Presidential command."

Now, speaking of the tax bill, the Inquirer declares that "Secretary Morgenthau refuses to be headed in any definite direction, and he leaves the situation as much in the fog as ever."

Had the President demanded that Congress raise a specific sum, say, \$500,000,000—

The Tories now would be denouncing him for interfering with the legislative prerogatives of the House of Representatives.

Mr. Roosevelt is damned if he does, damned if he doesn't.

The Tories stick to their theme song:

"No matter what it is, we're against it."

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The clerk will state the first committee amendment passed over.

The first committee amendment passed over was, in section 5, paragraph (2), page 11, line 4, after the word "apples", to strike out "and not including fruits for canning."

The VICE PRESIDENT. Without objection, the amendment is—

Mr. COPELAND. Mr. President, I hope this amendment will not be acted upon quite so speedily. The people in my section of the country are anxious to have the House language restored, and I think there is abundant reason why it should be restored. I do not happen to be prepared today to discuss it at great length, but there are those here who

desire to do so. I know that my seat mate, the Senator from Georgia [Mr. GEORGE], is very much interested in this amendment, and is anxious to have the House language restored. I notice that the Senator from California [Mr. JOHNSON] is on his feet.

Mr. SMITH. Mr. President, will the Senator from New York allow me time to make an explanation?

Mr. COPELAND. I yield.

Mr. SMITH. I suppose there was no subject in the bill that was more thoroughly discussed than was this one. Fruits are more or less perennials. Orchards are of yearly production without replanting and without the ordinary methods necessary in cultivating an annual crop. It was evident to the committee that the canning of fruits was as much a part of their marketing as was selling them in the fresh state. The fact is it was brought to the attention of the committee that perhaps at times the major portion of the fruits which are produced, such as peaches, apricots, apples, and other fruits, are used in canning. Therefore, if the object of this bill is to create such a condition as will give the producer the opportunity to have a price which will enable him to receive a return somewhat approximating the profits which are made by the processors, his market should be taken care of, and we cannot leave one half the product unregulated and the other half regulated. We must either do away with any attempt to have the fruit market regulated or we have got to put both fruits used for canning and fresh fruits in the same category.

I think before the consideration of this paragraph shall have been concluded I will offer an amendment putting vegetables in the same category in which the Senate committee put fruits.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SMITH. I do.

Mr. LOGAN. I note what the Senator says, but, so far as tobacco is concerned, with the processing tax imposed on the firm or corporation or individual manufacturing tobacco and yet the individual farmer allowed to sell his natural-leaf tobacco to the consumer without the processing tax at all, it interferes very seriously with those who manufacture twist tobacco and other natural-leaf products. Has the Senator given or did the committee give any consideration to that question?

Mr. SMITH. I think that is the first time my attention has been called to any situation where the farmer was manufacturing his own tobacco.

Mr. LOGAN. The farmer is allowed to sell his leaf tobacco to the consumers. The farmers are organized and doing that throughout the tobacco district. They sell the tobacco to those who want to use the natural leaf. The manufactured twist tobacco has to pay a processing tax. The farmer who can sell his own tobacco to the consumer does it without a processing tax.

Mr. SMITH. Does the Senator mean the one who uses it for chewing or smoking gets it direct from the farmer and uses it in the unmanufactured and raw state?

Mr. LOGAN. Absolutely that is what I mean to say, and that is done very extensively.

Mr. SMITH. I never heard of it before.

Mr. LOGAN. It is done very extensively, and the manufacturers of twist and other natural-leaf products are making very serious complaint.

Mr. COPELAND. Mr. President, I may state that my seat mate, the Senator from Georgia [Mr. GEORGE], who is necessarily absent at the moment, is very much interested in this item. It has been suggested to me by the Senator from California [Mr. JOHNSON], and others who are interested, that perhaps the Senator from South Carolina would allow this item to go over for an hour or two.

Mr. McNARY. Mr. President, I hope the Senators now engaged in conversation will speak loudly enough for us over here to understand what is taking place.

Mr. SMITH. The Senator from New York has made request that this amendment, which I had hoped might be disposed of, may go over for an hour or two. If there is no

objection, I am agreeable that it shall be passed over temporarily.

The VICE PRESIDENT. The Chair understands the Senator from South Carolina to ask unanimous consent that the amendment which has just been stated may go over for 1 hour. Is there objection?

The Chair hears none, and it is so ordered.

Mr. KING. Mr. President, while we are in this subject, I should like to ask the Senator from South Carolina, the chairman of the committee, for information with reference to fruits which are perishable, such as peaches, plums, apricots, and all kinds of berries. Upon what theory can or should they be made subject to the terms of the bill? I cannot fathom the regulations which would be put into effect and the orders which would be submitted which would deal with such perishable products.

Mr. SMITH. It was the impression of the committee that of all producers in America who really ought to have aid, those whose products are perishable should be given consideration. The Senator must be familiar with the fact that watermelons, with which product I am somewhat familiar, have been shipped from time to time in carload lots to the great metropolitan centers. After a lapse of time, in many cases, the producer would get a freight bill back with the statement that the watermelons did not sell for sufficient to pay the freight. In other words, he gave someone a carload of watermelons and paid a bonus to have them take the melons.

I know that in my own community a certain individual some years ago started to raise artichokes for pickling purposes. Being a thrifty individual, he went to New York and engaged them at \$5 a barrel. He shipped about 3 barrels preliminarily. The freight was \$4.90, so that he got 10 cents out of the fruit. When I recounted that incident here years ago the Senator from Oklahoma [Mr. GORE] said the railroad companies had made a mistake and had overlooked the 10 cents.

The perishable nature of fruits and vegetables is such as to lend those products very readily to exploitation by the handlers and those who market them. Of all the people who need some kind of organization so that they can secure fair treatment and get a return for that which they produce for the benefit of the consumer, the producers of fruits and vegetables are the ones who need this kind of legislation, properly framed, without doing violence to the handler, and yet seeing to it that the producer gets an equitable return for what he produces and sells.

That is my answer to the Senator from Utah.

Mr. FLETCHER. Mr. President, I may not be able to be present in the Chamber when the Senator from Georgia [Mr. GEORGE] is here and the amendment with reference to fruits and canning of fruits is again before the Senate for discussion. Therefore I wish to say at this time briefly that in Florida there is no antagonism between the grower and the canner. So far as I can learn, one helps the other.

In the matter of grapefruit, for instance, I have eaten grapefruit ripened on the tree, perfectly wholesome and delicious because ripened in that way. It would not be possible to ship grapefruit of that kind at all. It has to be used at once. It cannot reach the market at all.

Then there is grapefruit which, because of some discoloration or defect on the outside, is not marketable. That kind of grapefruit the canner can and does use. Without the canner the grower would get nothing for it. It would be a total loss to him. That being true, the fruit which is not marketable, which cannot be carried any distance, depends upon the canner for a market. The canner comes and selects his fruit and pays for it, and that is the end of it so far as the producer is concerned. There are no packing charges, there are no hauling charges, and there are no freight charges. The grower gets just that much out of the crop which he would not otherwise get. Consequently he is interested in maintaining and encouraging the canner. There is no conflict between them, but there is a mutual desire to help each other.

The canner can get fruit which does not go to market and would not be marketed at all, which is perfectly good fruit and delicious in every way, wholesome and healthy and eminently suited for canning purposes. The grower gets a return for fruit which would otherwise be lost to him and wasted.

Consequently there is no antagonism between the grower and the canner. They are, I repeat, mutually helpful. The canners do not want to be included under the bill, and that is universally the position they take in Florida, so far as I am advised. They want the provision retained as it came from the House, and therefore object to the committee amendment which would eliminate fruit for canning purposes. We believe in the House provision, and when the time comes we shall vote against the amendment of the committee in that respect.

Mr. KING. Mr. President, I listened with a great deal of interest to the statement made by the chairman of the committee in answer to my interrogation as to the propriety and wisdom of including fruit under the provisions of the bill. I return very briefly to the subject.

The Senator from South Carolina knows that farmers and owners of small orchards produce fruit for their own use. There are millions of orchards in the United States in which are grown limited quantities of peaches, apples, plums, and apricots, as well as all kinds of berries. It seems to me it is absolutely impossible to set up a workable plan, even if we desired to do so, which would subject all persons who grow fruits for their own use, or for shipment, to the regimentation which is provided or will be provided under the terms of the bill if it should be enacted into law.

Mr. SMITH. Mr. President, will the Senator yield?

Mr. KING. Certainly.

Mr. SMITH. There is no provision whatever relating to fruits growing for personal use. This is wholly with respect to that fruit which is grown for marketing purposes, and that in interstate transactions only. There is nothing in the bill which pertains to the regimentation or the regulation of fruits grown for personal use.

Mr. KING. Mr. President, I have read the bill rather carefully and I have not found the line of delimitation which is indicated by the able Senator from South Carolina. If it could be made very clear that the bill is to include only fruits that may be grown for shipment in interstate commerce, it would remove some of the objections which I am now attempting to urge against the provisions of the bill with respect to this particular matter. When we again take up this subject, upon the return of the Senator from Georgia to the Chamber, I may renew my observations or inquiries concerning it.

The VICE PRESIDENT. The clerk will state the next amendment passed over.

The CHIEF CLERK. On page 11, line 6, after the words "(not including vegetables for canning)", it is proposed to insert "soybeans, hops, package bees and queen bees, poultry."

Mr. DUFFY. Mr. President, I offer an amendment to the committee amendment.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. On page 11, line 6, it is proposed to strike out the word "hops."

Mr. DUFFY. Mr. President, I also have presented an amendment which would strike out, on page 16, the words "hops and their products"; and because they should be considered together I ask unanimous consent that the two amendments may be considered together.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. McNARY. Mr. President, I do not understand the request of the Senator from Wisconsin. I gather that he desires to strike out the word "hops" on page 11 in line 6. He then referred to the word "products." That is found on line 1, page 11. Therefore, what is the full nature of the Senator's proposal?

Mr. DUFFY. The proposal is to strike out the word "hops", on page 11, line 6, as the Senator has stated.

However, to carry out the purpose of eliminating the word "hops" at that place it would also be necessary to strike out the words "hops and their products" on page 16, lines 11 and 12; and the two proposals should be considered together.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. DUFFY. I yield.

Mr. BORAH. The insertion of the word "hops" is a committee amendment; so the question would arise on rejecting or approving the committee amendment, would it not?

Mr. DUFFY. I present my amendment as an amendment to the committee amendment, proposing to strike out the word "hops." I am not raising any question as to the remainder of the committee amendment including "soybeans, package bees and queen bees, poultry." I merely wish to strike out the word "hops."

At the present time there are approximately 1,300 hop growers in the whole United States. Largely, they are located in the State of Oregon, and some also in the States of Washington and California. After the manufacture of beer was legalized in 1933, hops commanded an unusual and an unwarranted high price. Perhaps it was warranted by the scarcity at the time; but many persons, especially in the three States I have named, rushed into the hop-growing business, I suppose upon the theory that the excessively high prices for hops would continue; and I assume that the purpose of putting hops in this bill is to give them, possibly, some relief.

The same amendment that the committee has recommended was proposed in the House of Representatives. The amendment was defeated. I do not refer to my amendment; but in the House it was proposed to insert the word "hops" in the bill. That proposal was defeated in the House by a vote of approximately, as I recall, two and a half to one. I do not recall that it was a record vote. I believe it was a standing vote; but I think the action of the House was correct, and that hops should not be included in the bill.

Hops and the products of hops would be subject to the orders of the Secretary of Agriculture if the word "hops" should be permitted to remain in the bill. Such orders dealing with the handling of hops and their products may limit the total quantity of hops of any grade, size, or quality that may be marketed or transported to market by handlers during any specified period. They may also allot the amount of such commodity which each handler may purchase from producers. Such allotment is required to be made in accordance with some uniform rule based upon the amount of the commodities produced or sold by producers during a representative period, and such period would be determined by the Secretary of Agriculture.

Allotments to individual handlers are required to be made in accordance with a uniform rule. They may provide in such orders as to the extent of any surplus or of any grade, size, or quality; and the justification, apparently, from the report of the committee, is:

There is a market supply in excess of quantities sufficient to meet an effective consumption demand.

Mr. President, in my opinion, the system which has been proposed in this bill does not lend itself at all readily to the conditions under which hops are marketed. Hops are used almost exclusively in brewing beer and similar fermented malt liquors. It is the hops which give the beer its flavor; and although there are several tests recognized for hops, strange as it may seem, the most important test is the test for aroma.

If seeds and stems are not eliminated in picking hops, each pound of hops is much less valuable for brewing purposes. I am reliably informed—and I have been consulting with the departments here which seem to have information on the subject—that there has been only a very small carry-over as to the better grade of hops; that is, the grade of hops suitable for brewing purposes.

Many people who rushed into raising the crop of hops in the past year or two were not prepared for it. They did not have suitable kilns for drying the hops. The stems and the seeds were picked and were not carefully separated, and the result has been that a good many of the hops produced in this country have not been very suitable for brewing purposes; and as the aroma is an important element in the grading and quality of hops, it seems to me it is quite apparent that hops cannot be so susceptible of standardization as to justify their being placed in this bill.

To allot by any uniform rule, as required by the bill, would be, in my opinion, to penalize the growers of the better grade of hops, and to penalize the brewers of the country. I say that because, for instance, if production should be restricted by 25 percent, it would mean that there would be available next year 25 percent less of a good grade and the lower grades which are not so suitable and not so readily adapted to brewing purposes, and a brewer would have two alternatives. He would either have to make up the 25-percent reduction from a lower grade than he would otherwise like to do, or else he would have to use imported hops.

I am informed that the hop growers are not all in accord with the sentiment of my friend from Oregon [Mr. McNARY]. Oregon has the largest crop of hops. I am informed, for instance, that the growers of 70 percent of the hops, in Sonoma County, Calif., where the better grade of hops is grown, have telegraphed various Senators and members of the committee that they do not desire to have hops included under the bill. I do not think, generally speaking, that the growers of the better grade of hops do desire to be under the bill.

For instance, the New York State Agricultural Department is now doing some experimental work to rehabilitate the hop-growing industry in that State. I doubt very much if it would be possible for them to do so if the Secretary of Agriculture should undertake to limit the distribution and exercise the power and authority which he would have under this bill.

Senators will note that the bill says "hops and their products." On page 10 it says:

Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof.

What are the products of hops? Where would the line be drawn? Is not the language broad enough in its terms to include beer as a product of hops? If so, then it seems to me certainly there should be no such provision as this in the bill, because if it is a reasonable interpretation of what are the products of hops that beer might be so construed, the bill would give the Secretary power, by an order, to regulate the marketing of beer, including the fixing of trade practices, prices, and many other things which obviously should not be attempted in a bill of this kind.

Because of the practical impossibility of the standardization of hops, and because it seems to me it has not any place in this bill, I have urged this amendment, which will be in accord with the action taken by the House of Representatives.

Mr. McNARY. Mr. President, I think it would be well for me to explain to the Senator from Wisconsin [Mr. DUFFY] and to other Members of the Senate the situation from a parliamentary standpoint as it affects hops.

The Senate Committee on Agriculture and Forestry a month ago reported favorably a bill to amend the original Agricultural Adjustment Act so as to include hops as a basic commodity. I offered an amendment to that measure to place a processing tax of 2 cents a pound on hops. The bill is on the calendar, and no action has been taken on it.

The brewers of the country and some of the hop dealers, not interested in the production of hops, objected to any legislation affecting hops, upon the false theory that it was an attempt to penalize them by making them pay a higher price. For that reason, I have not asked to have taken from the calendar and considered the bill making hops a basic commodity, which carries with it a processing tax.

Consequently, when the committee met to consider the amendments to the Agricultural Adjustment Act, I offered an amendment to include hops, and the committee included it, but it affects hops only so far as marketing agreements are concerned.

Mr. President, I agree with what the Senator from Wisconsin has said; there is no desire whatsoever on the part of the producers of hops along the Pacific coast to have beer included under a marketing agreement, or in any way to have it brought within the jurisdiction of the Department of Agriculture, so far as the particular legislation now before us is concerned. Therefore I suggest at this time as an amendment—and I think I have such an amendment in my files—that after the word "hops", on page 11, line 6, there shall be included the following language: "Not including the products thereof." At this time I ask that the committee amendment be modified in that respect.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection, and the committee amendment is modified as suggested by the Senator from Oregon.

Mr. McNARY. Mr. President, that takes entirely out of consideration the interest of the brewer.

Mr. DUFFY. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. DUFFY. Of course, there are in my State a great many brewers, and I have consulted with them in regard to this suggestion, and they have told me that the statement just made by the Senator is not in accord with their ideas. In other words, they feel that hops should not be in the bill at all, that it is much better to have it as the Senator now proposes in his suggestion, but it still seems to me so fundamental that I do not think hops ought to be included in the bill.

Mr. McNARY. Mr. President, I am not attempting to dispute the statement of the Senator from Wisconsin. I have received telegrams from brewers to the effect that they would be perfectly satisfied with hops included in a marketing agreement. It is only as it affects their product, beer, or brings them under the processing tax, which this amendment would not do, that they object.

I think I can also well disregard any opposition of the few brewers who may not be favorable to this proposal—and I think some of them may reside and conduct their business activities in the State of Wisconsin—because nearly all the brewers, so far as I know, have either assured the hop men or the dealers that they had no objection to the plan which I am now proposing.

Mr. President, the production of hops is one of the substantial industries in three Pacific Coast States—Oregon, Washington, and California. The growers of hops in those States do not in any way desire to impose any new obligations or burdens on the brewery business. In those three States millions of dollars are invested in the production of hops as an agricultural occupation. It is a crop, produced from the soil, that requires more labor than the production of any other agricultural crop. Men, and women and children particularly, are engaged in the production of hops, and in their cultivation and harvesting. It is a crop whose production affects the poorer homes more particularly, thereby resulting in greater social relief than the production of any other crop harvested along the Pacific coast.

Recently a plebiscite was held, and all the hop growers of the country took a vote on whether they wanted to come within the provisions of the pending bill, and the Secretary of Agriculture, through his agents, notified me a few days ago that the vote was 7 to 1—seven producers of hops favored the inclusion of that commodity in the pending bill against one who did not.

What effect would the adoption of the proposal have on the breweries? It would be so infinitesimal that I am surprised that any one brewer, however many brewers there may be in the United States, should object to the provision. On my desk here is a statement from the Department of Agriculture, with which I am conversant, that less than 1 pound of hops goes into a barrel of beer which contains

32 gallons—less than 1 pound of hops is required to season a barrel of beer which contains 32 gallons.

Mr. DUFFY. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. DUFFY. Does the Senator know anything concerning the suggestion I made that there are growers of better grades of hops on the Pacific coast who do not desire to come under the bill?

Mr. McNARY. I know of only one such grower, and he is Mr. E. Clem Horst, who has a farm not far from where my farm is located in the beautiful Willamette Valley in western Oregon.

Mr. President, what does the Department of Agriculture say with regard to parity? If there is any virtue in the bill before us, if there is any desire upon the part of the Members of Congress to help the grower, the desire is to put him on a parity with other products and with industry. The Department of Agriculture says that by reason of the price which hops bring their parity is 38 percent, on the basis of 100 as an index number. The market price is 100 percent under the cost of production.

The hop growers cannot live under those conditions. If we are to include in the bill soybeans, package bees, queen bees, fruits, and vegetables, upon the theory that marketing agreements affecting them may bring about better conditions in the particular industries, the appeal for the growers of hops is stronger than is the appeal as to any other agricultural commodity within the bill.

If one would just look at this proposal soberly, and in the interest of the grower and not the brewer, he could see its advantages.

Mr. DUFFY. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. DUFFY. I assume the reference to "sober consideration" has nothing to do with the product of hops? [Laughter.]

Mr. McNARY. No, indeed; I qualified that.

Mr. SHIPSTEAD. Mr. President, will the Senator yield to me?

Mr. McNARY. I yield.

Mr. SHIPSTEAD. I understand the Senator's amendment would eliminate the products of hops.

Mr. McNARY. Exactly. I am standing here as a representative of the growers of hops. The amendment would have no effect on the brewers of the country, who can look after their own interests.

Mr. SHIPSTEAD. If the Senator will permit me, I believe the Senator from Wisconsin said that the chief and most valuable product of hops was the aroma of beer. If this tax should be imposed upon hops, does the Senator think it would have a deleterious effect on the aroma of beer? [Laughter.]

Mr. McNARY. Not at all. I have some interest from the grower's standpoint, and it is not the burr which makes the aroma of the beer. It is the lupulin, a pink substance which lies close to the core or seed. That is what produces the aromatic quality in beer.

The PRESIDENT pro tempore. Let the Chair call attention to the parliamentary situation, which the Senator may desire to consider. As the Chair understands, there are two amendments to be considered as one on page 11. On request of the Senator from Oregon, and by unanimous consent, an amendment to the committee amendment, including the words "not including the products thereof" after the word "hops" in line 6, has been adopted; but the amendment of the Senator from Wisconsin also deals with the word "hops" on line 11, page 16. The two are to be voted on together, as the Chair understands.

Mr. McNARY. Yes. I stated very frankly, with some knowledge of the subject matter, that it was far from my idea, that it was wholly outside of my purpose, to involve the brewers and their products in the bill at all, and wherever the word "products" appears in the bill I wish to have it removed. I appeal to Members of the Senate from the standpoint of the grower of the raw material. I am only asking that hops be included in this particular section as it affects

marketing agreements. I do not know whether it is tremendously important or not, but the hop growers think so.

In the original act the subject was treated from the standpoint of a license. In the pending bill there is an effort to treat it from the standpoint of an order. At this particular time the Department of Agriculture has worked out a hop agreement which, I think, has been adopted by the hop growers of the country and the salesmen of hops and the handlers thereof in a very satisfactory way. The proposed amendment merely clarifies the original act, and agreements based thereon. In other words, the Secretary of Agriculture, with the consent of the hop producers, and upon their petition, without the opposition of the brewers of the country, has worked out an agreement under this section as contained in the organic act, and all I am doing, I repeat, is to ask for the insertion of hops as an agricultural commodity, for the purpose of clarifying the language, making certain what the agreement is, and eliminating the brewer and his interests, and the products of hops.

Mr. President, when we stop to consider what we are trying to do by this bill, and realize that the hop industry is a very large one in these States; that the cost of production is 100 percent under the sale price, and that the proposal now made will not take any of the profits away from the brewer or affect him injuriously in any way, I think we shall come to the conclusion that this commodity ought to stay in this provision in order that there may be certainty with respect to the law and the agreements based thereon.

The PRESIDENT pro tempore. Will the Senator from Oregon [Mr. McNARY] give his attention to page 16, line 11, where the word "hops" occurs, following which there occur the words "and their products."

Mr. McNARY. Mr. President, I ask unanimous consent that the words "and their products", following the word "hops", on page 16, line 11, be stricken out.

The PRESIDENT pro tempore. Without objection, the words "and their products", following the word "hops" in lines 11 and 12, on page 16, of the bill are stricken out.

Mr. SMITH. Mr. President, let me call attention to a necessary amendment in line 1, page 11, which follows in line with the argument of the Senator from Oregon [Mr. McNARY]. The sentence begins at the bottom of page 10, line 23, as follows:

Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores).

I suggest that to carry out the request made by the Senator from Oregon he should include hops at that point so it would read "(except products of hops and of naval stores)."

Mr. McNARY. Mr. President, I have no desire to quarrel with the chairman of the committee or make any suggestion other than the one I originally made, which was that after the word "hops" in line 6, page 11, there be inserted the words "not including the products thereof."

Mr. SMITH. I thought perhaps it would simplify the matter if the language were inserted in line 1, page 11, because they both come within the same category.

Mr. McNARY. I am perfectly willing to do so. I want to keep out of this bill any reference at all to the brewery interests, and I wish to have the provision placed at the point where it is most suitable.

Mr. SMITH. We had excepted naval stores, and I thought it would be well to place the exception as to hops in the same place.

Mr. BORAH. Mr. President, are we sure now that the brewers have been left out?

Mr. McNARY. I had hoped so. I think they are perfectly able to take care of themselves. I made the statement I did in order to declare the purposes of the amendment, and simply to make it certain that I am only dealing with the growers of hops and not with the brewers.

Mr. BORAH. I wanted to be sure.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Wisconsin [Mr. DUFFY] to the committee amendment as amended, to strike

out the word "hops" on page 11, line 6, and also to strike out the word "hops" on line 11, page 16.

The amendment was agreed to.

Mr. McNARY. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Clark	La Follette	Radcliffe
Ashurst	Connally	Lewis	Reynolds
Austin	Coolidge	Logan	Robinson
Bachman	Davis	Loneragan	Russell
Bailey	Dieterich	McAdoo	Schall
Bankhead	Donahay	McGill	Schwollenbach
Barkley	Duffy	McKellar	Sheppard
Bilbo	Fletcher	McNary	Shipstead
Black	Frazier	Maloney	Smith
Bone	George	Metcalf	Steiner
Borah	Gerry	Minton	Townsend
Brown	Gibson	Moore	Trammell
Bulkley	Glass	Murray	Truman
Bulow	Gore	Neely	Tydings
Burke	Guffey	Norbeck	Vandenberg
Byrd	Hale	Norris	Van Nuys
Byrnes	Hastings	Nye	Wagner
Capper	Hatch	O'Mahoney	Walsh
Caraway	Johnson	Overton	Wheeler
Carey	Keyes	Pittman	White
Chavez	King	Pope	

The PRESIDENT pro tempore. Eighty-three Senators having answered to their names, a quorum is present.

Mr. McNARY. Mr. President, the question was put to a vote very hurriedly. I ask unanimous consent that the vote by which the amendment was adopted be reconsidered in order that I may ask for a yea-and-nay vote on the amendment.

The PRESIDENT pro tempore. The Senator from Oregon asks unanimous consent that the vote by which the amendment of the Senator from Wisconsin [Mr. DUFFY] to the committee amendment was agreed to be reconsidered. Is there objection?

Mr. DUFFY. I understand the request is made by the Senator from Oregon in order that there may be a yea-and-nay vote on the question?

Mr. McNARY. Yes.

The PRESIDENT pro tempore. The Chair hears no objection, and the vote by which the amendment to the amendment was agreed to is reconsidered.

Mr. McNARY. On the question of the amendment offered by the Senator from Wisconsin to the committee amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STEIWER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. STEIWER. I think I understand the situation, but I wish to state my understanding of it. The question now recurs upon the motion of the Senator from Wisconsin [Mr. DUFFY] to perfect the committee amendment by striking out the words "hops, not including the products thereof", in line 6, page 11, and on page 16, line 11, striking out the word "hops." Those who favor the committee amendment would, therefore, vote "nay", and those who are in favor of striking out the word "hops" and the words "not including the products thereof" would vote "yea"?

The PRESIDENT pro tempore. That is the parliamentary situation.

Mr. McNARY. Mr. President, as I understand the parliamentary situation, those desiring to vote for the amendment offered by the junior Senator from Wisconsin will vote "yea" on this question.

The PRESIDENT pro tempore. That is correct.

Mr. FLETCHER. Mr. President, does the question also involve the provision on page 16?

The PRESIDENT pro tempore. The two questions are considered together. The committee amendment was amended at the request of the Senator from Oregon [Mr. McNARY] by unanimous consent, by inserting after the word "hops" in line 6, page 11, the words "not including the products thereof"; and on page 16, lines 11 and 12,

after the word "hops", striking out the words "and their products."

Mr. BANKHEAD. Mr. President, the committee included hops in this bill on the suggestion and at the request of the Senator from Oregon [Mr. McNARY]. I should like to know if there is any real division among the Senators from the hop-growing States with respect to this provision. I desire to ascertain their sentiments. I understand hops are produced in Oregon, Washington, and California. If there is a division of opinion on the question, I should like to know it.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. SCHWELLENBACH. As I understand, the Senator from Alabama asked whether there was any division among the Senators representing the States in which hops are grown.

Mr. BANKHEAD. That is correct.

Mr. SCHWELLENBACH. I will state that so far as the hop growers of the State of Washington are concerned, they are almost unanimously in favor of being included in the bill.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SMITH. Do I understand that the amendment on page 11, line 6, after the word "hops", to insert "not including the products thereof", has been agreed to?

The PRESIDENT pro tempore. That amendment to the committee amendment was agreed to by unanimous consent.

Mr. SMITH. Therefore, if we vote "yea", we vote to strike out the word "hops" with the amendment providing that the products thereof are not included.

The PRESIDENT pro tempore. That is correct.

The clerk will call the roll.

The Chief Clerk called the roll.

Mr. LEWIS. I desire to announce that the Senator from Alabama [Mr. BLACK], the Senator from Colorado [Mr. COSTIGAN], the Senator from Mississippi [Mr. HARRISON], the Senator from Arizona [Mr. HAYDEN], the Senator from Iowa [Mr. MURPHY], and the Senator from Oklahoma [Mr. THOMAS] are necessarily detained from the Senate on official business.

The Senator from New York [Mr. COPELAND] is detained in a conference at the White House. I am advised that if present and voting he would vote "yea."

I also desire to announce that the Senator from Nevada [Mr. MCCARREN] is absent because of a death in his family, and that the Senator from Louisiana [Mr. LONG], the Senator from Utah [Mr. THOMAS], and the Senator from West Virginia [Mr. HOLT] are detained by important public business.

I announce further a general pair between the Senator from Nevada [Mr. MCCARRAN] and the Senator from Iowa [Mr. DICKINSON]. I am not advised how either Senator would vote on this question.

Mr. AUSTIN. I wish to announce that the Senator from New Jersey [Mr. BARBOUR] has been called from the Senate on official business. If present, he would vote "yea."

The result was announced—yeas 48, nays 34, as follows:

YEAS—48

Adams	Coolidge	La Follette	Reynolds
Bachman	Davis	Lewis	Russell
Borah	Dieterich	Logan	Schall
Brown	Donahay	Loneragan	Sheppard
Bulkley	Duffy	Maloney	Shipstead
Bulow	Fletcher	Metcalf	Trammell
Burke	Gerry	Minton	Truman
Byrd	Glass	Moore	Tydings
Carey	Gore	Neely	Vandenberg
Chavez	Guffey	O'Mahoney	Van Nuys
Clark	Hatch	Overton	Wagner
Connally	King	Radcliffe	Walsh

NAYS—34

Ashurst	Caraway	McGill	Robinson
Austin	Frazier	McKellar	Schwollenbach
Bailey	George	McNary	Smith
Bankhead	Gibson	Murray	Steiner
Barkley	Hale	Norbeck	Townsend
Bilbo	Hastings	Norris	Wheeler
Bone	Johnson	Nye	White
Byrnes	Keyes	Pittman	
Capper	McAdoo	Pope	

NOT VOTING—13

Barbour
Black
Copeland
Costigan

Couzens
Dickinson
Harrison
Hayden

Holt
Long
McCarran
Murphy

Thomas, Utah
Thomas, Okla.

So Mr. DUFFY's amendment to the amendment of the committee, as amended, was agreed to.

Mr. TYDINGS. Mr. President, while the senior Senator from South Carolina is on the floor, and in order that a question brought out by the bill may receive brief comment from him, I should like to ask him if he will turn to page 14 of the bill, at the bottom of the page? I understand that section (D), beginning in line 18, is probably desired by the majority of the milk producers of the country.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. TYDINGS. Yes.

Mr. NORRIS. Has the Senator any objection to the pending committee amendment?

Mr. TYDINGS. I have not, except that the whole philosophy of the measure is involved in this provision, and I am using it in order to make an inquiry.

I am going to read, on page 14, line 18, section (D):

(D) Providing that, in the case of all milk purchased by handlers from any producer who was not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing for 3 full calendar months from the first day of the next succeeding month, shall be made at the price for the lowest use classification specified in such order.

In my State we have such an arrangement by agreement between the producers and the distributors, I understand, with the consumer being represented.

I am not attacking the merit or the wisdom of the provision. What I am asking is, can anyone show under what authority in the Constitution we have the right to fix the price of milk produced in South Carolina and sold in Charleston, S. C. Certainly, if the decision in the N. R. A. case is to apply to this bill, the bill is manifestly going to be held to be unconstitutional by the highest court, and all our work will have gone for naught.

Mr. SMITH. Mr. President, if the Senator will turn to page 10, beginning with line 17, he will understand that the provision of the bill which he has just read is governed by this clause:

Only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

I will state to the Senator that there are those here who are vitally interested in and who are a good deal more familiar with the complex question of milk handling and distribution than am I. I dare say that this matter gave the Agricultural Department, and certainly it gave the committee, more trouble and was worked on more diligently than any other provision of the bill. As the Senator says, in his State, in order to protect the regular customers, outsiders are not permitted to take advantage of any exigent condition and come in and destroy the market. This provision, of course, is subject to the limitation as to interstate commerce and also to the cooperation of the States, where they desire to cooperate. The provision does not in any way affect the right of any citizen to use all the markets available to him, but will be subject, of course, to the power under the Constitution to regulate interstate commerce.

Mr. TYDINGS. I thank the Senator from South Carolina, who has answered my question quite clearly.

I am not attacking the merits of a proposition of this kind; on the contrary, I can see ample reason for it, and I am not attacking the proposition as an enemy of what is sought to be done by that section of the bill. I am only attempting to point out that, in my humble and very fallible constitutional judgment—for I do not argue constitutional questions on this floor very often—that provision is not worth the ink which is necessary to print it, because the Congress has no more authority, whether the States agree or do not agree, to enforce a national law which attempts to fix the price of milk, we will say in Charleston, S. C., if

that milk is produced in South Carolina. There is no warrant for it in any decision of the court of which I know and, therefore, in my judgment, we are writing something that in a year or a year and a half from now will find its way to the highest tribunal and in all likelihood it will be held to be invalid.

My purpose in bringing out this point—and it has already been discussed more or less on the floor—is to ascertain whether or not we want to take time to set up an agricultural policy which many men who are friendly to the philosophy of this particular section feel will not stand the test when the test comes.

Mr. NORRIS. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Nebraska?

Mr. TYDINGS. I yield.

Mr. NORRIS. I am certainly not finding fault with the Senator in his constitutional argument on this question. If the Federal Government should undertake to do what the Senator has described and in Charleston fix the price of milk which was produced in South Carolina, it would be an unconstitutional undertaking. There is no intention to do such a thing.

The operation of the milk provision, as the chairman of the committee has said, is one of the most difficult things possible; but unless the milk business be regulated, the situation can become most harmful and disastrous to the producers. The Senator says those interested are operating in his State under an agreement just like the one here proposed.

Mr. TYDINGS. That is true.

Mr. NORRIS. Mr. Davis went into considerable detail before the committee in discussing the situation. It is not intended that Mr. Davis, as administrator, or the Federal Government shall under any circumstances undertake any procedure which would affect the price of milk in intrastate markets unless it is done in cooperation with the State authorities.

Suppose, in the case the Senator stated, the Federal Government did not cooperate with the South Carolina authorities. Then those engaged in interstate commerce would in turn be able to put out of business the intrastate men. We thought this provision necessary in order to enable the interstate part of the milk market in Charleston to be controlled by the Federal Government, letting the intrastate part be controlled by the authorities of the State of South Carolina. By working in harmony they could produce good results. I believe the Senator from Maryland will admit that. There is no intention to do anything else.

Mr. TYDINGS. In view of the explanation made by the Senator from Nebraska, if it would work out that way—

Mr. NORRIS. I am not sure that it would, and I think no one can be sure; but I think the only way to find out is to try it.

Mr. SMITH. This is an attempt to make it work.

Mr. TYDINGS. My thought in reading that provision—and I did not necessarily connect it with the amendment on page 10—was that it would be silly, taking section (D) alone, for us to say we would do something which, when the question got into the courts, we would promptly find we were not able to do. My interest is not primarily to oppose the section, because in Maryland such a plan worked very well and has been fair to producer, distributor, and consumer under the agreement.

I am a little concerned, but I do not think it need be great concern, as to whether, if interstate shipments should not be included, they would affect to any great extent the existing agreement covering the intrastate milk business. However, I think that an effort has to be made to regulate interstate shipments, and in view of the explanation of the chairman of the committee and the Senator from Nebraska I shall not interpose further objection to the provision.

Mr. BORAH. Mr. President, I did not exactly understand the explanation of the Senator from Nebraska [Mr. NORRIS]. Is it the intent to combine the two powers, interstate and intrastate, in seeking in any sense to control the intrastate action through the Federal Government.

Mr. NORRIS. I think that is correct. The milk question is one of the most difficult to handle.

Mr. BORAH. Yes; I realize that it is.

Mr. NORRIS. Let us take the city of Baltimore, in the State of Maryland. It is desirable to regulate the sale of milk and not have somebody come in and put others out of business by first making too low a price and later raising it to a higher level. The State of Maryland can make regulations about the sale of milk in Baltimore if the milk is produced in Maryland. But if the milk is produced in South Carolina and shipped into Baltimore, then Maryland has no control over that interstate shipment.

If the Federal Government had no authority to go into the milk problem it could not help the State at all, but if it had such authority, and we seek to give it that authority here, then if the Federal authorities and the Maryland State authorities worked in harmony they could completely control the milk situation in Baltimore. As I understand, that is what the section is trying to accomplish. It is admitted to be difficult. It is admitted that it involves some close questions of constitutional law.

However, it is desirable and admitted on all hands, except perhaps by a few producers who might want to drive somebody else out of business, that we should have this regulation. The intention is for the Federal authorities, in a case like that of Baltimore, and in similar cases all over the United States in the larger cities, to get in touch with the State authorities and try to work in harmony with them to control the situation.

The PRESIDENT pro tempore. The question is on agreeing to the amendments of the committee, as amended, on pages 11 and 16. Without objection, the amendments, as amended, are agreed to.

Mr. LONERGAN. Mr. President, I send to the desk two amendments which I ask to have stated.

The PRESIDENT pro tempore. The first amendment submitted by the Senator from Connecticut will be stated.

The LEGISLATIVE CLERK. It is proposed on page 29, after line 20, to insert the following new paragraph:

(B) No order shall be issued under this act prohibiting, regulating, or restricting the advertising of any commodity or product covered hereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

Mr. BORAH. Mr. President, before we go to that, may I ask the status of the amendments on page 11 with which we were dealing?

Mr. SMITH. Mr. President, I call attention to the fact that the hour having expired, the first amendment passed over is in order; and I ask that the amendment of the Senator from Connecticut [Mr. LONERGAN] be temporarily withheld until we dispose of the amendments which have been passed over. I refer now to the amendment on page 11, where the committee struck out "and not including fruits for canning."

The PRESIDENT pro tempore. The Chair will state the parliamentary situation. The debate by the Senator from Maryland [Mr. TYDINGS] had ceased, and the Chair stated that the question was upon the adoption of the committee amendments, as amended, on pages 11 and 16, and that without objection they would be agreed to.

Mr. GEORGE. Mr. President, the Senate misunderstood the Chair. I was listening attentively to the statement by the Chair; and while the occupant of the chair has correctly stated his language, that immediately followed a vote simply eliminating hops; and I assumed that the purpose was to deal only with the part of the amendment on which the vote had been taken.

Mr. SMITH. The part of the amendment which was passed over was the amendment in reference to whether fruits for canning should be excluded or included.

Mr. GEORGE. Yes; so if adverse action has been taken upon the amendment proposed by the Senate committee to the House text in line 4, page 11, I ask unanimous consent that it be reconsidered.

The PRESIDENT pro tempore. The language referred to by the Senator from Georgia in lines 4 and 5 of page 11 was not under consideration. Its consideration was suspended for 1 hour by unanimous consent. It is now before the Senate for consideration.

Mr. McNARY. Mr. President, I do not know what action was taken a moment ago, or just what statement was made by the occupant of the Chair. The two products mentioned on page 11, line 6—soybeans and hops—were cared for by a vote of the Senate. The question now should recur upon the next item, package bees.

The PRESIDENT pro tempore. The committee amendment is in one clause. That clause was amended by striking out "hops." Then the question recurred on the amendment as amended, and it was adopted.

Mr. McNARY. Oh, no; if that was done, it was not done with forethought.

The PRESIDENT pro tempore. The Chair is not responsible for the forethought of Members of the Senate.

Mr. McNARY. I am not responsible, either. I am now speaking about proper legislation and the form it should take. We all know that each one of these commodities must be acted upon deliberately and according to the rules. It is not possible, under the rules, to say from one page to another that action was taken. If such a thing does appear in the RECORD, I ask unanimous consent that the vote by which the action announced by the Chair was taken be vacated.

The PRESIDENT pro tempore. Let the Chair make a statement in answer to that suggestion.

The committee amendment under consideration was to insert the words "soybeans, hops, package bees and queen bees, poultry" before the words "and naval stores, as included in the Naval Stores Act and standards established thereunder." That was the committee amendment. It was amended by the Senator from Oregon by inserting, after the word "hops", the words "not including products thereof", which was agreed to. An amendment by the Senator from Wisconsin [Mr. DUFFY] was adopted, striking out the word "hops."

Naturally, after being amended, the question recurred on whether or not the Senate would adopt the committee amendment as amended. The Chair stated that that was the question before the Senate, and that, if there was no objection, it would be adopted.

Now the Senator from Oregon has asked unanimous consent that the vote by which the committee amendment as amended was adopted be reconsidered. Is there objection?

Mr. FLETCHER. Mr. President, I inquire of the Senator from Oregon whether he objects to any of those items.

Mr. McNARY. I may not object; other Senators may; but we cannot legislate in that wholesale fashion and have our action record the views of the majority of the Senate.

The PRESIDENT pro tempore. The question is, Is there objection to the request of the Senator from Oregon?

Mr. CONNALLY. Mr. President, reserving the right to object, is the request of the Senator from Oregon merely that the committee amendment be reconsidered, but not the amendment of the Senator from Wisconsin?

Mr. McNARY. Oh, no; I am not trying to revive that.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Oregon? The Chair hears none, and the vote by which the amendment as amended was adopted is reconsidered. The question now is on the committee amendment, as amended.

Mr. SMITH. Mr. President, I call attention to the fact that in the first paragraph on page 11, line 4, the committee struck out the words "and not including fruits for canning." That amendment was passed over for 1 hour for the purpose of allowing the Senator from Georgia [Mr. GEORGE] to be present at the time of its consideration. The hour now having elapsed, I ask that the amendment be considered at this time.

The PRESIDENT pro tempore. The Chair will state that the pending question before the Senate is on the adoption

of the committee amendment just referred to as amended. Does the Senator desire to take up some other matter?

Mr. SMITH. Mr. President, a parliamentary inquiry. Since we reserved that amendment for separate consideration, would it be proper now to dispose of the italicized part beginning with "soybeans"?

The PRESIDENT pro tempore. Without objection, then, the pending amendment will be temporarily set aside, and the question will recur on the amendment in line 4, page 11, striking out the words "not including fruits for canning." Is there objection to that? The Chair hears none.

Mr. GEORGE. Mr. President, I rise for the purpose of saying that I hope the Senate will reject this amendment and restore to the bill the original text as passed by the House.

In the first place, as it seems to me, there can be no real reason for including canned fruits within the operation of this bill, because, under the orders which the administrator is authorized to issue, the price of fruits to the grower or producer may be and can be fixed. Certainly under the committee amendment the producer's price can be fixed on the portion of the crop purchased by the canner as well as upon the portion of the crop of fruits covered by this bill that is disposed of as green fruits.

I do not think there can be any serious question about that; but if there is a question on the part of the proponents of the bill, or those who have it in charge, I respectfully invite attention to the provisions of the bill as they appear on page 18, line 13, subsection (F), which authorizes the fixing of a minimum price which anyone, including a canner, must pay to a grower for the raw material he purchases.

That this power is absolute, even though against the will of any and all canners, is clearly set forth in the bill on page 21, lines 3 to 25, inclusive, and page 22, lines 1 to 25, inclusive, and page 23, lines 1 to 6, inclusive.

The existence of such power is clearly evidenced on page 9 of the report of the committee itself; and it will be observed that canners may be brought under marketing agreements without their consent. It does not require cooperation.

I read from the report of the committee:

Without such consent of the handlers to be covered thereby, a proposed order may become effective only if the Secretary of Agriculture, with the approval of the President, finds (1) that the failure of the requisite number of handlers to sign a marketing agreement, upon which a hearing has been held, tends to prevent the effectuation of the declared policy; (2) that the issuance of the proposed order is the only practicable means of carrying out the declared policy; and (3) that the issuance of the proposed order is approved or favored by at least two-thirds, by number or volume, of those producing the commodity for market.

So, Mr. President, so far as the price of green fruit is concerned, this bill authorizes the fixing of the price to the producer, and it authorizes the fixing of the price without the consent of the canner and against his will. Therefore there can be no legitimate reason for bringing the canners under the jurisdiction of the Department of Agriculture and of the A. A. Administrator, so far as the price to the producer of the fruit is concerned.

Is there any other legitimate purpose of the act? Is there any other just reason why a valuable food product should come under the jurisdiction of such an official, when it has paid to the producer the price that has been fixed under the law, and fixed even for the canner himself, and which he cannot avoid, because he may be involuntarily compelled to come within the terms of the order?

Mr. BANKHEAD. Mr. President, may I ask the Senator a question?

Mr. GEORGE. I yield to the Senator from Alabama.

Mr. BANKHEAD. How can the price agreement be enforced on the canner unless he is subject to the orders?

Mr. GEORGE. How can a price agreement be enforced upon anybody?

Mr. JOHNSON. Mr. President, pardon me. What is the question that was asked? We could not hear it.

Mr. BANKHEAD. The Senator from Georgia, as I understood him, was making the argument that the price for the producer having been fixed, that price controlled the canner;

he was obliged to pay the price fixed for the producer. The question I ask the Senator is how the canners can be obliged to pay the price if they are exempt from the operations of this measure.

Mr. GEORGE. They are not exempted from the operations of this measure. They are brought in against their will. They may be covered under the agreement upon the finding of three simple things which, of course, will be found. How is anybody going to be made to pay the price? If that is what the Senator means to ask, I desire to say frankly that it cannot be done, because the price of any article moving in interstate or intrastate business cannot be fixed unless it be affected with a public use.

However, I am waiving that question, which I am not arguing, I am saying that under the bill the price which must be paid to the producer of fruits is fixed, and it brings the canners who purchases fresh fruit under this provision, because here is a provision which expressly says that though a majority of the handlers do not agree, the Secretary of Agriculture, with the consent of the President, may bring them under the marketing agreement.

Mr. HATCH. Mr. President—

The PRESIDING OFFICER (Mr. MURPHY in the chair). Does the Senator from Georgia yield to the Senator from New Mexico?

Mr. GEORGE. I yield.

Mr. HATCH. I merely desire to ask a question, because I know the thought was expressed in the committee, as I recollect, that if the amendment proposing to strike out the words "not including fruits for canning" were rejected, that would constitute an exception of fruits for canning which would go throughout the entire bill, and all the orders and marketing agreements and prices to producers could not be fixed if the fruits were to be used for canning purposes.

Mr. GEORGE. Of course; and that is the reason why I am asking that we reject this amendment, because there is no substantial necessity for including the canners when the price of the fruit to the producer is fixed.

Mr. HATCH. The point I was making is that the price would not be effective to the producer.

Mr. GEORGE. Will the Senator tell me why it would not be effective if the price at which the fruit is to be sold to anybody will be effective?

Mr. HATCH. If the words "not including fruits for canning" were inserted in the bill as in the House measure, that would constitute an exception for all purposes.

Mr. GEORGE. Exactly.

Mr. HATCH. That was the thought expressed in the committee.

Mr. GEORGE. That is true, and that is why I am asking that this amendment be rejected. But the bill does authorize the fixing of the price to the producer. Then there is an effort made to bring the canner of fruits under the terms of the bill so that the price of the canned product itself may be fixed.

Mr. BANKHEAD. Let me suggest to the Senator that it does not bring the canners under the bill except so far as the effect of the fruit for canning is concerned.

Mr. GEORGE. That is true, of course.

Mr. BANKHEAD. It does not bring the canners directly under it. The bill, as it passed the House, excepted fruits for canning, just as it excepted apples.

Mr. GEORGE. Exactly.

Mr. BANKHEAD. And therefore took them wholly out of the bill.

Mr. GEORGE. That is, fruits for canning purposes.

Mr. BANKHEAD. Yes; fruits for canning, just as it did apples.

Mr. GEORGE. Yes.

Mr. BANKHEAD. So that if we leave the House language, then we eliminate entirely any program covering fruits used for canning purposes.

Mr. GEORGE. That is so far as controlling the price or making allocations are concerned.

Mr. BANKHEAD. It just takes them out of the bill, just as apples have been taken out.

Mr. GEORGE. It does not take fruits out.

Mr. BANKHEAD. No.

Mr. GEORGE. But canners would not be brought within the bill if the House language were agreed to.

Mr. BANKHEAD. It would not. It is "fruits for canning", as the Senator from New Mexico pointed out.

Mr. GEORGE. That is true. I may not have made myself very clear.

Mr. HATCH. I am afraid I did not make myself clear.

Mr. GEORGE. I think I understand the Senator's position, and perhaps I was at fault because I did not make my own position clear. My position is that the price of fruits to the producer may be fixed under the bill.

Mr. BANKHEAD. Except for canning purposes.

Mr. GEORGE. If the House language is taken, except for canning purposes. If the Senate amendment is taken, of course, even for canning purposes.

Mr. BANKHEAD. They are fixed.

Mr. GEORGE. They are fixed for the producer.

Mr. BANKHEAD. That is correct.

Mr. GEORGE. Let me ask the committee again, in order that I may understand the situation; if canners are brought under the bill, are not other provisions of the bill relating to handlers made applicable to the canners and to the products of the canners?

Mr. BANKHEAD. I think so, so far as paying the price is concerned. I call the Senator's attention to the beginning of this section, on page 10:

COMMODITIES TO WHICH APPLICABLE

Orders issued pursuant to this section—

Which covers the whole order program—

Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof.

Certain ones are listed and then there appears the clause "and not including fruits for canning." So if the House language is left in the bill, as I previously pointed out, we simply eliminate entirely from the producer's standpoint and from every other standpoint all power of any sort to control, under this order program, fruits used for canning.

Mr. GEORGE. Mr. President, I am asking that the Senate reject the Senate committee amendment and let the House language stand, because I cannot see any practical necessity for the amendment that will equal or offset the very great disadvantages which may be placed upon consumers and may be placed upon the industry itself in sections of the country where the industry has not been developed by the adoption of the amendment made by the Senate committee to the House text.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. CONNALLY. Is it the Senator's contention that elsewhere in the bill there is an effort to control the price of fruit after it is canned?

Mr. GEORGE. Oh, yes; I think undoubtedly that is the effect of the bill.

Mr. CONNALLY. May I ask the Senator from Alabama if that is also his view?

Mr. BANKHEAD. I think under the bill as it passed the House fruits for canning are entirely eliminated from the bill.

Mr. GEORGE. The Senator means if the Senate committee amendment is agreed to?

Mr. CONNALLY. No; I mean if we restore the language as the Senator desires, does he contend that the Secretary would then have jurisdiction over the price of the canned fruits?

Mr. GEORGE. That is the effect of the bill.

Mr. BANKHEAD. I do not agree with that.

Mr. GEORGE. That is the effect.

Mr. BANKHEAD. The object is to give the producer the price.

Mr. GEORGE. The effect of it is also substantially to control the price of the canned goods.

Mr. CONNALLY. I see the Senator's point, but on the other hand, if we restore the language of the House, it would seem to me legally that it would absolutely operate to exclude from the operation of the law any fruit intended for canning.

Mr. GEORGE. It would.

Mr. CONNALLY. Therefore the Secretary could not, by agreement or otherwise, fix the price of the fruit, provided it was going to be used for canning.

Mr. GEORGE. That is true if the House text is taken.

Mr. CONNALLY. So there would be no control whatever.

Mr. GEORGE. That is true.

Mr. CONNALLY. If the Department has control of that kind of fruit, inevitably it is going to react upon the price of other fruit, because if it is kept a little while it will deteriorate, and no longer be good for anything except probably for canning. Why could not the Senator accomplish his object by offering an amendment making it clear that after the fruit has once been canned then the Department shall have no jurisdiction over it? I am inclined to vote with the Senator on that, but I am not inclined to vote with him to exempt it because it is simply to be used for canning, for the canning industry is well organized, and if we remove any control of the price, it is going to play havoc with the producer. After anyone has bought it and paid the producer, he ought to be able to sell it in the market as he sees fit.

Mr. GEORGE. There are so many restrictions under the bill, allocations and marketing areas, that substantially the price is fixed. There can be no escape from that conclusion.

Mr. CONNALLY. Why could not the Senator use the language, "not including canned fruit", or "not including fruit after it is canned"?

Mr. GEORGE. I do not know how an appropriate amendment could be drawn unless there should be a general exception of canned fruits from the operation of the entire bill.

Mr. CONNALLY. That is not what the Senator is asking.

Mr. GEORGE. No; I am not.

Mr. CONNALLY. He is asking to exempt fresh fruits.

Mr. GEORGE. I am.

Mr. CONNALLY. If he will exempt canned fruit, I am with him.

Mr. GEORGE. I am asking first that fruits for canning be exempted from the act for the reason that the canned-fruit industry of this country is confined very largely to a small geographic area. If the growth of a fully matured man is fixed, it does not hurt him, but if his growth is arrested when he is a boy of 10 or 15, then he is destroyed. That is exactly what this bill does. It gives to a few, one or two of the Western States, a stranglehold upon the canning industry of the country. That is precisely what it does. That is what it is intended to do, in my honest opinion.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. NORRIS. I know the Senator does not desire to misrepresent anyone, and when he says it is intended to do that thing, I want to object.

Mr. GEORGE. I do not mean by the committee, but I mean by those who have asked for this particular amendment.

When the bill was first presented to the Senate I inquired of the chairman of the committee as to who asked for the amendment. I am not imputing bad faith. It is simply the desire of those who virtually have a monopoly to keep it.

Mr. NORRIS. Did the Senator receive an answer to his question?

Mr. GEORGE. I received the answer that it originated with the committee, that is to say, that there was no particular person back of it.

Mr. NORRIS. I will be frank and state to the Senator that, so far as the action of the committee is concerned, the amendment striking out the words "and not including fruits for canning" was upon my motion. I am not ashamed of it. I do not apologize for it.

Mr. GEORGE. I am not asking the Senator to apologize for it; but the effect is to give to one or two States practically a control of canning or production of fruit for canning.

Mr. NORRIS. As a matter of fact, Mr. President, so far as I know, there is not a constituent in my State who has asked for it or written to me about it. I may be very ignorant and very dense, but I had no knowledge whatever as to any

fruit industry in which my constituents may be interested. I was influenced by what, in my ignorance, I supposed to be a fair deal. It seemed to me, and it seems to me now, notwithstanding the very forceful argument and some insinuations—

Mr. GEORGE. I did not mean to make any insinuation, if the Senator from Nebraska will pardon me. I will withdraw any insinuation; but I repeat that the effect of the bill is to give one or two States a practical control of canning, in my opinion.

Mr. NORRIS. I have no objection to the Senator saying that, of course.

Mr. GEORGE. And I am proceeding with my argument on the theory that whenever an industry is fairly well developed within a given locality of the United States, to arrest the development of that industry in other sections of the United States is to continue the control enjoyed by the few States.

Mr. NORRIS. Mr. President, will the Senator yield further?

Mr. GEORGE. I yield.

Mr. NORRIS. It will only take a sentence or two to let the Senator understand why I believe as I do. My belief is based entirely on the proposition that fresh fruit and canned fruit are to so great a degree in competition that I think, to be fair, they ought to be both included or both excluded. I would just as soon have both of them out as to have both of them in the bill. I am not speaking for any industry. However, if we put in one, we ought to put in the other, as I see it. If we take one out, we ought to take out the other. It is immaterial whether they are both in or both out.

Mr. GEORGE. I appreciate the Senator's view. The view, of course, which the Senator emphasizes is that if the price paid by the canner—who is one of the buyers, of course, of fruits—is to be free, fixed by him at his discretion or will, in accordance with general marketing conditions, we shall have altogether destroyed the purpose of including fruits in this provision of the bill. I can appreciate that.

Mr. President, I desire to call the attention of the Senate to the following provisions of the bill:

On page 16, at line 20, subdivision (A), there is authority for a limitation upon the total quantity of canned fruit or the quantity of any grade or size of canned fruit which a canner may transport or market. I have not any doubt that it will be so construed. This comes under the "orders", it is true; but if this language remains in the bill the canner may be brought under and made subject to the orders without his consent, merely if the given number of producers ask it—not all the canners. So that the orders to be issued by the Secretary, with the approval of the President, against the will of all the fruit canners, necessarily under this particular subdivision, in these particular lines and page, may be construed to limit the total quantity of canned fruit or the quantity of any grade or size of canned fruit which a canner may transport or market.

Then, again, under subsection (B), page 17, line 1, there is authority to limit the quantity, grade, or size of fruit which any canner may purchase from producers.

Again, at page 17, line 12, subdivision (C), there is authority to allot the amount of canned fruit which any canner may market in each and all markets by sizes and grades or otherwise.

Then, on page 18, line 1, subdivision (D), authority is given to determine the existence and extent of any surplus in the hands of a canner or canners and to take over the control and distribution of such surplus.

On page 18, at line 9, subsection (E), authority is given to establish reserve pools of any canning fruit or any canned fruit and distribute the net returns from such pools.

If the language remains in the bill, as I have attempted to argue in the first instance, subsection (F), line 13, page 18, provides for fixing the minimum price which the canner must pay to a grower for the raw material he purchases; and the power is made absolute, and without the consent of canners, but only upon condition that a specified percentage of

the producers of the fruit themselves ask the Secretary of the Treasury and the President to issue the order covering the canners.

Mr. President, I believe that approximately 90 percent, let us say, of asparagus is canned in a single State. The same thing is true, varying only in degree, when other fruits are considered. If approximately 90 percent of a given fruit is canned in a single State, under this bill the industry cannot expand, except in a like proportion, if at all, in the other sections of the United States. That does not seem to me to be fair. It does not seem to me to be just. It does not seem to me to be right, even though the purpose of the bill may be, by the insertion of this particular amendment, to give to the producer a fixed price for his product. In other words, even though the purpose of the bill may be entirely consistent with the object in view and with the original act, and may be altogether desirable, it cannot be necessary to give that advantage to a State which already possesses a virtual monopoly so far as canned fruits are concerned.

To illustrate, let us take the case of peaches, or the case of asparagus, or of citrus fruits, save that the State of Florida has very rapidly become a great canner of citrus fruits.

Now, Mr. President, it becomes necessary for me to speak plainly, and I propose to speak plainly. The Pure Food and Drug Division of the Department of Agriculture has within the last 10 years virtually outlawed peaches canned in Georgia. They did it not upon the ground that the peaches were not good, not that they were not pure, not that they were not wholesome, not that they were not edible, not that they did not possess all the qualities, and perhaps additional ones, of the California peach—I regret to refer to any State, but I must make this argument clear—but they did it upon the ground that in point of appearance the Georgia peaches had to carry a label which virtually excluded Georgia canned peaches from the market, and from that hour canning in Georgia, although it is a great peach-producing State, was arrested. Why? Because this department of government, the Department of Agriculture, or those acting under it, were administering the law partially, notwithstanding the fact that delegation after delegation of representatives and senators came here and protested against the requirement that we must put upon our canned fruit a label which would necessarily result in excluding Georgia canned peaches from the markets.

Senators may say that we may rely upon the Department not to be unfair. I assert now that the Department of Agriculture 10 years ago was unfair and seriously crippled the canning industry of my State with respect to one of its important products. I assert now that they admitted that the Georgia peach was not only as good as any other, but that it possessed qualities which were not possessed by some other peaches; but the Department had their own peculiar standards, and those who had most voice in fixing those standards, and the men who administered the law for the most part did not come from Georgia, had never been in Georgia, and knew nothing about Georgia industry.

One can so easily make partial rules and regulations, and it is so difficult, so very difficult, to meet them, and it is impossible to get a bureau to change its decisions. It will not do it.

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. FLETCHER. The Senator's position is that the language on page 16, line 6, "and not including fruits for canning", should likewise be rejected?

Mr. GEORGE. That would follow, if the committee amendment were rejected on line 4, page 11.

Mr. President, I have never before made an argument of this kind.

Mr. ASHURST. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. ASHURST. The Senator from Georgia asserted that the Department has been unfair and is unfair. I do not think the Senator need produce any lengthy argument to demonstrate that contention. To read this bill is sufficient

to convince any man who thinks directly of things instead of around things that it is not fair. No American who wishes to be fair will vote to impose a tax of doubtful validity and then urge Congress to deny the citizen the right to go into the courts and test the validity of that tax. I thank the Senator from Georgia.

Mr. GEORGE. I thank the Senator from Arizona for his observation.

Mr. President, I have said that I have never before made an argument of this kind in the Senate. I hesitate to make it.

Mr. BANKHEAD. In order to have the point clearly in my mind, let me ask the Senator a question. I understand his statement to be that the unfair administration to which he referred was in connection with the Pure Foods and Drugs Act?

Mr. GEORGE. I was merely illustrating by that suggestion.

Mr. BANKHEAD. I refer to the particular application which the Senator made as affecting Georgia.

Mr. GEORGE. The particular illustration which I gave related to Georgia.

Mr. BANKHEAD. Under laws which are now on the statute books?

Mr. GEORGE. Yes; under laws which are now on the statute books.

Mr. BANKHEAD. So the law of which the Senator is complaining is already in existence?

Mr. GEORGE. That is true, but this provision will bring canned fruits under the control of the Department if the committee amendment shall be agreed to. I am trying to call to the Senator's attention the provision of the bill which, through allocation, limitation, and restriction, makes it possible to confine the development of the canning industry within those localities or geographical areas in which that industry has already been very largely developed. I do not say completely developed, because the development may, of course, continue; but the progress of the canning industry in the United States has been most seriously hampered because of the partial interpretations which have been made, particularly as to fruits, and also as to some vegetables, as I recollect, under provisions of the Pure Foods and Drugs Act.

Mr. President, who do this? The fresh-fruit market is not, as a rule, controlled by the price paid by canners. The contrary is true, generally speaking, of the Southeast, at least, though I would not say that it is true universally. The supporting element in the market of the Southeast is the canner. He is the man who will contract in advance for fruits, and in some instances for vegetables, and will agree to pay a price. He is the man who, very largely, makes it possible for us to carry on the industry in our section. There is always the canner when the fresh-fruit market goes to pieces and the producers are not able to sell their fruits on that market. I will illustrate my thought. When it comes to melons, let us say, the canning of which has not as yet developed in the Southeast, there is virtually no market upon which the producer may put any reliance or dependence. Time after time in the memory of every man who has grown melons of any kind in the Southeast the producers have loaded their melons onto the cars, unloaded them, and given them away. That is not true in the case of green vegetables where a cannery is available; it is not true where there is some support for the fresh-fruit market. It is not true in the case of asparagus; it is not true in the case of peaches, and would be far less true if the peach-canning industry were further developed; but in the case of melons and fruits, for the canning of which no facilities have been developed, the market is substantially without support, and that market is frequently not only disorganized but it is often destroyed in the midst of a growing or marketing season. So the producers of fruits and vegetables, at least, in the Southeast, will, in my judgment, be seriously hurt if the canners shall be brought under the conditions and terms of this bill. Why?

Canned fruits and canned vegetables in large measure are the fruits and vegetables which are used and consumed by

the poor and by those who have but moderate purchasing power.

The greater quantity of our canned fruits and vegetables go into the homes of people of very moderate means. They become almost the only source of supply of fruits and vegetables for many of our people whose purchasing power has been greatly reduced.

Why add to that burden? Why advance the cost of these necessities of life? Why do so when, so far as the fresh-fruit market is concerned, the price may be fixed without reference to this particular amendment? So far as the bill goes, the price may be absolutely fixed to the producer, and anyone who is buying from the producer must pay that price.

It is true, A or B or C, canner or individual, cannot be compelled to buy at that price, but the price is fixed, and the producer is given the benefit of that fixed price; he has his products in his hands, and he may take advantage of that situation to prevent, reasonably at least, any unjust combination on the part of canners to beat down the price of his product and to buy it below the market.

Mr. FLETCHER. Mr. President, may I interrupt the Senator?

Mr. GEORGE. Certainly.

Mr. FLETCHER. The Senator is familiar with the condition in Florida, where we produce grapefruit and oranges in connection with which, particularly in the case of grapefruit, a considerable canning industry has been developed. The Senator knows—and I think he will bear me out in the statement—that much of the fruit used for canning the juice is just as good and healthy and wholesome as is the fresh fruit, but is not available for the fresh-fruit market on account of some discoloration or other defect that interferes with the appearance of the fruit. So such fruit is not afforded a market as fresh fruit, but its use is confined to canning purposes. If the canner should be eliminated and could not take from the grower such fruit, the grower would lose the entire product and would have no market.

Mr. GEORGE. The Senator from Florida is entirely correct. Every person who is familiar with Florida fruit knows that the portion of the citrus fruit crop which goes to the canner to have the juices extracted and canned is perhaps the very best part of that crop in point of fact; but, because it does not meet some standard requirement, of course it is not put on the market in competition with the fresh fruit.

I do not think it can be emphasized too strongly, Mr. President, that the poor of this country, as a rule, cannot pay the prices charged for green vegetables and fresh fruits. They must, very largely, at least, depend upon the canning industry to supply them with their necessary fruits and vegetables.

I would not make the plea that the grower of fruits is not entitled to a fair and just price; but when he is given the power to fix the price of his fresh fruits, and, with that power in his hands, he has also the power to organize, it does seem unfair to a great mass of the consumers of the country that we are asked by the committee amendment to place the canners under the bill, to regulate and control the canners, and therefore, in effect at least, to control and regulate the price to all consumers.

Mr. President, I wish to repeat that under this bill and under the particular subsections to which I have called attention I believe there can be no doubt that the orders which may be imposed without the consent of the canner—bear that in mind; against his will in fact—can and will limit the total quantity of canned fruit or the quantity of any grade or size of canned fruit which the canner may transport or market. If that be so, we may expect a very sharp and rapid advance in the prices paid by those who consume canned fruits and vegetables. If that be so, we may expect those States that already have a fully developed industry to be able practically to prevent the spread and expansion of that industry into other States. Under this bill and under the particular subsection to which I call attention, the order may limit the quantity or the grade or size of fruit which

any canner may purchase from a producer. It does not make any difference about the quality of the fruit; its size may be the determining factor. Furthermore—and this is most important—the amount of canned fruit which any canner may market in each market may be allotted. When we write such a provision in this bill we stifle the industry in any other State where it is being developed or is in process of development.

Mr. President, I earnestly hope that the committee amendment will be disagreed to and that the House text will be restored to subsection 2 of section 8 (c) on page 11 of the bill, and that the corresponding amendments which will then, of course, be necessary may be made in subsequent sections of the bill, to which the Senator from Florida has directed attention.

Mr. President, I wish that every section of this Union had an equal voice in the administration of its laws; I wish that were true, but I would not be candid with the Senate if I did not say that not an important office, not an office carrying policy-fixing power in the division that will administer this proposed provision of the bill, is held by any man from my State.

Mr. KING. Or any man elected by the people.

Mr. GEORGE. Yes; or by any man elected to office. That will be the story over and over again. It may not be an argument that should be made, but it is the fact. With a State now canning within its borders 89 percent of the canned asparagus, and having a correspondingly high percentage of other fruits and vegetables grown and canned within its borders, and with a bill here which simply puts the halter around the neck of the industry to prevent its expanding in any other part of the country, I think the South and Southeast—I even feel emboldened to say a single State—may properly come to the Senate and ask that this provision be stricken out of the bill and the House text retained by the Senate.

Mr. JOHNSON. Mr. President, it is very natural that the distinguished Senator who has just taken his seat should speak on this question from the standpoint of the State which he represents. It is equally natural that I should speak from the standpoint of the State I represent.

I express my very deep regret that the Senator's State has been treated in the fashion he suggests in respect to the glorious peach which he described. I would go with him any length in order to rectify a wrong of that sort or to do aught that might be done to see that justice be accorded him, and accorded him most fully. But, sir, the objections he presents to the amendment here before us, an amendment which is submitted by the committee after due deliberation, are not in reality objections to the amendment. The objections he has are objections to the bill. As I followed him in what he has said in that regard, he insists that the administration of the bill by those who may not be familiar with his particular territory is what he fears may result in wrong in his territory or what he fears may result in injury to the industries of his State.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Utah?

Mr. JOHNSON. I yield.

Mr. KING. I do not want to misunderstand the Senator. My understanding of the basis of the argument of the Senator from Georgia—and I came in from a committee meeting just before he concluded—was that he was pleading not only for his State, but to have a uniform rule throughout the United States, namely, that fruit which is canned should not come within the operations of the bill. He did not confine it to his State alone, but to all States, including the State of the Senator from California.

Mr. JOHNSON. Mr. President, let me suggest that I would not for the world misstate what was said or indulge in any intent to cause misapprehension of what was said by the Senator from Georgia. I think that accurately I stated the conclusion which might have been drawn from the remarks he made.

However that may be, the committee comes here with an amendment which we believe ought to be sustained. It is an amendment which puts fruits which are canned in the same category as other fruits—fruits which are not canned. That that should be so, anyone familiar with the fruit industry ought, it seems to me, readily admit.

In some States, I grant, there is not a friendly feeling between the canners on the one side and producers on the other. In other States, I grant, there is a relationship between canners on the one side and producers on the other which may render them desirous of carrying out the views of either one side or the other.

In the State from which I come the fruit industry is so great that interrelated are the proceedings and the sales and the activities of green fruits and those which subsequently may be canned. That the fears of the canner are wholly fanciful will be demonstrated by a knowledge of what is sought to be done by the bill in the provision under discussion. We seek, in this particular provision, relating to commodities to which the bill may be applicable, to list those things which will come within the purview of the bill. These provisions relate to marketing agreements.

Marketing agreements can be made only if 50 percent of the canners in the one instance shall agree or two-thirds of the growers or producers in the other instance shall demand it. If, as in the State of Georgia, the producers are in such relationship to the canners that they feel their interests are one, no marketing agreement can ever be consummated, because two-thirds of the growers are required in order that it shall be consummated or, on the other hand, one-half of the canners.

If, in a State like that from which I come, there are differences existing between the canners on the one hand and the growers on the other, exactly the same situation prevails. Marketing agreements, therefore, need never be feared by any State where canners and growers are in accord and where they are acting in concert, as the Senator from Georgia would indicate they are acting in concert in his State.

What is more reasonable? I am not going to argue the merits of the bill nor speak of those provisions concerning which the Senator from Georgia has spoken, which, in his opinion, make the bill one which ought not probably be passed. I am not going to argue now in reference to any of those provisions which he thinks may be administered by those who are not familiar with his particular territory. But I ask, if we adopt this measure, if we make it applicable to agricultural products, on what theory shall we make it applicable to a part of the fruit-raising agricultural productivity of particular States and not applicable to other parts?

Where such quantities of fruit are produced, as in my State, of course we must take into consideration in any legislation relating to the subject matter not alone the green fruit which is but a part of that which is raised, but the very great and considerable quantity of canned fruit which results therefrom. It is perfectly obvious that if we deal with only a moiety of fruit thus produced and do not deal with the other part of the fruit thus produced, we will have chaos so far as marketing conditions are concerned and difficulty under a bill such as is presented here today.

Much was said by the Senator from Georgia about production in a single State. What of it? I cannot see that it is either something that is derogatory to a State or something that should be apologized for by anybody coming from that State. I have no apology, of course, to make in that regard. Consider the fruits and other commodities which are canned in this country. All the canned apricots are produced in the State of California; all the canned olives are produced in the State of California; from 97 to 99 percent of the canned peaches are produced in the State of California. What State, therefore, has a greater interest in this bill and in the endeavor to give a market to that which comes from the soil than has the State which

thus produces and thus cans such an extraordinary proportion of that which is consumed in and that which is exported from the United States? So, with the knowledge of what is done in the State of California, with its productivity conceded and admitted, with the statistics demonstrating just what I have said, why should not the State of California stand here and express its views as well as the State of Georgia upon a subject matter of this character, which means such extraordinary things in the agricultural life of that State?

Something was said by my friend from Georgia about asparagus. Do Senators realize where the greatest amount of asparagus is canned in this country? In California, in 1934, 1,914,000 cases were canned. Do Senators realize what percentage that is of all the asparagus that was canned in the United States? It is 89 percent of all that was canned in the United States.

So, of course, I endeavor to present an amendment here in relation to asparagus by which it shall be in a different category from vegetables generally, as stated in the clause on page 11 of the measure; and I present it because the asparagus growers desire it; and I state here on behalf of the fruit growers of the State of California, who produce such an extraordinary proportion of the canned fruits of this Nation, that they desire that their product, when it goes into the cannery, shall be put upon a parity with their product when it is of a different character, and that it shall be treated under this bill exactly as all fruits are treated under the bill. There is nothing in that which strikes me as being in the slightest degree something that ought not to be done, nor anything that requires caviling or criticism from any source, of any character, or under any circumstances.

What is it that is desired? Solely that as the process goes on with the fruits of the State, as they are finally canned in such an extraordinary amount, that product shall be in exactly the same relationship to the law it is sought to pass as the remainder of the fruit may be.

That is all there is to this amendment.

—Mr. TRAMMELL. Mr. President, I understand that as the House passed this bill it was provided that fruits for canning purposes should not be included within the provisions of the measure. The Senate committee proposes to amend the bill by striking out that provision, which would subject fruits for canning purposes to the imposition of the various rules and regulations contained in the bill.

In Florida the canners have succeeded in making remarkable progress during a period of some 10 or 15 years since the industry was established in that State, and I understand they are getting along nicely at the present time in spite of the depression. The fruit growers of the State have made no complaint whatever that the present Agricultural Adjustment Act does not apply to fruits for canning purposes. This amendment seeks to require that all the fruits used in canneries shall be subjected to the terms of the bill, just the same as the fruit that is placed on the general market.

I am unable to see why the fruits sold to the canneries should be subjected to these provisions. In my State both the producers and the canners are against having them included. There is a difference in the grade of fruit used for canning and that shipped in to the general market.

Mr. BANKHEAD. Mr. President, will the Senator allow me to ask him a question?

Mr. TRAMMELL. I will.

Mr. BANKHEAD. I should like to ask the Senator if he thinks it is unreasonable to provide a plan under which the producer may get a decent price for his fruits, even though they are bought for the cannery?

Mr. TRAMMELL. The producers are very well satisfied with the present plan. Of course, if we are going into details, I will say that in my State they did go under this proposal to obtain decent prices, as the Senator states. They did not obtain decent prices. They have become weary of the system and have withdrawn from the system. That is the result among the producers in Florida. They have withdrawn from it.

It is one thing to say we are going to get decent prices for the producers, that we are going to promote the interests of agriculture, and we are going to promote the interests of the fruit growers; but obtaining those beneficent results is another thing. I cannot go into details, but I know that the people of my own State have decided that they were getting no benefits by reason of the trade agreements affecting fruits being under the provisions of the present law; and the citrus-fruit growers of Florida generally, producing under ordinary circumstances approximately 36,000,000 boxes of fruit per annum, have recently withdrawn from such agreements.

There is no one from my State who is asking for this amendment. The producers are perfectly content and satisfied to remain outside of the bill, and they are satisfied to be let alone in regard to the fruit which is supplied to the canner.

The canners in my State have been a great aid to the citrus-fruit growers, the pineapple growers, and others. They have purchased a great quantity of fruit and utilized it in that way, and thus have removed the necessity for placing such a great surplus of fresh fruits in the usual channels of trade. I do not know of any reason whatever for this measure, by means of which we are trying to assist the agricultural interests of the country, except that there are surpluses that have to be cared for.

That is true of cotton; that is true of wheat; that is true in regard to fruits. The question of proper, systematic marketing at least comes into it; and I myself, conforming to the wishes of the producers of my State, hope that the Senate will reject the amendment proposed by the Senate committee and allow the text to stand just as it was in the House bill as it came to the Senate.

I am speaking, of course, as one of the representatives here of a very large fruit-producing State; but many States prepare for market different kinds of fruits. To say that every time a producer in one of the various States throughout the Union proposes to sell fruit to canners for canning purposes he shall have to place his head in the halter and go through the process required by this bill is, in my opinion, an absurdity. The producers should not be required to subject themselves to the provisions of the measure, which is intended to apply to general industries needing assistance from the Government.

Mr. COPELAND obtained the floor.

Mr. SMITH. Mr. President, will the Senator from New York allow me at this point to call attention to what seems to be a misapprehension of the whole procedure, with particular respect to citrus fruits?

There are three independent sections, not treated collectively but treated separately: the Florida section, the Rio Grande—that is, the Texas—section, and the California section. Neither one of these, except with the consent of the majority of the producers, comes under the terms of the bill. It was brought out, as anyone reading the hearings will find verified, that at any time, even during the marketing season, when a majority of the producers say, "We want to withdraw", all they have to do is to take a vote and they are out. If they want to come in, they can take a vote and come in. There is nothing arbitrary about it. There is no noose for anyone to put his head into unless he makes the noose and puts his head into it.

Mr. McADOO. Mr. President, may I ask the Senator a question?

Mr. SMITH. Yes.

Mr. McADOO. The Senator is addressing himself now to the citrus-fruit provision?

Mr. SMITH. I refer to the provisions of the bill as to canners—any provisions which affect those three sections.

Mr. BYRD. Mr. President, will the Senator yield? The Senator says this is voluntary. I wish to repeat what I said the other day, that the licenses or orders provided for can be imposed by the votes of 50 percent of the handlers of any given commodity without the votes of the producers.

Mr. SMITH. The Senator is referring to a section to which he has offered an amendment, which I think is a very

good one. That refers to a portion of the bill which does not affect this provision. The Senator is referring to the provision requiring certain handlers to reach an agreement, and the votes of 50 percent of them are necessary; and he has offered an amendment including a certain percentage of the producers under that particular paragraph. I have reference now to the question of canning fruits and vegetables. This all comes under the general head of an agreement on the part of the growers. If they vote themselves out, they are out. If they vote themselves in, they are in.

Mr. BYRD. Mr. President, I desire to repeat that the bill does not give to the growers the power to vote themselves in. It gives to 50 percent of the handlers the power to determine whether or not marketing agreements shall be entered into.

Mr. SMITH. That is in relation to the handlers in interstate commerce.

Mr. BYRD. That is in reference to the entire marketing agreements which we are now discussing under the amendments.

Mr. SMITH. I beg the Senator's pardon.

Mr. BYRD. Mr. President, if the Senator will read his own report, on page 3, he will find this statement:

Under the proposed amendments it is made clear that the Secretary must issue an order whenever the handlers of 50 percent by volume of the commodity to be covered in the order have signed a marketing agreement regulating the handling of such commodity.

Mr. SMITH. Precisely; having reference entirely to the handlers, when it is a question of orders that govern the handlers.

Mr. BYRD. Mr. President, with all due deference to the Senator, he is mistaken about that. The orders which are promulgated regulate the producers just as well as they do the handlers. Under this provision the handlers may initiate the orders whereby the producers will be restricted as to what they shall do, and the Senator's own report plainly so declares.

Mr. SMITH. Mr. President, that has reference entirely to the question of the handlers in marketing. It is absurd to say that an agreement on the part of the handlers has reference to the marketing agreements of the producers. They are two distinct things.

In reference to the particular point at issue, namely, the citrus-fruit question and the production in certain regions, I call attention to the objection of the Senator from Florida [Mr. FLETCHER]. He sent to the committee a letter which we discussed. In the letter he did not indicate that the provision as to citrus fruit would cover all the citrus fruit produced in this country.

It was made clear, and it is so indicated, that Florida is distinct, and is treated as a distinct unit. The Rio Grande production is a distinct unit, as is that of California. So that whatever agreement may be reached in California will not affect Florida or the Rio Grande.

Mr. President, I do not want any misapprehension to be entertained in regard to the bill. On page 22 this language occurs:

That the issuance of such order is the—

Mr. COPELAND. Mr. President, may I ask whether I still have the floor?

The PRESIDING OFFICER (Mr. ADAMS in the chair). The Chair was in some doubt. The Senator from New York was recognized.

Mr. COPELAND. There was nothing for the Senator from New York to do but to subside. I used to believe we had rules here which protected debate, but apparently they do not now exist. However, I yield to the Senator from South Carolina to go on indefinitely, and sometime I will try to get the floor on my own account.

Mr. SMITH. Mr. President, with abject apology to the Senator from New York, I yield the floor, and will allow him to take it at his pleasure. [Laughter.]

Mr. COPELAND. I would not have denied the Senator from South Carolina the opportunity to make a speech.

Mr. SMITH. I thought it was a courtesy which was extended to the chairman of the committee on a very im-

portant point, which he was very ably elucidating for the benefit of the Senate. [Laughter.]

Mr. COPELAND. I will say one more disagreeable thing. If the Senator from South Carolina the next time will ask whether I am willing to yield I shall be glad to yield to him, but I dislike being swept off the floor, as happens too commonly in the Senate. Either we ought to proceed in an orderly fashion or just have a pow-wow all the time.

Mr. SMITH. Mr. President, I apologize and humbly retire.

Mr. COPELAND. The apology is accepted with pleasure.

Mr. President, I am sorry that I represent a constituency which cannot give its full support to this particular measure. If I represented some other constituency, perhaps I could think this bill was wise, but when I know that the enactment of the bill would increase the cost of living and make greater the misery of countless citizens in my State, and particularly in the city where I live, where there is more unemployment than anywhere else, there being there 2,000,000 unemployed, I feel impelled to rise and say a word or two about it.

I know the bill means that every barrel of flour the people buy will cost \$1.50 more, that every pound of meat will cost 4 to 5 cents more, and that everything the people consume will be increased in cost, as, indeed, costs have been increased by the law which is now sought to be extended.

Mr. President, I now come to the matter which has been so ably presented by the Senator from Georgia that it seems silly for me to say even a word about it, but we cannot ride through the country anywhere in the fall, when fruits are ripe, without seeing the tremendous waste. Fruits are permitted to drop off the trees and bushes and to rot upon the ground.

Why should there be imposed upon the fruits which may be used for canning another burden of tax in order to prevent their use for such purpose? I wish everybody in the United States could have fresh fruit and fresh vegetables every day of the year, but that, unfortunately, is not possible. Many people are too poor to have fresh fruits and vegetables, taken from refrigerated cars or from refrigerators. They depend upon canned fruits and canned goods of other kinds. That is America. The chief equipment of a home in the United States is the can opener, and every household depends upon canned goods.

An effort is being made to impose a burden upon the food of the poor, and, so far as I am concerned, if I were the only one, I should stand up to resent it and to oppose it. It is not right that we should do it, and I can see no reason why we should do it.

Granting for the moment that it is proper to include under the terms of the bill fine, perfect fruits, that is one thing, but to include those fruits which are to be canned and used in the homes of the poor of the United States, to my mind is a crime against humanity, and I want to enter my solemn protest against the procedure.

Mr. SMITH. Mr. President, in answer to what the Senator from Virginia has called attention to, I was about to read from the bill, and I hope all Senators who are interested will read the text of the bill.

I do not care to enter into any argument at all as to the necessity for including canned fruits and vegetables under the terms of the law, for the reason that the canning of fruits and vegetables constitutes as much their marketing by those who produce them in the raw state as does the marketing of fresh fruits and vegetables.

As to fruits and vegetables being obtained in the canned form for the poor, I do not think it is necessary for me to call attention to the fact that the most notoriously poor people, who actually produce the volume of wealth of this country, are the farmers. The people who produce the vast majority of the wealth of the country, the material out of which the wealth is made, are the farmers, and they are the most notoriously universally poor of all those who actually produce wealth. The volume of the production of the people who produce the material out of which we are all clothed

is the underlying foundation upon which our organized society rests.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. COPELAND. Was the Senator ever in a tenement house?

Mr. SMITH. Yes; I have been, and I am here to state that by some strange psychology there are thousands of people who would rather stay in a metropolitan center, in a tenement house infested with rats and vermin, than to go out and make an honest living in the country. Everybody knows that to be so.

Mr. COPELAND. Will the Senator yield?

Mr. SMITH. There is a stigma attached to farming. The farmer is called the "old hayseed" and the "old farmer." He is the butt of every caricature; he is the sign and symbol of ignorance and incompetency. Thousands of people think it is a disgrace and a lowering of social status to be either classified with or to come into social contact with a farmer.

Mr. COPELAND. Mr. President, will the Senator yield at that point?

Mr. SMITH. No; I am speaking well, and I do not want to be interrupted. [Laughter.]

Mr. COPELAND. I wish to give the Senator an example. I was born on a farm, so I am an example of exactly what the Senator is talking about.

Mr. SMITH. Judging from the Senator's speech, I am afraid he has become an apostate. I will illustrate my point. I am just back from the Senate restaurant. There was not an article on the table that was not produced by those who could ill afford to eat the quality of the things we ate in the restaurant. We might just as well face this thing at one time as another and settle it, if possible.

The farmers of this country are the Chinese of America's organized society. What would happen if in this day of strikes the farmers were to combine and for 12 months strike and not sell a single article produced on the farm? I wonder what effect it would have. I wonder what would be the result. Labor sometimes strikes, and produces disastrous financial and social results; but what would become of the great metropolitan centers of the country if the farmers, in self-respect and self-protection, were to strike and refuse to sell any of the products of the field? Because of their unorganized condition and helpless financial condition, however, they are disregarded here.

We came here and asked for \$100,000,000 to help the farmers stay on the farm and make a living for themselves and their dependents. Congress did not provide that amount for them. We proposed to loan the money to them and take a lien on their crops. We haggled about the amount until we cut it down to \$60,000,000; and, in spite of the disastrously low prices and the terrific conditions under which they produced, the farmers paid back 99 percent of the money loaned them. Yet, on the other hand, without batting an eye, we appropriated \$5,000,000,000, the greater portion of which is to be handed out to those who have not produced and will not produce a single thing for the convenience and advantage of our economic and industrial and organized social life!

I am amazed, as I sit here, that there should be such an attitude as has been exhibited toward organizing some kind of resistance so that the man who produces the material which feeds and clothes the country may have some little opportunity to share in the wealth he produces; yet he is shot at from every side.

Mr. President, with all the opportunities in America for one to make at least a subsistence, it comes with ill grace for any Senator to stand on this floor and demand that the farmer shall still be denied any opportunity to live decently and comfortably in order that those who live in the slums may be provided with a little better living.

I begged Senators when they started to consider this bill to consider it farmer-minded. A majority of us have been away from the farm too long to appreciate the terrible conditions under which the farmers live. I hope this bill will be considered as an attempt to help the helpless; to create a line of resistance where now there is no line of

resistance; and if, in the judgment of the Senate, there are provisions of the bill which are not beneficial, and are not sufficient to give the farmer, in his unorganized condition, a chance in this superorganized world, let Senators offer amendments, but let them not come with destructive criticisms.

Because the farmer is not organized and cannot, in an organized body, demand what he wants at the ballot box, he is disregarded. We should sing a different song if he were organized and could speak with an organized backing. We know what the result would be if the farmers were organized.

I am not going to draw any comparisons, but every colleague I have on this floor knows that when certain organizations speak they are heard because they are organized. In their case it is not a question of justice and equity and no discrimination; it is a question of whether or not they will have a telling number of votes if we should dare oppose their demands.

I am pleading here today for a square deal; not a new deal but a square deal, an honest deal; that we on our part shall recognize the condition of the farmer as compared to others, and give him a chance.

Mr. NORRIS. Mr. President, does not the Senator think a square deal would be a new deal?

Mr. SMITH. The Senator has hit it. Yes; I do.

Mr. NORRIS. Mr. President, I confess that I am very much surprised at some of the argument which has been used in relation to this particular committee amendment, and that I am surprised at the heat and even anger which is shown in debate in opposition to this committee amendment. I am surprised there should be such feeling, inasmuch as it seems to me there has never been the slightest idea or tinge of an unfair or dishonest motive actuating the committee in proposing the amendment. It seemed to me that yesterday, and to some extent today, there was amazement in the minds of some Senators that any committee should dare to bring in an amendment of this kind, and there seemed to be an effort to search out who was guilty of proposing such an amendment. It developed only today, upon my own confession, that I was the guilty party who offered this amendment in the committee.

I was dumfounded, when listening to the debate, to hear some of the reasons which were given in opposition to this amendment—reasons which I had never heard of before, which had never occurred to me as existing, and I do not now know why they are offered or why they should exist. Of all the committee deliberations in which I have taken part since I have been a Member of this body or of the House of Representatives I do not recall a single instance, Mr. President, where there seemed to be such an honest endeavor on the part of the committee to do what was right in framing a very difficult piece of legislation. So far as I observed, no one was trying to intimidate the committee; no one representing the Department even tried to suggest how any member of the committee should vote.

I had no constituents interested in this committee amendment, so far as I know. So far as I was concerned, I knew that in my own heart I was moved by no desire to help one industry or to hurt another one. It occurred to me, on the face of the House language in the bill, that there would often be injustices if that language were permitted to remain in the bill.

It is charged that the canning industry is organized. The growers are not so well organized, and in regard to some products they are not organized at all. So if there was any undue advantage attempted to be taken, it was perhaps attempted on the part of the canners. I am not making such a charge, but if such an attempt were made, it would be more apt to be made by the canners.

A Senator can go into the Senate Restaurant and, I presume, get a fresh grapefruit. He probably can get canned grapefruit at the same time. If he cannot get it at that restaurant, he can get it from almost any grocery dealer in the city of Washington. Fresh grapefruit and canned grapefruit are in competition at this moment. The House language

which this amendment strikes out regulates one and lets the other go free. I submit that is not fair. No matter what industries Senators have in their respective States or what their interests are, that is not fair. It is like saying to a man who produces oranges, "We will regulate you, but we will not regulate your neighbor."

So it seemed to me that the producers of fresh fruits and of canned fruits ought to be treated alike. I have nothing against either one of them; I have not, directly or indirectly, politically, or in any other way, any interest whatever in the question; but it seems to me, in order to be fair, to regulate one, with the tendency probably sometimes to increase his expenses, and to put no burden whatever upon the other producer would be unfair. So I said include both in the regulation or exclude both from it, and I say that now.

Mr. COSTIGAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Colorado?

Mr. NORRIS. I yield to the Senator.

Mr. COSTIGAN. May I ask whether or not the Committee on Agriculture and Forestry was divided on the question of bargaining agreements for fresh fruits?

Mr. NORRIS. No; I think there was no disagreement.

Mr. President, that reminds me that we ought to consider what kind of a bill is the measure pending before us. In the main, it is a bill to assist the producers—the farmers and other producers, if they are not all classified as farmers—to give them a square deal, as the chairman of the committee said; and in order to do it, it is deemed proper, if possible, to have them organized on a basis by which they may prevent unfair and ruinous competition amongst themselves. That is the secret of all production, whether it be of wheat, corn, cotton, fruit, or anything else. That may be wrong. If it be wrong, then the whole policy is wrong; and every attempt to regulate and to help production with the idea of producing prosperity where there is now depression is wrong. It ought, however, to be a sufficient answer to say that in various laws which we have passed we have adopted the theory of helping the producer of food products, and that includes the producer of fruit. We realize that what the Senator from New York said is true in the case of fruit, for instance, and in other lines also; one may go into sections of the country where the fruits are produced and find tons of them rotting on the ground. When we are talking about the poor man, the man who is producing that fruit, we find he has not been able to find a market, perhaps because in some other locality so much fruit has been produced that it cannot be consumed, and he is ruined. That, after all, if one desires to analyze it, is the source, to a great extent, of unemployment.

The pending measure is founded on the theory of helping the producers to avoid such overproduction as will bring ruin to the producers themselves as well as to the consumers; that we shall all go down together if we go down. If the producers and the canners of fruit are competitors in the very nature of their business, then if we regulate the one and let the other go unregulated, we are unfair, as I see it. That is the reason why I offered this amendment; that is the reason I am defending it. I have not heard an argument, coming to the concrete proposition, that has caused me to lose my faith in the justice of the position taken by the Senate committee.

Aspersions to some extent have been cast upon representatives of the Department. The committee was in executive session, as I remember, every day for 2 weeks, and the work was a burden on them. Many Senators had to neglect other duties in order to be present, but they were nearly all in the committee at all times. They were all trying and striving together to frame a good bill. We realized the deplorable condition that confronted the producers of food products in this country; we realized what had happened by virtue of the recent decision of the Supreme Court. The idea was, if possible—I do not know whether we succeeded or not—to meet the situation in the face of that adverse Supreme Court decision.

Some of these regulations and rules are very intricate. I do not believe any man outside, perhaps, the official who is going to administer the law, understands all of them; I confess that I do not; but when we reached this amendment, as was the case with other amendments, the representatives of the Department were in the executive session. We had present with us at that executive session Mr. Davis, who has charge and will have charge of carrying out the provisions of the bill should it be enacted, and also some of his assistants. Never once was there any intimation from any one of those men that they wanted to control a single vote in the committee. Time and time again Mr. Davis said, "That will add to the work if it shall be put in, but we have nothing to say about it; we are going to do the best we can, whether the provision shall be inserted or left out; it is up to Congress to legislate." They told us their difficulties; they gave us the reasons why, if we wanted to have this kind of bill, such and such a provision ought to be put in it; they came there with the attorneys who had defended the original law in the courts of justice, who had studied it in the light of the Supreme Court decision which invalidated the N. R. A. Never once was an intimation made as to how any Senator should vote. I did not get my idea of offering this amendment from anything that came to me from Chester Davis or from any other representative of the Agricultural Department.

I give the Agricultural Department credit—whether they are doing a thing that is impossible or not is different—for honestly and fairly trying to execute the law and trying to help make a law that will meet the decisions of the Supreme Court. All the members of the committee acted that way; everybody proceeded in good faith; and this amendment was suggested, as I have already said, because I believed that the language of the House bill created an injustice that would work harm to the producers of fresh fruits and I did not want to have that done.

I say now, in all fairness, I do not believe we can take canned fruits out of the bill and leave fresh fruits in it. Let us take them both out or put them both in. I do not care very much what is done. If the Senate wants them both to go in, I should like to see them both in, but I should very much dislike to see one go in and the other be kept out.

Mr. TRAMMELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Pope
Ashurst	Copeland	Lewis	Radcliffe
Austin	Costigan	Logan	Reynolds
Bailey	Davis	Lonergan	Russell
Bankhead	Dickinson	McAdoo	Schall
Barbour	Dieterich	McGill	Sheppard
Barkley	Donahay	McKellar	Shipstead
Bilbo	Duffy	McNary	Smith
Borah	Fletcher	Maloney	Steiner
Brown	George	Metcalf	Thomas, Okla.
Bulkley	Gerry	Moore	Townsend
Bulow	Glass	Murphy	Trammell
Burke	Gore	Murray	Truman
Byrd	Hale	Neely	Tydings
Byrnes	Harrison	Norbeck	Vandenberg
Capper	Hatch	Norris	Van Nuys
Carey	Hayden	Nye	Walsh
Chavez	Johnson	O'Mahoney	White
Clark	Keyes	Overton	

Mr. LEWIS. I announce the absence of the Senator from Nevada [Mr. McCARRAN] occasioned by a death in his family. I also announce the absence of the Senator from Louisiana [Mr. Long], and the Senator from Utah [Mr. THOMAS], on important public business.

The PRESIDING OFFICER. Seventy-five Senators have answered to their names. A quorum is present.

Mr. GEORGE. Mr. President, as I understand the parliamentary situation, the question is on the adoption of the committee amendment on page 11, line 4. Those of us who oppose it should therefore vote in the negative in order to retain the House language. I demand the yeas and nays.

Mr. KING. Mr. President, the Senator from South Carolina [Mr. SMITH] has, upon numerous occasions since I have

been in the Senate, evinced his deep interest in our agricultural problems and has been a genuine friend of the farmers. I join with him in paying tribute to not only the pioneers but their successors, who through their toils and efforts upon the farms and in all branches of agriculture, laid the foundations of commonwealths and contributed to the progress and development of our country. The tillers of the soil in all ages have been the most important factors in building communities and nations. The remarkable growth of our country is attributable in a very large degree to those hardy and courageous men and women who conquered rebellious soils and wrung from Mother Earth the various agricultural products which not only sustained life but materially added to the wealth of the Nation. Every consideration should be shown toward those who care for field and farm and furnish to the American people the products essential to the maintenance of life. Our foreign trade and commerce have assumed large proportions as a result of the export of farm commodities. Our cities and towns owe their progress and development and, indeed, whatever prosperity their inhabitants enjoy, to the labors of the millions who give their lives to the production of those things essential to life and to the wealth and welfare of the people.

But agriculture alone is inadequate to meet all the needs and problems of a progressive and highly civilized State. The agriculturist must find markets for his products, and those employed in mills, plants, and mines in the varied industrial activities of a great nation furnish an important market for such surplus products. Agriculture and industrial development should go hand in hand; the farmers have never asked for special privileges; they only ask that they be permitted to enjoy the fruits of their toil and labor and have equal participation in the benefits and blessings of a free government.

In this as well as in other countries there have been measures and policies adopted, ostensibly for the benefit of agriculture, but which proved to be either valueless or injurious. Not infrequently plans have been suggested violative of economic laws or of the lessons of history, and their application has tended to the injury of the farmers rather than to their benefit.

During the past few years farmers, and, for that matter, all classes, have passed through a severe depression. The depression has not entirely vanished, and its unfortunate consequences will linger perhaps for many years to come. Abnormal conditions are often the parents of unwise laws and of disappointing policies. Too often in periods of economic or financial trouble the voices of doctrinaires and impractical individuals assume commanding influence and lead to the inauguration of disappointing and unfortunate policies.

I referred yesterday to legislation creating the Farm Board and to the unfortunate and evil results flowing therefrom. The policies of the Farm Board, instead of aiding agriculture, proved to be of great disservice to the farmers of our country. The farmers were led to expect great benefits under the policies that were adopted, but they were compelled to eat the fruits of grievous disappointment.

All of the problems and difficulties in our political, economic, and industrial life may not be successfully met by legislative enactments. Indeed, history has demonstrated that legislative bodies and legislative enactments have more frequently than otherwise aggravated unsatisfactory conditions and added to the burdens which the people were compelled to bear. It will be conceded, of course, that special privileges may be provided by legislative enactments and that favoritism may be shown in behalf of groups or sections or industries.

As I have indicated, the farmers are not demanding discrimination in their favor, or subsidies and bounties at the expense of others. I believe that they only desire that just laws and sound economic principles shall prevail. They are willing to suffer when all suffer; they desire to prosper when the fruits of prosperity are enjoyed by all.

I cannot divorce myself from the conviction that the measure under consideration, if enacted into law, will in the long run prove disappointing to those engaged in agricul-

ture. I feel reasonably certain that if the authority which is sought to be conferred upon the Secretary of Agriculture and the agencies and organizations that under the bill will be created is exercised as by the measure authorized, further efforts will be made by bureaucratic agencies and those who favor a powerful central government and the striking down of the States and local self-government, as well as individual rights, to introduce into our political and industrial life policies and principles at variance with democratic institutions and hostile to the principles of free government as they have found expression in the life of this Republic.

This bill, if enacted into law, will be regarded as a precedent for further legislation calculated to control individual conduct and to subject the economic and industrial life of the people to a system of regimentation inconsistent with liberty and obnoxious to the views of free men.

In this, as well as in other countries, artificial measures have been resorted to for the stimulation of trade and for the benefit of groups and sections. Undoubtedly subsidies, bounties, and legislation providing special privileges will bring temporary benefits from such discriminatory policies and legislation. Artificial prices may bring temporary benefits but artificial stimulation may not be continued indefinitely, and with its termination injurious consequences will prove inevitable. Wealth is the product of toil and labor. It does not result from the destruction of products. When Sherman marched to the sea all forms of property for hundreds of miles was destroyed. Cotton fields were laid waste and agricultural products were destroyed. The things destroyed were capital; they constituted a part of the wealth of the country. There are hundreds of millions of people in the world without adequate food supplies or clothing to meet their needs. In my view, a sound economic policy as applied to agriculture and industry calls for increased production, which means an increase in the capital of individuals and of the Nation.

The bill before us will not create more wealth, and aside from the restrictive provision upon capital production it creates and maintains an autocratic and bureaucratic system that will prove in the end intolerable to the American people.

But, Mr. President, I took the floor not for the purpose of making an extended address but rather to submit a few observations and to call attention to a number of communications which I have received bearing upon the provisions of the bill now under consideration. First, I desire to read into the RECORD a communication addressed to me which I received only a few days ago. It is as follows:

We are greatly alarmed over the effect which the amendments to the A. A. A. will have on the canning and growing of canning fruits.

Under these amendments now before the Senate (H. R. 8492) the President and the Secretary of Agriculture have unrestrained power to dictate to all canners the price which they shall pay growers for raw material, the quantity which each shall pack, and the method by which they shall grade the product. Although not as yet fully understood by growers, these powers obviously mean that in the final analysis the same control could be extended to each and every producer of fruit. These powers are vested in the President and the Secretary and may be exercised even against the will of each and every fruit canner in the country. No more drastic or unfair assumption of power has ever in our judgment been before the Congress.

Attached are the proper references in the bill to support fully the above statement.

We respectfully urge that you vote against the bill, not alone on account of its effect on the entire fruit industry but on the consuming public as well, and further because it is a despotic misplacement of arbitrary power over the Nation's food supply and is contrary to American principles.

Yours truly,

CANNERS LEAGUE OF CALIFORNIA,
PRESTON MCKINNEY, Vice President.

The memorandum referred to in the letter is as follows:

The canner who has developed over a long period of years, at considerable expense, the present world market for California canned products, adds in actual cost to him for labor, cans, sugar, boxes, labels, and carrying costs, over twice the price he pays for the fruit. Thus, with an acceptable and highly profitable price to the grower, the actual cost to the canner is roughly 30 percent for fruit and 70 percent for the costs above enumerated. Therefore, the stake of the canner is far greater than the stake of the

grower, and the canner's position is different from that of the processor of most other agricultural products.

Despite these facts, the bill provides in section 6, under the heading "Terms—other commodities", that orders issued by the Secretary with the approval of the President may, against the will of any or all of the fruit canners, bring about the following:

Page 16, line 20, subsection (A): Limit the total quantity of canned fruit or the quantity of any grade or size of canned fruit which a canner may transport or market.

Page 17, line 1, subsection (B): Limit the quantity or the grade or size of fruit which any canner may purchase from producers.

It will be conceded, I believe, that unlimited power under this language is conferred upon the Secretary of Agriculture and may be exercised through agents appointed by him. The authority granted in this provision is similar to them which is found in the regulations promulgated by the Secretary of Agriculture dealing with the milk situation in the Los Angeles area. Yesterday I called attention to these regulations, which I denominated a "code of laws" and showed their autocratic and unlimited authority in dealing with producers and distributors of milk.

Think of the arbitrary power which is thus to be conferred: Under it a representative or agent of the Secretary of Agriculture in Arizona, or California, or Utah, or elsewhere, would be authorized to determine the quantity or the grade or the size of fruit which canners may purchase from the producer.

Page 17, line 12, subsection (C): Allot the amount of canned fruit which any canner may market in each and all markets, by sizes and grades, or otherwise.

Mr. President, I am amazed that such an unlimited grant of authority should be desired by the Secretary of Agriculture and his associates.

Page 18, line 1, subsection (D): Determine the existence and extent of any surplus in the hands of a canner, or canners, and take over the control and disposition of such surplus.

Page 18, line 8, subsection (E): Establish reserve pools of any canning fruit or canned fruit, and distribute the net returns from such pools.

Under this provision, as I read it, agents of the Secretary of Agriculture would be authorized to enter any State and declare that pools of canning fruit or canned fruit should be established. In other words, that the fruits referred to should be under the control of such agents to the extent that they could not be dealt with by the producers in violation of the determination that they should become part of established pools. In addition, the agents are authorized to distribute the net returns from such pools; that means that the agents will have authority to concentrate in pools such fruit or fruits as they may desire to exercise their authority over, and also to distribute—that is, to sell or handle—the same as they may see fit. Under this provision it would seem that the producers of the fruits referred to were to lose jurisdiction or control over the same and the agent of the Secretary of Agriculture was to have unlimited authority to determine just what disposition should be made of the same.

Page 18, line 13, subsection (F): Fix the minimum prices which a canner must pay to a grower for the raw material he purchases.

I said yesterday, and I repeat, that the most offensive and objectionable feature of the National Recovery Act was that which permitted price fixing, often by devious and not by open and fair methods; but here, probably encouraged by the assured acceptance by the people of the provisions of the National Recovery Act for price fixing, the Agricultural Department now comes out boldly and demands, through this bill, the authority to fix the prices which shall be paid and the amounts which shall be purchased by the canners.

That this power is absolute, even though against the will of any and all canners, is clearly set forth in the bill as follows:

Page 21, lines 3 to 25, inclusive; page 22, lines 1 to 25, inclusive; and page 23, lines 1 to 6, inclusive.

The existence of such absolute power is clearly evidenced on page 9 of the report accompanying the bill, Senate Report No. 1011.

You will note these paragraphs provide that any order issued pursuant to this section shall become effective, notwithstanding the refusal or failure of canners to sign a marketing agreement.

Thus, the Secretary of Agriculture could arbitrarily, by administrative order, take over the entire operations of the fruit-canning industry insofar as prices, size of pack, grading, and allocation of markets are concerned.

Mr. President, I have a number of telegrams and letters from my State in regard to this bill. I take the liberty of calling attention to two or three of them.

OGDEN, UTAH, June 11, 1935.

Senator WILLIAM H. KING,

Senate Office Building, Washington, D. C.:

Canning industry Utah seriously disturbed by A. A. A. amendments proposed by administration and presented to House Agricultural Committee June 5. Control of processors and distributors contemplated by these amendments so drastic that Secretary will have power arbitrarily to dictate prices to be paid growers which are now worked out harmoniously each year between Co-operative Growers Association and Canners Association; also to dictate prices for which canners may sell their products. As prices must meet the competitive situation in various markets where sold this means the Secretary can also dictate where and to whom we can sell, which, in turn, means he has power to break down and destroy markets which we have spent years of time in establishing. These drastic powers, with others proposed in the amendment, mean that our businesses will be entirely dictated from Washington. Our State association has just taken action with respect to maintenance of wages intended to avoid any demoralizing effects from abolition of N. R. A. and the spirit of our entire industry here is one of cooperation and a desire for constructive action, but we are unanimously opposed to the proposed delegation of such sweeping power and control over our businesses. We ask your vigorous assistance, as our Representative, to protect us from this proposed Government control.

UTAH CANNERS ASSOCIATION,
By FRANK A. JUGLER, Secretary.

OGDEN, UTAH, June 12, 1935.

Senator WILLIAM H. KING,

Senate Office Building, Washington, D. C.:

Our views on triple A amendments, proposed by the administration, contained in telegram of even date from Utah Canners' Association. Would appreciate your assistance in helping our industry to survive.

UTAH FISH CANNING CO.

WOODSCROSS, UTAH, June 14, 1935.

Senator WILLIAM H. KING,

Senate Office Building:

Woodcross Canning Co. opposed to A. A. A. amendments presented to House committee, June 5, account of power invested in Secretary to dictate prices to be paid growers and how and where goods can be sold. This company is paying wages set up under N. R. A. and is working in harmony with growers.

WOODSCROSS CANNING CO.

I have another telegram reading as follows:

OGDEN, UTAH, February 26, 1935.

Senator W. H. KING,

Washington, D. C.:

We protest the passage of Senate bill 1807 and House bill 5585 as the bills give the Secretary of Agriculture unlimited powers, which could be used in such a way that the canning industry in Utah could be seriously injured. Also we think the giving of unlimited power to anyone is undesirable. This represents 100 percent of Utah canners.

UTAH CANNERS' ASSOCIATION.

I have a letter from the Rocky Mountain Packing Corporation, signed by Mr. Harold P. Fabian, president, excerpts from which I ask may be inserted in the RECORD without reading.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The letter is as follows:

While the canning industry is not talked about very much here (I suppose that is because such a large part of our product is marketed in outside markets), nevertheless it is a substantial and fundamental industry for the State of Utah. Our Utah valleys produce an exceptionally fine quality of vegetable products. The production capacity of our farms is very much in excess of the local consumption. Hence, in order to find an outlet for these farm products that will permit full use of that portion of our farm acreage suitable for such products, it was necessary to find a way to transport the products over hundreds of miles of desert and to hold them in storage over months of time. The canning factory, its warehouse facilities, and marketing outlets is the instrument that has been developed to do this. As a result of many years of experience and patient building of market channels, Utah canned products are now sold in large quantities in both Los Angeles and San Francisco territories in the Pacific Northwest, and as far east as New York and Boston, and as far south as New Orleans. Notwithstanding the handicap which we are always under here in Utah, by reason of freight rates, these markets have been built up in face of severe competition as a result of our quality product and years spent in establishing channels of distribution.

A disruption for even one season in the flow of our products through their established channels of distribution would do us

great harm. It would not only mean our goods were out of the consumers' use during that time, but that goods of other sections would take their place. One experienced in food marketing can readily understand how destructive that would be and how much time and effort would be required to repair the damage done. Like so many other fields of commerce and industry, the established flow of products from the farm through the cannery, the broker, the jobber, and the retailer to the consumer is a delicate fabric, and only years of experience and practical knowledge and understanding can protect it. You can therefore well appreciate with what consternation the canners met in a State-wide convention the day before I sent you my wire, to protect themselves from the threat of having this entire industry taken out of their own hands and placed in the control of an official in Washington. A single mistaken order, made with the best intentions in the world, could do untold harm to the canning industry in this section. I think I expressed in my wire to you the principal points involved. I assure you the protest I voiced is not only that of our own company but also that of the other canners in the State. It is made with the utmost sincerity and firm belief that the proposed amendments would most seriously threaten our industry and the welfare of the farmers dependent on it.

Mr. KING. Mr. President, just one moment, and then I shall yield the floor.

The Senator from Massachusetts [Mr. WALSH] yesterday asked me in regard to the number of cases pending in the courts challenging the validity of the Agricultural Adjustment Act. I have here a list of most of the cases. I am pursuing the inquiry further, and when we take up the bill for consideration a little later I hope to bring the list down to date. My attention was called a few moments ago to the Washington Post of this morning, which contains an Associated Press dispatch from Minneapolis. I crave the indulgence of the Senate while I read from this report:

MINNEAPOLIS, July 11.—A three-judge tribunal of the Federal district court today held "there was probable cause to believe" the A. A. processing taxes were unconstitutional and refused to rescind a temporary order barring their collection from 14 large milling concerns and two complainants.

Declining the Government's motion to dismiss petitions of the firms, the court decided their pleas for permanent injunctions and a testing of the constitutionality of the Agricultural Adjustment Act would be heard at its September term.

The court, which included Judges M. M. Joyce, Joseph Molyneaux, and Gunnar H. Nordbye, gave the petitioners, several of whom had made an issue of only 1 month's taxes, the additional right to apply for an extension of the injunctions due in subsequent months. The suits covered more than \$1,000,000 in taxes owed as of July 1.

In declining United States District Attorney George Sullivan's request for the vacation of the temporary writs, the court agreed: "The so-called 'tax' is imposed to raise funds not for the support of the Government but for the benefit of a private class of individuals; it is an attempt on the part of the Federal Government to regulate production within the States," and "an unlawful delegation of legislative authority to the executive officers of the Government."

Pending amendments to the Agricultural Adjustment Act, which, if passed, would deprive processing-tax payers of the right to contest such payments, figured in both arguments and the court's opinion.

"With enactment of his proposed legislation," said the court, "there will be summarily withdrawn any such opportunity for legal remedy for a refund of taxes improperly assessed and paid."

"Plaintiffs are placed in a dilemma from which the only means of relief is invoking the equitable jurisdiction of this court," said the opinion.

"Common prudence justifies the apprehension that the uncontested status of the bill creates an imminent threat to the rights of these plaintiffs, and therefore is presented an appropriate case for the exercise of the equitable protection of the court."

Most of the 14 flour mills involved are subsidiaries of General Mills, Inc. The Harvey Paper Bag Co. and the J. T. McMillan Packing Co. were the other plaintiffs.

Mr. JOHNSON. Mr. President, the Senator from Utah [Mr. KING] has seen fit to read a letter he received from the State of California concerning this amendment, or which he applies to this amendment. That is his right, and with it I do not quarrel; but it should be observed that the letter which he read was from a gentleman who is engaged in packing and canning; and what he read made it very plain that the controversy which exists in the State of California, at least upon this subject, is a controversy between farmers on the one hand and canners on the other.

So there is not any difficulty in my choosing in this contest, and there ought not to be any difficulty in anybody else choosing, because nearly 80 percent of the canning of fruits that is done in the United States of America is done in the

State of California. So we have here now plainly the contest—the canner on the one side, the producer on the other—and we can make our choice. We have as well what is presented here logically—a regulation, a determination, a method of control of a part of the fruit that is raised in the United States, and then a special favor to a canner, or somebody who is in the business of canning a part of that fruit.

What ought to be done under the circumstances by men who wish to do justice and to understand the situation? What should be done here? Farmers come as suitors to this body. They say, "We are raising fruit. We submit ourselves to this bill." We say to them, "Oh, you may submit yourselves in part to this bill, but where you are concerned with the canning industry you cannot submit yourselves at all."

There is the issue. Choose ye between the farmer on the one side and the canner on the other!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee on page 11, line 4.

Mr. GEORGE. I call for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. SMITH. Mr. President, a parliamentary inquiry. As I understand, those who are for the committee amendment striking out the exemption of canners will vote "yea."

The PRESIDING OFFICER. Those who are in favor of including canning fruits within the bill will vote "yea." Those who are in favor of excluding canning fruits will vote "nay."

Mr. SMITH. I am afraid there is still a misapprehension.

The PRESIDING OFFICER. The committee amendment brings fruits for canning within the bill; so that those who are for the committee amendment will vote "yea", and those who vote "yea" will vote for including canning fruits within the provisions of the bill.

Mr. SMITH. Very well.

The PRESIDING OFFICER. The clerk will continue the calling of the roll.

The legislative clerk resumed and concluded calling the roll.

Mr. DICKINSON. I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON], who is necessarily absent from the Chamber on official business. I transfer that pair to the senior Senator from Vermont [Mr. GIBSON] and vote "nay."

Mr. AUSTIN. I announce the necessary absence of my colleague [Mr. GIBSON], who if present, I am informed, would vote "nay."

Mr. TOWNSEND. I desire to announce the unavoidable absence of my colleague the senior Senator from Delaware [Mr. HASTINGS]. If present, he would vote "nay." My colleague has a general pair with the junior Senator from Utah [Mr. THOMAS].

Mr. LEWIS. I desire to announce the following general pair on this question:

The Senator from Pennsylvania [Mr. GUFFEY] with the Senator from Wisconsin [Mr. LA FOLLETTE].

I wish also to announce that the Senator from Tennessee [Mr. BACHMAN], the Senator from Washington [Mr. BONE], the junior Senator from Arkansas [Mrs. CARAWAY], the Senator from Massachusetts [Mr. COOLIDGE], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Nevada [Mr. PITTMAN], the Senator from Arkansas [Mr. ROBINSON], the Senator from New York [Mr. WAGNER], and the Senator from Montana [Mr. WHEELER] are detained on important departmental matters.

I wish further to announce that the Senator from Alabama [Mr. BLACK], the Senator from Indiana [Mr. MINTON], and the Senator from Washington [Mr. SCHWELLENBACH] are detained in a meeting of the Lobby Committee.

I desire further to announce that the Senator from West Virginia [Mr. HOLT], the Senator from Louisiana [Mr. LONG], and the Senator from Utah [Mr. THOMAS] are detained on important public business.

I wish to announce that the Senator from Nevada [Mr. McCARRAN] is absent on account of a death in his family.

Mr. COPELAND. I wish to announce the absence of my colleague the junior Senator from New York [Mr. WAGNER], who is officially detained. If present, he would vote "nay."

Mr. NYE. I wish to announce that my colleague the senior Senator from North Dakota [Mr. FRAZIER] is detained in a Senate hearing. If present, he would vote "yea."

The result was announced—yeas 29, nays 46, as follows:

YEAS—29

Bankhead	Connally	McKellar	Sheppard
Barkley	Costigan	Murphy	Shipstead
Bilbo	Donahay	Murray	Smith
Borah	Hatch	Norbeck	Thomas, Okla.
Bulow	Hayden	Norris	Truman
Burke	Johnson	Nye	
Byrnes	McAdoo	Overton	
Capper	McGill	Pope	

NAYS—46

Adams	Davis	King	Russell
Ashurst	Dickinson	Lewis	Schall
Austin	Dieterich	Logan	Steiwer
Bailey	Duffy	Loung	Townsend
Barbour	Fletcher	McNary	Trammell
Brown	George	Maloney	Tydings
Bulkley	Gerry	Metcalf	Vandenberg
Byrd	Glass	Moore	Van Nuys
Carey	Gore	Neely	Walsh
Chavez	Hale	O'Mahoney	White
Clark	Harrison	Radcliffe	
Copeland	Keyes	Reynolds	

NOT VOTING—21

Bachman	Frazier	Long	Thomas, Utah
Black	Gibson	McCarran	Wagner
Bone	Guffey	Minton	Wheeler
Caraway	Hastings	Pittman	
Coolidge	Holt	Robinson	
Couzens	La Follette	Schwellenbach	

So the amendment of the committee was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating or marketing securities in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. RAYBURN, Mr. HUBLESTON, Mr. LEA of California, Mr. COOPER of Ohio, and Mr. HOLMES were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to the amendments of the Senate to each of the following bills of the House:

H. R. 4751. An act to amend section 24 of the Interstate Commerce Act, as amended, with respect to the terms of office of members of the Interstate Commerce Commission; and

H. R. 4760. An act to increase the statutory limit of expenditure for repairs or changes to naval vessels.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 6453) to amend the act of May 13, 1924, entitled "An act providing for a study regarding the equitable use of the waters of the Rio Grande", etc., as amended by the public resolution of March 3, 1927; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. McREYNOLDS, Mr. BLOOM, and Mr. FISH were appointed managers on the part of the House at the conference.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the President pro tempore:

S. 883. An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 70 years;

S. 2779. An act to authorize the conveyance of certain lands in Nome, Alaska;

H. R. 2566. An act for the relief of Percy C. Wright;

H. R. 5393. An act for the relief of Moses Israel;

H. R. 5599. An act to regulate the strength and distribution of the line of the Navy, and for other purposes; and

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

USE OF WATERS OF THE RIO GRANDE

The PRESIDING OFFICER (Mr. ADAMS in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 6453) to amend the act of May 13, 1924, entitled "An act providing for a study regarding the equitable use of the waters of the Rio Grande", etc., as amended by the public resolution of March 3, 1927, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PITTMAN. I move that the Senate insist upon its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PITTMAN, Mr. CONNALLY, and Mr. JOHNSON conferees on the part of the Senate.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. METCALF obtained the floor.

Mr. JOHNSON. Mr. President, may I submit a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSON. I have presented and had printed an amendment to the particular section under discussion, and I do not know whether it would be admissible to call it up now while we are on the committee amendments or whether I must await the presentation of amendments other than committee amendments.

Mr. SMITH. Mr. President, I think it would be better for us to finish the consideration of committee amendments which were passed over and then take up individual amendments.

Mr. JOHNSON. Very well.

Mr. FLETCHER. Mr. President, will the Senator from Rhode Island yield?

Mr. METCALF. I yield for a question.

Mr. FLETCHER. Involved in the vote just taken was the amendment on page 16 in the same language found in the amendment just voted on. Can we not have that settled now? The Senator from Georgia will recall that the language on page 16 is the same as that we have just passed on. The vote would be the same, I take it, and I think we might dispose of that now.

Mr. JOHNSON. That is in a different category, I think. We had better wait until we reach it.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. FLETCHER. I thought we might dispose of the matter.

The PRESIDING OFFICER. If the Chair understands the inquiry of the Senator from Florida, he points out that the language in the amendment on page 16 is substantially identical with that on which the Senate has just acted.

Mr. FLETCHER. Exactly.

The PRESIDING OFFICER. And that the sentiment of the Senate would naturally result in the same vote on that amendment.

Mr. FLETCHER. That is correct. I was inclined to think we ought to dispose of it now. We might take a vote on the amendment on page 16 and dispose of that at this time.

Mr. SMITH. Mr. President, I think it would expedite matters, since identically the same words occur on page 16, and I ask unanimous consent that the Senate now take a vote on that amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will state the amendment.

The CHIEF CLERK. On page 16, line 8, after the word "apples", the committee proposes to strike out the words "and not including fruits for canning."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Rhode Island yield to the Senator from Idaho?

Mr. METCALF. I yield.

Mr. BORAH. If I may have the attention of the chairman of the committee, the other amendment on page 11, where the committee proposes to insert the words "soybeans, hops, package bees and queen bees, poultry", has not as yet been acted upon?

The PRESIDING OFFICER. That amendment has not as yet been acted on.

Mr. SMITH. The ruling of the occupant of the chair who just preceded the present occupant of the chair was that the amendment had been acted on, but that action was reconsidered. So that amendment will have to be acted on.

Mr. BORAH. I suggest that those different subjects should be considered as different amendments. There is one item there, namely, poultry, which I should like to have acted upon separately.

Mr. BANKHEAD. Could not the Senator accomplish what he desires by an amendment to strike out the word "poultry"?

Mr. BORAH. I can do that; but I do not want the Senate to act upon that today. The Senate may act upon the other items, so far as I am concerned, and I do not know that I will make a motion in regard to the matter at all. I am simply in communication with people who desire to be heard on the subject.

Mr. SMITH. Let us have a vote on the remaining part of the amendment, with the exception of the word "poultry."

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. METCALF. Mr. President, I prefer not to yield at present. Of course, I always like to oblige my distinguished friend the Senator from South Carolina, but if he will allow me to continue, it will only take me a short time to complete what I have to say.

Mr. SMITH. I certainly do not wish to interfere with one of the few friends I have in the Senate. [Laughter.]

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). The Senator from Rhode Island declines to yield.

Mr. METCALF. Mr. President, we of the Senate constitute the higher of the two bodies of Congress. We recently decided that no man is a Member of the Senate until he has taken an oath of office which I shall read:

I, * * * do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.

In order to become a Senator we took an oath to "bear true faith and allegiance" to the Constitution. We swore our allegiance only to that document and promised to well and faithfully discharge the duties of our office. Nowhere, either in the Constitution or in the generally accepted responsibilities of the Senate, may be found any intimation that we are obligated to do the bidding of any other Department of the Government. On the contrary, our oath of allegiance is first to the Constitution. A similar oath is taken by all Federal officers.

The Congress, through one of its Members, has just received a most appalling and remarkable document. It was

addressed indirectly to this body from the executive arm of the Government and it suggested that we adopt certain legislation regardless of our doubts as to its constitutionality. In other words, we are asked not to bear true faith to the Constitution, but to bow to the executive arm of the Government in respect to its demands for action. The duty of the Executive, as set forth in the Constitution, is to report upon the state of the Nation and to recommend action for the public good. There is no provision that any law or any act may be demanded. There is no provision for "must" legislation.

If we are to adopt the philosophy that the legislative is to be in any degree subject to the Executive arm of the Government we must accept full responsibility for that act. Whether or not the Executive may wish to lay on the doorstep of the Congress the blame for passage of unconstitutional laws in order that the people may become impressed with the presumed limitations of the Constitution, and thereby amend it, is a matter for grave conjecture. There can be no law of sufficient importance to warrant our ignoring the independence of the Congress. We are the elected representatives of the people and we should represent them within the reasonable limitations established by those who founded the Government. To amend the Constitution is a tedious process. It was so intended in order that we might be protected from rash acts which we might ourselves undertake in a moment of panic.

We are facing the proposition of whether we are to discharge our responsibilities as an independent establishment of the Government, or whether we are to become a voluntary adjunct to that branch which was created to administer our laws. We have already abdicated some of our power to make treaties; we have bestowed upon the Secretary of Agriculture many of our responsibilities in regard to taxation; we have deprived the States of powers expressly reserved for them; we have authorized a department head to interfere with the laws of nature and regulate the marketing and the prices of the necessities of life; and we have approved the production and sale of electric power by the Government itself.

Now, it is proposed that we go further and adopt amendments to the A. A. which are an unwarranted delegation of power to the Secretary of Agriculture. These amendments mark a new high in the surrender of our legislative powers and the shirking of our direct obligations to the American people. They give to the Secretary of Agriculture the power to define fair trade practices and to impose them upon industry without even the concurrence of a majority of the industry involved. One man has been given the authority to force marketing agreements on those engaged in industrial and agricultural pursuits and to regulate the manner in which their products are distributed.

Certainly no emergency exists which can justify such extraordinary action on the part of Congress. The Secretary of Agriculture has already demonstrated the utter futility of this program. While acting in the hope of assisting one portion of our citizenry, he manages to virtually destroy another. One needs only to examine the effects of his policies on the cotton and the cotton-textile industries to visualize what will happen to other industries if these powers are granted. Rather than consider legislation of this sort it would seem more to the interest of this country for the Congress to repeal some of that now being administered. The cotton-processing tax has long been the subject of much discussion and complaint throughout the country. The gradual disintegration of the cotton-textile industry is traceable directly to the processing taxes and the numerous regulations imposed upon that industry by this administration.

The manufacturers of cotton textiles are no longer able to compete in foreign markets with foreign producers of these goods, and they are likewise unable to sell their products within the United States because of abnormal prices created by the Secretary of Agriculture. If, instead of pursuing the vicious circle set in motion by the Secretary, we should stop this nonsense and repeal the processing tax, we might be able to rehabilitate the textile industry and at the same time give

the cotton farmer some hope of a stable and prosperous future. Formerly 40 percent of all cotton grown in this country was consumed here. What is the percentage now?

In April 1934, about 26,500,000 cotton spindles were in operation in the United States. In February of this year, it had fallen to 25,100,000. In March the number of spindles in operation declined to 24,900,000 and in April 23,800,000 were operated. In the New England States less than 60 percent of the cotton spindles in place were active during that month. In my State which had 1,689,000 spindles in place, less than 800,000 were active. The average number of hours these spindles were in operation during the month was only 114, the lowest in the country. The same situation exists throughout New England.

The strong and highly justified demand for repeal of the cotton-processing tax and for curbing the increasing importations of textiles has been quieted by a special committee appointed by the President to look into the cotton-textile situation. This committee is composed largely of men who have previously expressed strong approval of the cotton-processing tax, one of whom has declared that if anything took place, it would be an increase in the tax. We have heard little of the findings of this committee. What is the meaning of this inertia? Are they attempting to quiet the storm of protest against the policies which are wrecking the cotton-textile industry until the amendments we are now considering can be written into law? Are they trying to wear down the resistance of industries in New England and the South, which are now fighting for their very existence?

With these amendments we make a sort of Delphian oracle out of the Department of Agriculture, with the Secretary of that Department presiding as the sacred prophet. We authorize him to finance his guesses at the expense of the taxpayers of the Nation, and we give him the power to apply any one of several devices for increasing the prices of agricultural commodities. After making his guess as to what the sun and the clouds and the wind and the rain may do next year, the Secretary will use his divining powers as a basis for buying up and storing farm products, or for dumping them abroad with Government subsidies. He may pay bounties on that portion of basic crops needed for domestic consumption and these payments will be in addition to rental and benefit payments. Are these amendments given in answer to the desperate prayer of the cotton textile regions for relief from the burden of the processing tax? Are we answering this prayer by making it no longer mandatory upon the Secretary to reduce processing taxes after parity prices are reached? He may go on and on forever, reaching into the pocketbooks of the American people for money to finance his dictatorship.

Furthermore, there is a question as to whether or not this bill is simply a deceptive move to continue the A. A. A. in spite of its unconstitutionality. There are many who believe that this is one of the principal reasons it is pending in Congress.

New England has little agriculture, and if these wild experiments continue it will have little industry. The people of New England are working almost as hard to earn money to pay the farmers to plow under their crops as they are working to feed and clothe their own children. With one hand the Secretary of Agriculture is emptying our pocketbooks and with the other he is making it impossible for us to replenish them. It is claimed that it is now necessary to put a tax on rayon because it competes with cotton, and it is claimed necessary to put a tax on silk because it competes with rayon. We are setting in motion a vicious circle which has no end—no end unless it be the collapse of our whole economic system.

There is no good reason for continuing any of these processing taxes. Section 15 of this bill seeks to levy a compensatory tax on rayon in direct violation of the mandate of Congress in the original Agricultural Adjustment Act. Rayon is not a basic commodity and any levy must be in the nature of a compensating tax to be adopted after due hearing and investigation. Has a hearing been granted the industry? The placing of a tax on rayon or any product

competing with a basic commodity is the responsibility of the Secretary of Agriculture under the present law. Has he been unable to find ground for such a tax and is he now attempting to use the Congress as a means for levying those few taxes for which he can find no excuse under the law?

To place a tax on any commodity without a hearing or investigation is certainly a most unfair and unwise practice and one in which the Senate should not indulge. If the Secretary of Agriculture wishes to do so, that is his responsibility. No compensating tax has been placed on rayon to this date, and it is within the power of the Secretary to do so after establishing a need for it. What is the peculiar situation which prompts an action such as this?

We should delete all these processing taxes and finance our agricultural program from the General Treasury. We can expect nothing from this burden of taxes except an influx of competing goods from abroad and a further curtailment of our domestic market for our textiles. Consumer resistance cannot be regulated by law nor overcome by propaganda.

Not only are we authorizing the executive arm of the Government to impose taxes and to tamper with the natural laws of economics and of nature, but we are as well authorizing that branch to tamper with the orderly procedure of our courts. It is astonishing that we will even consider amendments which are so radical and far-reaching that they will prevent a taxpayer from recovering money illegally and unconstitutionally collected by the processing tax. The administration seeks to prevent taxpayers from securing refunds and to enable the Government to collect and keep taxes assessed even though they be declared unconstitutional. The bill provides that no suit shall be brought or maintained in the courts for a refund of processing taxes previously paid.

It further provides that a taxpayer shall not be permitted to obtain a declaratory judgment nor to secure a decision from the courts as to the validity of a tax. The attempt to deprive the taxpayer of every remedy to secure a refund of processing taxes previously paid is but a bare-faced repudiation of a Government obligation. It is in no way to be distinguished from the repudiation of a Government bond or other legitimate obligation. The proponents of the bill declare this is justified on the ground that the taxes paid have been passed on to the consumer. Is Congress possessed of such rare wisdom that it is able to determine that taxes have in all cases been passed on to the consumer? Those cotton mills that have lost hundreds of thousands of dollars during the past 2 years since the A. A. A. was enacted will doubtless be somewhat surprised at this arbitrary finding of fact without investigation.

The issue here involved is not the narrow question of whether or not the taxpayer should be deprived of all remedies with respect to the processing tax, but whether the Federal Government should be permitted to collect from the citizens of the country, in the guise of taxes, and retain as its own, without remedy on the part of the taxpayer, money to which it may have no lawful right. If this can be done, property in unlimited amount can be taken from our citizens without regard to constitutional limitations and devoted to such purposes as the Federal Government may in its absolute discretion see fit. It should be no answer to say in any case that the burden of the tax has been passed on to another, particularly where the tax has not in express terms been so transferred.

The question is one between the Government and the person who paid the tax; and if the tax was improperly collected, the money should be returned to the person paying it. Whether he should be permitted to keep it or should be required to pay the whole or part of the sum refunded to someone else is an entirely separate and independent question. Should it be desired as a means of protecting third persons who may have an interest in the refund, to permit them to intervene in any tax suit brought to secure such refund, this, of course, would be entirely proper and unobjectionable; but the Government should not be permitted to retain a tax illegally collected on the mere ground that it

is not clear whether the person who paid the tax, if he recovers it, will be required to share the refund with someone else.

In the case of the processing tax the Government is acting as an intermediary for the transfer of money from one person to another. Is this a true tax for the general welfare or is the Government unconstitutionally acting as a collecting and disbursing agency? If it is a true tax, the funds should be used for the general good instead of benefits for a specific group, and if the converse is true, the tax is obviously unconstitutional.

This then is the administration's answer to the urgent appeal of the cotton-textile industry for relief from the processing tax. The tax is to be continued even though unconstitutional.

It has been almost exactly 300 years since the followers of Roger Williams sought relief from autocratic oppression and settled on the shores of Rhode Island. In his pocket he carried the first constitution adopted on these shores. The signature of all settlers was required to that document. I think this is an appropriate time to read it:

We whose names are hereunder written, being desirous of to inhabit in the town of Providence, do promise to submit ourselves in active and passive obedience to all such orders or agreements as shall be made for public good of the body, in an orderly way, by the major consent of the present inhabitants, masters of families incorporated together into a township, and such other things and they shall admit into the same, only in civil things.

This then was the origin of free government on these shores. Are we to destroy the work of three centuries by impulsive and rash acts sought from us by the executive arm of our Government?

Mr. DICKINSON. Mr. President, yesterday afternoon we had discussion with reference to a provision of the pending bill which would prevent the courts from entertaining petitions for injunction to prevent the collection of taxes. In view of the suits being started, some 150 or 160 in number, I think it is fair to state that it is on account of the fact that the bill attempts to deny the taxpayer his remedy for a refund of the tax paid that the suits are being entertained by the Federal judges.

In cooperation with others I have prepared a rather careful brief on this subject, which I ask may be printed in the RECORD at this point following these remarks for the information of the Senate.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON TAX PROVISIONS OF H. R. 8492 (AMENDING THE AGRICULTURAL ADJUSTMENT ACT OF MAY 12, 1933, AS AMENDED)

I. LIMITATION ON SUITS FOR REFUND OF TAXES PAID PRIOR TO THE PROPOSED AMENDMENT

Section 32, on page 57, et seq., of H. R. 8492 as reported by the Senate Committee on Agriculture and Forestry provides:

"The Agricultural Adjustment Act, as amended, is amended by adding after section 20 the following new section:

"Sec. 21. (a) No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer, or any person who has been such a collector or officer, or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court), (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment, or (2) for damages for the collection thereof. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recovery, recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed. The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) (reduction of tax if Secretary of Agriculture in his judgment determines that it will increase consumption of processed goods) or (c) (processed goods delivered to any charitable organization for its own use) of section 15, under paragraph (1) of subsection (e) of section 16 (adjustment to conform to current change in rate of tax determined by Secretary of Agriculture), or under section 17 (exports) of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930."

The report (No. 1011) of the Committee on Agriculture and Forestry of the Senate states (p. 23) that:

"The practical effect of this provision will be to prevent any refunds of taxes already collected upon the ground that the act or the actions of the Secretary thereunder are illegal. The justification for such a provision denying refunds is found in the fact that the taxes paid have been passed on to the consumer. The constitutional basis for such a provision is found in the power of the United States at any time to assert its sovereign right not to be sued, and the power of Congress to determine the jurisdiction of the courts."

(a) *Alleged justification for the provision*

The reason given by the Senate committee, as well as that publicly assigned, for this proposed amendment, is that the processors who have paid these taxes have passed them on and should not now be entitled to recover. This premise is not justified in many cases. These taxes were not usually added to the invoice, as were certain automobile excise taxes (sec. 424 (a) of the Revenue Act of 1928). They were, in substance and fact, one of the costs of the raw material (cotton, wheat, etc.) which was added to the other manufacturing costs going into the finished product. The manufacturer then had to sell his product on the market in competition with others.

For instance, the selling prices of some textile goods (by trade practice and custom) bear a fixed relation to one another dependent upon their quality—e. g., cotton shirts at \$1, \$1.50, and \$2. The margin of profit in the case of the lowest price is so small that it would not permit the retailer merely to add the tax to the selling price and still keep his market. The margin of profit on the higher-priced goods would be more apt to take care of the tax. If he added the tax to the selling price of the lowest-priced goods, but did not increase the standard price of the next higher grade of goods by the amount of the tax (because the margin of profit on the latter is already sufficient to cover the tax), he would be violating the trade custom of a fixed ratio between the prices of the various classes of goods. This would lead to sales resistance and would tend to reduce the consumption of goods contrary to the purpose of the Agricultural Adjustment Act. Accordingly, the retailer would not assume the burden of the tax on the lower-priced goods, and the wholesaler therefore could not pass it on.

We have been advised that the rayon manufacturers have for some time been selling their products at cost—presumably by reason of Japanese competition. If a tax is now imposed on rayon (as proposed by section 15 of the amendment as reported by the Senate committee), the manufacturers cannot possibly pass it on, because if they should increase the selling price (at cost) they would lose even such part of the market as they have so far been able to retain. This is but another illustration of the impossibility of passing on the tax.

The processing tax cannot be identified in the selling price with any more certainty than any other item of manufacturing cost—and, if the processor did not receive sufficient income to offset his costs and provide a reasonable return upon his capital, or if he operated at a loss, which was frequently the case, it is difficult to justify the assumption (as a reason for the statutory provision) that the processor was reimbursed for processing taxes any more than for any other type of expense. In such cases it is most certain that some of the manufacturing costs have not been recovered and therefore have not been passed on.

For example, many cotton mills during 1934 were not earning a reasonable return upon their investment (National City Bank Bulletin on Economic Conditions, Apr. 1935, p. 58), and from the middle of 1934 operated at a loss (Report of Federal Trade Commission on Textile Industries, pt. I, relating to investment and profit, Dec. 31, 1934, p. 10). Certainly an industrial group which has operated at a loss has not passed on all its expenses and costs. It is difficult to predicate upon these facts an assumption that the processor has been reimbursed for the processing tax and thus passed it on, but has not been reimbursed for some of the other costs. While the theory asserted may have been that the mills should only act as a collecting agency for the processing tax, the practical situation is that the tax became a part of the increased cost of the raw material, and the processor has not been able to increase his sales price proportionately.

It has normally been necessary for the processor to pay the tax before receiving any reimbursement from the sale of the manufactured goods. With the prevailing unfavorable conditions and with the unfair competition fostered by overproduction, the tax, in part or in whole, could not, in many instances, be passed along. This added to losses already existing and increased the deficit. (Brief submitted by the Rhode Island Textile Association to the Governor's Committee to Investigate the Problems of the Textile Industry, Mar. 4, 1935.) The preliminary findings of the survey of the cotton-textile industry in New England (prepared by the New England Council, Mar. 22, 1935) includes the following statement:

"Practically every one of the 73 companies mentioned took pains to state their experiences with the processing tax and its effects on their respective businesses.

"Considerable diversity of opinion is shown in the returns as to the effects of this tax. There is, however, nearly unanimous agreement that current selling prices do not cover total costs. A few returns point out that for a time after the tax became effective, prices covered all costs, including the tax. (Recent Government statistics on cotton-textile profits, North and South, indicate that this must have been true for about the first year of the tax.)

"The relatively steady rise during the last 12 months in the price of raw cotton, an average increase per pound equal to if not greater than the 4.2 cents per pound tax may be the major reason why prices do not now cover costs. The majority of the manufacturers who replied say that they have had to absorb from 25 to 100 percent of the tax. This is because of the extremely competitive situation prevailing due to production being in excess of demand, the inroads into the domestic and also the foreign markets by Japanese and other foreign producers of cotton textiles, and the increasing resistance of consumers generally to any higher prices for cotton goods."

It is clear that the Senate committee's report stating "that the taxes paid have been passed on to the consumer", is incorrect in many cases—probably in the majority of them. There is, therefore, no blanket justification for the above proposed amendment.

(b) Denial of due process

The fifth amendment, as is well known, provides that no person shall "be deprived of * * * property without due process of law." This in itself is a substantive right guaranteed by the Constitution. Denial of due process therefore takes away a substantive right. All the Court decisions have held that Congress may not take away a right guaranteed by the Constitution even if it can limit the legal remedies.

"It must be confessed, however, that the constitutional meaning or value of the phrase 'due process of law', remains today without that satisfactory precision of definition which judicial decisions have given to nearly all the other guarantees of personal rights found in the constitutions of the several States and of the United States" (*Davidson v. New Orleans*, 96 U. S. 97, 101). (Italics supplied.)

Nevertheless, the Supreme Court has marked out certain limitations imposed upon the legislative power by the requirement of due process. Thus in *Murray v. The Hoboken Land & Improvement Co.* (18 How. 272), at 276, the Supreme Court made the following statement:

"* * * The Constitution contains no description of those processes which it was intended to allow or forbid. It does not even declare what principles are to be applied to ascertain whether it be due process. It is manifest that it was not left to the legislative power to enact any process which might be devised. The article is a restraint on the legislative as well as on the executive and judicial powers of the Government, and cannot be so construed as to leave Congress free to make any process 'due process of law', by its mere will." (Italics supplied.)

Judge Cooley, in his Constitutional Limitations (sec. 356), gave the following definition of due process:

"Due process of law in each particular case means such an exertion of the powers of government as the settled maxims of law permit and sanction, and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs."

From the above it is clear that there are some safeguards which Congress must recognize in protection of a person's constitutional right. To deny all remedy in this instance is to deny the right itself—due process.

It has been held that "a denial by a State court of a recovery of taxes exacted in violation of the laws or Constitution of the United States by compulsion is itself in contravention of the fourteenth amendment" (*Carpenter v. Shaw*, 280 U. S. 363, 369). The phrase "due process" has the same meaning in the fifth and fourteenth amendments (*McGarvey v. Swan*, 17 Wyo. 120, 96 Pac. 697; *Hurtado v. California*, 110 U. S. 516, 535).

When the processing taxes were paid the taxpayer, by virtue of section 3224 of the Revised Statutes, could not enjoin their collection. It was understood, as the law permitted at the time, that claims for refund could be filed (on the ground that the taxes were unconstitutional or illegally imposed) and that if denied, suit could be brought for the refund. The courts, in upholding Revised Statutes, section 3224, have done so upon the understanding that another remedy was available to the taxpayer; that is, a suit to recover taxes paid after refund has been denied (*Dodge v. Osborn*, 240 U. S. 118), and they have refused to obey the mandate of section 3224 to deny an injunction, where no adequate remedy at law was available.

An appeal to the executive department on the ground that the taxes were unconstitutional or illegal for other reasons would have been of no avail, so that, as a practical matter, the taxpayer had no right of appeal to the executive department in this respect.

The Senate provision would bar suits not only against the United States but even against the collector of internal revenue or his representatives. For Congress now to deny the right to sue for refund or to obtain judgment therefor is certainly denying recovery of taxes exacted in violation of the Constitution, provided their imposition is unconstitutional.

But Congress proposes to go further than to deny the taxpayer the right to sue in court. It would deny the right to any refund or recovery of the tax at all, irrespective of any remedy which someone might conceive the taxpayer had and in total disregard as to whether the taxes were constitutionally imposed or legally collected. This undoubtedly is the ultimate in the denial of a remedy. No safeguard of the taxpayer's rights is left under the provision, and therefore it must follow that Congress would be denying the substantive constitutional right to due process.

In *Lynch v. United States* (292 U. S. 571), it is said that Congress is under no obligation to provide a remedy through the courts and that it may limit the individual to administrative

remedies. The decision went so far as to add " * * * withdrawal of all remedy, administrative as well as legal, would not necessarily imply repudiation. So long as the contractual obligation is recognized, Congress may direct its fulfillment without the interposition of either a court or an administrative tribunal." But in the case of processing taxes imposed prior to the proposed amendment, Congress would not be recognizing the right of due process. It should be noted, however, that in the Lynch case some form of remedy was not denied.

Even in the case of *Cary v. Curtis* (44 U. S. 236), the Supreme Court did not hold that Congress could deny, or intended to deny, all remedy. It merely held that the taxpayer could not sue the collector by virtue of a statute therein involved, despite any interpretation which might be given Mr. Justice Story's forceful dissenting opinion.

It was said in *Brinkerhoff-Faris Trust & Savings Co. v. Hill* (281 U. S. 673, 682):

"But, while it is for the State courts to determine the adjective as well as the substantive law of the State, they must, in so doing, accord the parties due process of law. Whether acting through its judiciary or through its legislature, a State may not deprive a person of all existing remedies for the enforcement of a right, which the State has no power to destroy, unless there is, or was, afforded to him some real opportunity to protect it."

The Supreme Court, as late as 1931, in *Graham v. Goodcell* (282 U. S. 409), citing the case of *Brinkerhoff-Faris Trust & Savings Co. v. Hill*, said:

"* * * it is not necessary to consider the authority of the Congress to withdraw the consent of the United States to be sued. (See *United States v. Heinszen & Co.*, supra, at p. 391 of 206 U. S., 27 S. Ct. 742.) The argument of the Government in this respect is not adequate to dispose of the controversy. Some of the present suits were brought against the collector individually and were based upon the right to recover as against him by reason of his illegal acts. Such an action is personal and not against the United States (*Sage v. United States*, 250 U. S. 33, 37, 39 S. Ct. 415, 63 L. Ed. 828; *Smietanka v. Indiana Steel Co.*, 257 U. S. 1, 4, 5, 42 S. Ct. 1, 66 L. Ed. 99). If the Congress did not have the authority to deal by a curative statute with the taxpayers' asserted substantive right, in the circumstances described, it could not be concluded that the Congress could accomplish the same result by denying to the taxpayers all remedy both as against the United States and also as against the one who committed the wrong."

The proposed amendment, denying to the taxpayer, as it does, any and all remedy, clearly runs counter to the Supreme Court's interpretation of the fifth amendment. The proposed amendment would not be merely denying a remedy, but would be denying the substantive right of due process.

(c) Policy

1. Perhaps Congress can prohibit the protection of rights guaranteed under the Constitution by withdrawing the privilege of suit in any form and preventing any refunds of taxes. Nevertheless, is Congress justified in accomplishing whatever it has in mind by using any means to do so, even if they are in violation of the Constitution? For the United States publicly to declare that it will retain taxes, even though unlawfully taken, is beneath its dignity.

2. The proposed statutory provision will penalize those who have paid the processing taxes and benefit those who have refused to pay or have evaded the tax.

3. Taxpayers will be encouraged in the future to understate and underpay taxes of any kind. They will fear similar legislation endeavoring to prevent suits for refund. The contrast in this connection is significant between the cooperation of the taxpayer in England with his Government and the attitude of the taxpayer in France. The difference can be attributed in large part to the policy of the British Government in fostering the good will of the taxpayer. England is the only country in Europe which has not been compelled to resort to the sales tax for revenue purposes. (See T. M. Gordon, *The Canadian Sales Tax*, 1930; National Industrial Conference Board, *Sales Taxes*; General, Selective, and Retail, 1932.)

4. The proposed amendment, if enacted, would seriously interfere with the collection of the revenues. Until recently taxes were collected first and litigated through claims for refund. By reason of public demand, the right to litigate income and estate taxes before payment was first granted in 1924 when the Board of Tax Appeals was created (secs. 274, 280, and 308, Revenue Act of 1924—and similar sections in subsequent revenue acts). For other taxes, however, taxpayers were left to their suits for refund after payment. If this right is taken from them, Congress will find itself confronted with an overwhelming demand to litigate all taxes before payment, with consequent delay in collection and ultimate loss of revenues.

5. As pointed out above, for many years the Revised Statutes (Sec. 3224) have provided that no injunction should be issued restraining the collection of taxes. This has generally been upheld by the courts on the ground that an adequate remedy at law was available by a suit for refund. The courts have refused to follow that provision, however, where it has been shown that the remedy at law was inadequate. If Congress may do away with that remedy, and if Congress does so with respect to these taxes, may not the courts hereafter say, with respect to any tax, that the right to sue for refund is not an adequate remedy? Will Congress not have disclosed how inadequate is that remedy? And if the right of refund is disclosed as inadequate because it may be revoked, will the courts hereafter be justified in refusing

an injunction against collection of any tax which is doubtful in any respect? It is reasonable to predict that if Congress passes this statute the courts will hereafter permit injunctions in tax suits. The results will necessarily be a serious and permanent damage to all future taxes.

6. Several cases are already pending in the courts in which the taxpayers have been put to substantial trouble and considerable expense in litigating their tax liability for floor stock and processing taxes. It is unjust to deny them the right to continue these cases to judgment and to obtain any proper recovery of tax, even on the ground that the taxes are unconstitutional or illegally collected.

If Congress should see fit to cut off the claims of taxpayers who had not yet made demand for refund of moneys erroneously collected, it should at least follow the policy indicated in sections 810 (d) and 1106 (b) of the Revenue Act of 1932, wherein it is provided that new provisions in those sections shall not "bar from allowance a claim for refund filed prior to enactment of this act which, but for such enactment, would have been allowable." Failing this, Congress should follow the policy indicated in section 424 (a) (1) of the Revenue Act of 1928 regarding refund of excise taxes, wherein it is provided that restrictions on refund should not apply in suits duly begun prior to a specified date. See also, section 1103 (b) of the Revenue Act of 1932. Some saving clause should be provided as an addition to the amendment now proposed, and at least the following:

"Suits in court instituted before the enactment of this amendment shall not be affected by its provisions."

II. LIMITATION ON REFUNDS OF TAXES PAID SUBSEQUENT TO THE PROPOSED AMENDMENT

Section 32, on page 59 et seq., of H. R. 8492, as reported by the Senate Committee on Agriculture and Forestry, provides amendments to the Agricultural Adjustment Act, as amended, by adding sections 21 (b) and (d). Without quoting the provisions herein, it is sufficient to point out that not only are suits to enjoin the collection of taxes and to obtain declaratory judgments under the Federal Declaratory Judgments Act denied but also any refunds pursuant to suits for refund, unless the taxpayer proves to the satisfaction of the Commissioner of Internal Revenue, or to the court, that he has himself sustained the burden of the taxes. This latter requirement, as a practical matter of proof, probably cannot be met by many, if any, taxpayers. The provisions of the proposed section 21 (d) are obviously inserted to prevent refunds in practice, because it is known the taxpayer, except possibly in a few instances, cannot prove that he sustained the burden of the tax. This may be so, even though such evidence as exists indicates that he did, in fact, bear the tax himself.

It is noted that section 21 (d) provides that if section 21 (a) is declared unconstitutional, with respect to taxes already accrued, it shall be up to the taxpayer to prove that he sustained the burden of the tax. The taxpayer was not forewarned that he should keep records which would enable him to prove that he ultimately sustained this burden.

If suit to enjoin or to obtain a declaratory judgment and recovery under suits for refund is in substance denied, the taxpayer's constitutional right to due process is abrogated. The same reasons therefore exist against these proposed amendments as obtain in respect to the amendment first discussed in this memorandum.

These provisions are contrary to the letter and spirit of the Constitution and to all principles of fairness for which the courts and Congress have stood. They are the entering wedge by which citizens may be deprived of their constitutional rights and the courts of their jurisdiction to protect the rights of person and property. They go too far for public support. They should receive no encouragement from any officer of the Government who values a constitutional form of government or his oath of office.

Mr. GORE. Mr. President, I desire to ask the Senator from Iowa whether his remarks are intended to convey the impression which prevails that if these suits be brought now in expectation of the passage of the bill, they will have a status in court which will continue, notwithstanding the passage of the bill?

Mr. DICKINSON. I think that is correct.

Mr. GORE. As I remember the language of the bill, it is that no suits shall be brought or maintained, which language would vacate the suits now being filed.

Mr. DICKINSON. That may be true, but it is my understanding that the suits are being entertained by the Federal courts on the theory that they are being filed in anticipation that the pending bill may become the law.

Mr. GORE. I do not believe that the statute read yesterday constitutes a bar in the way of bringing suit to test the constitutionality of a tax. I placed in the RECORD yesterday a reference to the case of *Hill v. Wallace* (259 U. S.), where the court entertained such a suit notwithstanding the section read yesterday by the Senator from South Carolina [Mr. SMITH]. The section which he read provides that no injunction to restrain the collection of a tax shall be issued, or rather that the collection of a tax shall not be enjoined.

In the case to which I have referred, an injunction was issued and was sustained, and the tax was held unconstitutional.

REGULATION OF UTILITY HOLDING COMPANIES—APPOINTMENT OF CONFEREES

Mr. SMITH. Mr. President, the matter which I desire to discuss for just a minute does not pertain to the bill under consideration, but I presume it might be put in the category of a parliamentary inquiry. I desire to know if the custom and rule of nearly 150 years have been abrogated and set aside in the matter of appointing conferees on the part of the Senate?

So far as I am individually concerned, I do not think any of my colleagues are very desirous of going through the arduous work of serving as conferees, especially on a highly controversial subject; but in spite of the fact that I have twice been Chairman of the Committee on Interstate Commerce, and have been its ranking member for a number of years, without a word being said as to whether or not I desired to go on the conference committee under the custom of 150 years, I notice that conferees were appointed who were notoriously in favor of a certain controversial provision of the bill. I wish to have my constituents who read the RECORD advised as to how it happens that a rule which is so old has been suddenly ignored and that apparently the Vice President hereafter will name conferees without regard to the members of the committee or the chairman thereof.

We seem to have set aside the former rule. It is not law. It is not a constitutional provision. It is, however, a rule which by age and custom has grown to be more powerful or as powerful as the law. I ask the Chair if hereafter a new rule which has been arbitrarily made will be observed? I make that inquiry in order that the public may be advised that it is not a question of discrimination, but simply a question of the selection of those more favorably inclined toward measures that come to this body.

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). The present occupant of the chair will answer that he is not informed as to whether or not that is to be the rule from this time on.

Mr. SMITH. Mr. President, I am very sorry, because I had hoped this matter could now be settled. I have been here for more than a quarter of a century, and this is the first time I have ever known that custom to be broken.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McNARY. I am unable to gather the force of the Senator's remarks. To what conference is he referring?

Mr. SMITH. I am referring to the fact that certain names were put on the list of conferees on the utilities holding company bill that certainly did not come within the category of rank on the committee or of length of service.

I have not a particle of feeling in the matter. If it is to be the rule of the Senate hereafter that the chairman of the committee shall have nothing to do with the appointment of conferees, and that the Vice President shall name them, it is all well and good; but I should not like the impression to go out that some of us who have been here for a long time happen adventitiously to be left off conference committees for some reason that might cause our constituents to wonder why it was done.

On the conference committee on the utilities bill I think there was but one member who had been a member of the committee for any considerable time. I now ask the Vice President, if there be no law on the subject, if it is to be the rule hereafter that the Vice President will name the conferees, regardless of the custom which heretofore has prevailed.

The VICE PRESIDENT. The Chair will say to the Senator from South Carolina that sometime ago, in a discussion of conferees, he announced that so far as he was concerned, when the Senate put upon him the obligation and duty of appointing conferees, he was going to try, so far as possible,

to select conferees who represented the sentiment of the Senate.

The present occupant of the chair has just entered the Chamber. The Chair understands that in this particular case the Senator is complaining about the conferees appointed on the utilities bill.

Mr. SMITH. No, Mr. President; not particularly that. I observed that several times lately conferees have been appointed without regard to their seniority on the committee. I have been here for more than a quarter of a century, and I never knew that to occur but once or twice heretofore; and even then, when it occurred, the ranking members were consulted before the appointment was made.

The VICE PRESIDENT. The Chair has taken the responsibility of appointing conferees. If the Senate desires to take the responsibility, the Chair will be very happy and very much delighted to have the Senate itself take the responsibility; or, if the Senate will adopt a rule making it the duty of the Chair to appoint conferees according to their seniority, the Chair will carry out the rule of the Senate.

Mr. SMITH. All I desired was to have the statement go into the Record that the Vice President has assumed that responsibility, and will maintain it until such time as the Senate may provide some other rule. I did not wish any reflections to be cast on myself or my colleagues by virtue of the sudden abandonment of the former rule in the face of some very important legislation.

Mr. LA FOLLETTE. Mr. President, I wish to make a few brief remarks concerning the statement of the Senator from South Carolina.

In the first place, there is nothing in the rules, either directly or indirectly, which suggests that conferees appointed on the part of the Senate should be selected by seniority from the committee which had the bill under consideration when it was in committee. As a matter of fact, that is merely a practice which I acknowledge, as the Senator has stated, has been followed in this body for a great many years.

The fact is, however, that when the motion is made, it provides that the Chair shall appoint the conferees. Therefore, the Vice President has not usurped any power. He is merely discharging a responsibility which is placed upon him by the Senate when it adopts a motion that the Chair shall appoint conferees.

So far as the seniority practice is concerned—which, I reiterate, is not provided for by the rules—I desire to say that, in my humble opinion, it has nothing whatever to do with the fitness of individual Senators to represent the Senate in a conference over the disagreeing votes of the two Houses as to a particular piece of legislation, because time after time in my experience in this body when that practice has been followed, Senators have been selected to represent the Senate because of their position of seniority upon committees who, in their capacity as Members of the Senate, have fought against the position which ultimately prevailed, and therefore, in my opinion, were not logically in a position where they could properly defend, in good conscience, the position which this body had taken by a majority vote.

Therefore, Mr. President, as one Member of this body, I desire to state for the Record that I think the present Presiding Officer of the Senate is discharging his responsibility to this body and to the country, and that the course he has adopted will result in a more adequate, a more appropriate, and a more fitting defense of the position which the Senate takes upon legislative questions than will be obtained by following the precedent of seniority.

Mr. SMITH. Mr. President, I am not going to have the Senator from Wisconsin lecture me on question of customs or morals or fitness. I simply rose to ask whether in this emergency the rule was temporarily changed or whether it was to be the permanent custom to dispense with the form—and it was a mere form—that the Presiding Officer should name the conferees suggested to him. We all knew the names were furnished the Presiding Officer. All I wanted to know was whether he was to name the conferees in the first place.

I do not doubt but that it will work out all right, and I do not doubt but that there are younger Members of the Senate who can serve more satisfactorily than the older Members. Fitness may be determined by a man's service in the Senate. I was not questioning the efficiency of anyone. I was simply seeking information as to whether a new rule had been invoked.

There was no responsibility on the Vice President. We all knew that the custom was for names to be written and handed up to him. We all knew that. If he is to assume the responsibility which we had previously assumed, I have not a word to say. It relieves a lot of us of some very unpleasant work, and relieves those of us who are not efficient from being put in places where efficiency is called for. It simply makes it possible for the Vice President to select efficient men and to leave the inefficient off. Of course, he will discharge that duty in accordance with the position taken by the Senator from Wisconsin.

Mr. LA FOLLETTE. Mr. President, I have no desire to proceed with this debate; but I wish to say that if the Senator from South Carolina got the impression from anything I said that I was attempting to reflect upon the efficiency or the sincerity of any Senator, including the Senator from South Carolina, I withdraw any such imputation, if it is to be found in my remarks.

As I see it, it is a very important question whether the Vice President is to discharge his responsibility under a motion adopted by the Senate to select conferees, or whether such a motion is to be made and the Chair is to have the responsibility only in form, and the actual selection of the conferees is to be made by the chairman of a committee, who proposes a list of names. I did not intend to imply that there is any question of efficiency involved in the situation. As I see it, it is a question of selecting conferees who are in sympathy with the position which the Senate takes on questions of legislative importance; and that, of course, is to be determined by a consideration of the votes and by the position which Senators take upon important questions when a particular measure is under consideration and being debated.

I have known of many instances, in the nearly 10 years I have been a Member of this body, where by following the rule of seniority in choosing conferees Senators have been appointed who have voted against the position taken by the Senate upon important questions involved in legislation. I also have seen examples of the exercise of that prerogative in a manner which defeated the position which a majority of this body has taken upon important amendments and important provisions of legislation.

Mr. SMITH. Mr. President, just one word more, and I will have no more to say on the subject.

I think the old rule was a very wholesome one, because I have never known of a case, even where a conferee was against a measure, where he was not absolutely loyal in his vote to the position of the body which he represented. But I think that very often those who are opposed to a measure and who are on a conference can so conduct themselves as to represent the minority opinion, even though they are bound to vote to sustain their own House. I think the representation of the minority very often is wholesome, even though such conferees are bound by morals and decency to support the majority of the body which has voted.

So far as I am concerned, I have served the purpose for which I rose; that is, to find that we have a new order of things.

The VICE PRESIDENT. The Chair will ask the Senate to permit him to make a statement touching the matter just discussed by the Senator from South Carolina [Mr. SMITH] and the Senator from Wisconsin [Mr. LA FOLLETTE].

Up to the present time the Chair has in each instance consulted the chairman of the committee having in charge legislation passed by the Senate, and talked over with him the appointment of conferees. In the case of the public-works bill the present occupant of the chair stated that he could not be put in the attitude of taking the responsibility of appointing conferees and having no discretion in the premises. The result is that so long as the Senate puts that responsi-

bility upon the Presiding Officer the present occupant of the chair is going to exercise some discretion. He intends to follow that rule in the future. The Chair would be very glad if the Senate would select its own conferees. That would relieve him entirely.

The present occupant of the chair has appointed conferees recently in only two cases, so he does not know what caused the Senator from South Carolina to propound the query. The present occupant of the chair appointed conferees on the public-utilities bill. He consulted the chairman of the committee, the Senator from Montana [Mr. WHEELER], who went over the list and agreed on the Members to be appointed.

The present occupant of the chair yesterday appointed conferees on what is known as the "T. V. A. bill", and consulted with the Senator from Nebraska [Mr. NORRIS], appointing the three Senators suggested by the Senator from Nebraska. The Chair might state that he appointed the Senator from Nebraska [Mr. NORRIS] because, from the observation of the Chair of the conduct of the bill on the floor of the Senate, the Senator from Nebraska was more responsible than any other Member of the Senate for the passage of the bill, and the Chair thought it was perfectly proper to appoint the Senator from Nebraska as a conferee.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. FLETCHER. Mr. President, I have several communications I desire to have printed in the RECORD, which I desire to call to the attention of Members of the Senate, particularly for the benefit of the Senator from Tennessee [Mr. McKELLAR], who is entitled to know the attitude taken by these correspondents.

These communications are from the National Cooperative Council, the Standard Growers Association, the American Farm Bureau Federation, the National Grange, the American Cotton Cooperative Association, the National Livestock Marketing Association, and the National Cooperative Milk Producers Federation.

Mr. President, section 39 of the present bill should be stricken out. It is in fact and effect an amendment to existing agricultural credit laws which are administered by the Governor of the Farm Credit Administration, and has no place in a bill which will be administered by the Secretary of Agriculture. Moreover, I am assured that neither Governor Myers nor Secretary Wallace wants this proposed provision.

I am assured also that the National Cooperative Council, which comprises nearly all the important farmers' cooperatives of the country, is opposed to this section 39. I know also, from the communication I am presenting for the RECORD, that the American Farm Bureau Federation, the National Grange, and other national farm organizations are opposed to this provision. In fact, so far as I can ascertain, the chief support for the provisions comes from private cotton buyers throughout the South.

Earlier in this session of the Congress we passed the Farm Credit Act of 1935. The Committee on Banking and Currency held extensive hearings on the measure. These cotton buyers came before the committee in the name of the American Cotton Shippers Association. They attacked the cotton cooperatives, charging various kinds of inefficiency, and charging unfair relations between the cotton cooperatives and the Government.

The Committee on Banking and Currency made inquiry into those charges, and the record of our hearings will show evidence from the Farm Credit Administration and the cotton cooperative associations to disprove the charges.

If section 39 of the A. A. A. bill were adopted, the American Cotton Cooperative Association would be unable to act as agent for the Secretary of Agriculture in handling the large amount of cotton in the hands of the Government, or else it would be rendered ineligible for loans from the Farm

Credit Administration. It is obviously unwise for us to legislate such a hardship upon cooperative marketing associations.

It should be easy for us to vote with the farmers, with the Department of Agriculture, and with the Farm Credit Administration in this matter by striking out the section. I, for one, much prefer to be listed as a friend to the farmer and to the Administration than to be listed as a friend of dealers in cotton.

I ask that the communications to which I have referred be printed in the RECORD.

There being no objection, the communications were ordered to be printed in the RECORD, as follows:

NATIONAL COOPERATIVE COUNCIL,
Washington, D. C., July 5, 1935.

HON. DUNCAN U. FLETCHER,

United States Senate, Washington, D. C.

MY DEAR SENATOR FLETCHER: The Senate Committee on Agriculture, in our judgment, has made a tragic mistake in section 39 of the A. A. A. bill (H. R. 8492 as reported by the Senate committee).

"Sec. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government, unless such association handles the product of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than such bona fide members."

We assure you that farm cooperatives and general farm organizations are unanimous in urging that the section be stricken out, for these four reasons:

(1) The A. A. A. bill is not an appropriate place for amendments to the Farm Credit Act.

(2) Section 39 would establish a dangerous precedent. When any change is made in cooperative credit laws, the change should affect all cooperatives alike; cotton cooperatives should not be singled out for special treatment.

(3) Section 39, if enacted, will prohibit the cotton cooperatives from acting as agents for the Secretary of Agriculture in the handling of his large stocks of cotton despite the fact (as officials of the Department can verify) that the cotton cooperatives have rendered an exceedingly economical, efficient, and satisfactory service.

(4) Although section 39 sounds harmless, its effect is to crucify the cotton cooperatives. The American Cotton Cooperative Association is the central cooperative sales and service agency established and owned by 14 State or regional cotton cooperatives. It has no bona fide cotton-producing members, because its members are the 14 State associations. Both under the Capper-Volstead Act and the Farm Credit Act provision is made for federations of cooperatives for joint marketing, but section 39 leaves the American Cotton Cooperative Association completely out of the definition of eligible cooperatives.

Moreover, the American Cotton Cooperative Association last year classed or otherwise handled approximately 950,000 bales for the Department of Agriculture. It marketed approximately 810,000 bales for "bona fide cotton-producing members" of its member associations. Hence it did not handle membership cotton in excess of the amount "dealt in for persons other than such bona fide members."

If the purpose of the committee is to deny American Cotton Cooperative Association the right to borrow from the Farm Credit Administration or to deny the Department of Agriculture the right to employ the association for technical assistance, then section 39 should be drawn in such manner as frankly to express this purpose, in order that the Senate may know what it is asked to vote upon and what the precedent may lead to in the future.

For the reasons above outlined, I am directed by the council to protest against section 39 and to urge that it be stricken from the bill.

Very truly yours,

ROBIN HOOD,
Secretary-Treasurer National Cooperative Council.

SANFORD, FLA., July 5, 1935.

Senator DUNCAN U. FLETCHER:

Section 39, inserted in A. A. A. amended bill by Senate Committee on Agriculture, strong threat toward final destruction all farmers' cooperatives. Must urge your support in demanding the complete elimination this vicious, unwarranted threat, ultimately all cooperatives, making them ineligible to borrow from that Farm Credit Administration.

STANDARD GROWERS' ASSOCIATION.

AMERICAN FARM BUREAU FEDERATION,
Washington, D. C., July 6, 1935.

Senator DUNCAN U. FLETCHER,

Senate Office Building, Washington, D. C.

MY DEAR SENATOR FLETCHER: The American Farm Bureau Federation has always supported legislation in behalf of cooperative associations and has likewise supported those associations when they have been under attack.

The Cotton Cooperative Association is now definitely being attacked in section 39 of H. R. 8492 as reported by the Senate Committee on Agriculture and Forestry. To deny any cooperative association the eligibility of borrowing from an agency of the Government unless such association complies with provisions which are not contained in the regularly enacted statutes relating to cooperative associations is indefensible. Section 39 seeks to set up provisions to govern cotton cooperative associations which are not contained in the original Capper-Volstead Act, nor in more recent definitions of cooperative associations in farm-credit statutes.

Accordingly, it is recommended most earnestly that section 39 be entirely deleted from the bill.

Very respectfully,

AMERICAN FARM BUREAU FEDERATION,
CHESTER H. GRAY,
Washington Representative.

THE NATIONAL GRANGE,
Washington, D. C., July 6, 1935.

HON. DUNCAN U. FLETCHER,

Senate Office Building, Washington, D. C.

DEAR SENATOR FLETCHER: It will be appreciated by the National Grange if you will kindly use your influence to secure the elimination of section 39 of H. R. 8492, containing the proposed amendments to the Agricultural Adjustment Act.

The section in question reads as follows:

"SEC. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government, unless such associations handle the products of or supplies of bona fide cotton-producing members in an amount at least equal in value to such as are dealt in for persons other than bona fide members."

In our opinion the enactment of this section would to all practical intent and purposes destroy the American Cotton Cooperative Association, which is a federation or sales agency for 14 States or regional cooperatives.

Sincerely yours,

FRED BRECKMAN,
Washington Representative.

AMERICAN COTTON COOPERATIVE ASSOCIATION,
New Orleans, July 6, 1935.

HON. DUNCAN U. FLETCHER,

Chairman Committee on Banking and Currency,
United States Senate, Washington, D. C.

DEAR SENATOR FLETCHER: As is shown by the hearings before your committee on February 5, 1935, when the Farm Credit Act of 1935 was under consideration, section 39 of the A. A. A. bill as reported by the Senate Committee on Agriculture should be eliminated.

The effect of section 39 is to cripple the operations of the cotton cooperatives very seriously. It would prevent the American Cotton Cooperative Association from assisting the Department of Agriculture in handling the surplus cotton, which is under the control of the Secretary of Agriculture.

It would also render the American Cotton Cooperative Association ineligible for any loans from the Farm Credit Administration or the banks for cooperatives. This organization has no bona fide cotton-producing members, because its members are the 14 State and regional cotton cooperatives.

When your committee held its hearings on the farm-credit bill, representatives of cotton brokers, in the name of the American Cotton Shippers Association, appeared in opposition to a provision, declaring that commodities handled for agencies of the Government should not be considered as either member or nonmember business. After according me an opportunity to be heard on the subject and after hearing from Governor Myers, your committee refused to grant the demand of the American Cotton Shippers Association for elimination of sections 11 and 12 of the Farm Credit Act. Your committee reported the bill out and the bill was enacted into law.

Section 39 of the A. A. A. bill would undo the work of your committee in respect to this matter.

I trust, therefore, that you will exert your influence toward striking out section 39.

Very truly yours,

N. C. WILLIAMSON,
President American Cotton Cooperative Association.

NATIONAL LIVE STOCK MARKETING ASSOCIATION,
Chicago, July 6, 1935.

HON. DUNCAN U. FLETCHER,

Chairman Committee on Banking and Finance,
United States Senate, Washington, D. C.

DEAR SENATOR FLETCHER: We urge that you use your influence to remove section 39 from the A. A. A. bill. This section is an unfair and unjustifiable restriction upon cotton cooperatives and would establish a precedent of great danger to the entire cooperative movement.

Very truly yours,

P. O. WILSON,
Secretary-Manager National Live Stock Marketing Association.

THE NATIONAL COOPERATIVE MILK PRODUCERS' FEDERATION,
Washington, D. C., July 6, 1935.

Senator DUNCAN U. FLETCHER,

Senate Office Building, Washington, D. C.

MY DEAR SENATOR FLETCHER: The Senate Committee on Agriculture and Forestry has inserted in the proposed amendments to the Agricultural Adjustment Act a new section which will have the effect of putting out of business the American Cotton Cooperative Association, the largest farmer-owned and farmer-controlled cotton cooperative association in the United States.

This section, which is numbered 39 in the amendments now pending in the Senate, should be eliminated entirely. Although the section refers only to cotton cooperatives, we in the cooperative movement feel that it is the first step taken by the enemies of organized agriculture to destroy farmers' cooperative associations, which have been developed under the guidance and encouragement of both State and Federal Governments.

In addition, this matter is one which primarily affects the operations of the Farm Credit Administration. The subject is one which is not germane to the amendments now before the Senate. If any restrictions are to be placed around the operations of farmers' cooperative associations in addition to the existing law, these changes should only be made after adequate notice and opportunity for hearing of interested parties, and then only after a careful study of the problem by that Government agency charged with the duty of encouraging and developing the cooperative movement among farmers, to wit, the Farm Credit Administration.

On behalf of the organized dairy farmers of this country, we earnestly request your support of the elimination of section 39 of the pending amendments to the Agricultural Adjustment Act.

Very truly yours,

CHARLES W. HOLMAN,
Secretary The National Cooperative
Milk Producers' Federation.

RECESS TO MONDAY

Mr. SMITH. I move that the Senate take a recess until Monday next at 12 o'clock noon.

The motion was agreed to; and (at 4 o'clock and 30 minutes p. m.) the Senate took a recess until Monday, July 15, 1935, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

FRIDAY, JULY 12, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father, we thank Thee for the Holy Bible—the book of righteousness, the book of love, the book of life, and the book of God. O Thou of infinite wisdom, Who giveth of the same to all men that asketh of Thee and upbraideth not, write Thy precepts in our hearts. Deliver us from any overwrought self-assurance that our usefulness may not be impaired. Impress us with the foolishness to scratch, scorch, and starve our souls for just the things that finally throw life into confusion. Heavenly Father, stir us by the consciousness of the supreme ideal which is to minister and not to be ministered unto, to serve and not to be served, and to lend a hand. In our relationships inspire us with the spirit of the Master. In His name we pray. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H. J. Res. 347. Joint resolution to provide for the compensation of pages of the Senate and House of Representatives from July 1, 1935, until the close of the first session of the Seventy-fourth Congress.

The message also announced that the Senate had passed, with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H. B. 8632. An act to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 12), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. RUSSELL to the bill
(H. R. 8492) to amend the Agricultural Adjustment Act,
and for other purposes, viz: On page 73, after line 17,
insert the following:

1 “(c) Where during the crop years 1936-1937-1938
2 cotton is harvested on land with respect to which an
3 allotment of tax-exempt cotton has been made to the pro-
4 ducer thereon (or on his behalf as share-cropper or tenant),
5 if the allotment made is less than three bales, no tax
6 shall be imposed under this Act with respect to so much
7 of the amount of the cotton harvested from such land as is
8 in excess of such allotment but not in excess of three bales.
9 Exemption certificates shall not be issued representing cot-

1 ton exempt from tax under this subsection, but the Secre-
2 tary of Agriculture and the Secretary of the Treasury shall
3 prescribe regulations providing for the identification of such
4 cotton and for establishing the right to such exemption.
5 The person establishing his right to such exemption in
6 accordance with such regulations shall be entitled to receive
7 bale tags for such cotton under section 10. The amount
8 of cotton which the Secretary of Agriculture ascertains
9 under section 3 (a) should be allotted for marketing from
10 production during the crop years 1936-1937-1938 shall
11 include the amount which he estimates will be tax exempt
12 under the provisions of this subsection and the amount of
13 cotton apportioned in pursuance of section 3 (b) shall
14 be reduced by the amount of his estimate under this
15 subsection."

16 SEC. 2. The last sentence of section 23 of such Act,
17 as amended (relating to the definition of "bale"), is
18 amended by inserting "4 (h)," after "3,".

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 12), 1935

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. RUSSELL to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

- 1 On page 36, line 23, strike out "and jute,".
- 2 On page 46, after line 2, insert the following:
- 3 "(h) There shall be levied, assessed, collected, and
- 4 paid (during any period after the date of the adoption of this
- 5 amendment, when a processing tax is in effect with respect
- 6 to cotton) a processing tax on the first domestic processing
- 7 of jute, jute fabrics, and jute products at a rate per pound
- 8 equal to the rate of the processing tax which is then in
- 9 effect on cotton."

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 12), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. LONERGAN to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

- 1 On page 46, line 2, after "cotton" insert a colon and
- 2 the following: "*Provided*, That no such tax shall be levied
- 3 upon the processing of any commodity into newsprint".

the 9-year average, but 12 percent below the production of the record year 1933, when the crop totaled 1,756,940 short tons, raw value.

So far as marketings of sugar are concerned, therefore, the sugar-beet industry of the United States has made no sacrifice as compared with other years, but has for the time being traded the right to expand marketings—at a loss—in return for a stable, minimum income. This restriction on expansion, of course, does not restrict any expansion which might be indicated by an increase in domestic consumption.

Under the Jones-Costigan Act the limitation is on marketing rather than on production. As you know, however, in order to make the marketing limitation feasible growers have voluntarily accepted acreage allotments, and are receiving benefit payments under these individual contracts. The Jones-Costigan Act did not become law until May 9, 1934, consequently total acreage planted to sugar beets in 1934 was not substantially less than the exceptionally high acreage of 1933, but the harvest acreage was cut down by drought. The acreage allowable under the adjustment program is 975,595 acres, which compares with a harvested acreage of 983,000 acres in the peak year 1933, and with an average of 734,889 acres for the 9-year period.

The quotas assigned our insular possessions and Cuba are of interest at this point. To sugar producers in the Philippines a 1934 quota was assigned at a figure 22.2 percent below the highest year's shipments of sugar from them to us. The Puerto Rican quota for 1934 was 12 percent under the peak year, and the Hawaiian quota 10.5 percent under. The Cuban quota, on the other hand, represents a decline of 51.3 percent from the year of peak shipments, and a decline of 35.2 percent from the 9-year average.

From these facts it is clear that American sugar-beet producers have been asked to make relatively slight adjustments by comparison with the adjustments necessary with their off-shore competitors, and by comparison with the adjustments required, for instance, of cotton, tobacco, wheat, and corn-hog producers. And it so happens that because of weather conditions in 1934 and because of the increase in the value of crops competitive with beets, American producers have not been able to produce the amount of sugar beets called for in their quota.

A detailed statement of the results of the sugar-adjustment program to date would include considerable emphasis upon the 69,943 contracts signed, and the 77,581 checks issued thus far, and the payment of over nine and one-half million dollars in benefit payments, with the prospect that this sum will rise to about \$17,000,000 when payment is completed on the 1934 crop now being marketed. The most significant item, however, is the comparison of world sugar prices with prices, plus benefit payments, received by domestic producers. At present American granulated sugar is being offered for export at the basis of 1.20 cents net cash in bond. This means the value of 300 pounds of sugar in an average ton of beets is \$3.60, processed and ready for market.

Beet growers in the United States, under the protection of the quota provisions of the Jones-Costigan Act, and under production adjustment contracts, will receive not \$3.60 a ton but an average of about \$6.75 a ton. This will not mean great wealth to the average producer, but it does mean effective, substantial protection—a genuinely fair return for balanced production.

You may be interested in the precise figures for Colorado. Despite the drought, Colorado harvested 176,000 acres of beets in 1934, which compares with 209,000 acres in 1933, and 156,000 in 1932. Contracts were submitted by 11,159 growers, and checks totaling \$2,410,517 have been sent out. On the estimated 1934 production of 1,569,000 tons of sugar beets, Colorado growers will receive about \$5 a ton from the factories and approximately \$1.75 a ton as benefit payments, or a total of \$6.75 a ton. Thus Colorado's income from sugar-beet production for the crop of 1934 will approximate \$10,570,000. While this is about one and one-half million dollars under the gross income on the 1933 crop of 2,628,000 tons of beets, it is about a fourth higher than the income from the 1932 crop.

I find that sugar-beet income in Colorado has made a better recovery than grain income for the United States as a whole. Comparing 1934 income with the average income for the years 1922-31, Colorado growers last year had a sugar-beet income that was about 60 percent of the 10-year average, whereas grain producers the country over had an income last year of roughly 50 percent, even including benefit payments, of the 10-year average.

Comparable results can be listed for other beet-growing areas. Fortunately, these results have been obtained without any impairment of our relationships to our insular possessions or to Cuba. In fact, by virtue of the provisions of the Jones-Costigan Act, and by virtue of a trade agreement now in effect, our trade with Cuba has shown a gratifying increase.

Agriculture in particular has reason to be interested in some of the results of this trade agreement. The trade agreement went into effect in the fall of 1934. Comparing the 9 months, September-May 1934-35, with the same period a year before, we find our exports of wheat flour up, hams and shoulders up by nearly a million pounds, and lard up nearly 25,000,000 pounds, as compared with 11,000,000 pounds the year before. Industrial exports of automobiles, machinery, and other items have increased proportionately. Though Colorado may not produce either lard or automobiles for export, Colorado's sugar-beet growers have a genuine, if indirect, interest in such exports, for any improvement in our foreign-trade situation is reflected in higher consumer purchasing power in this country for such products as sugar.

So far as the consumer is concerned, it must be frankly admitted that he pays the cost of the protection now possessed by the domestic sugar industry, just as he pays the cost of the protection possessed by any other tariff-protected industry. In the case of sugar, however, the consumer has not had to pay any more under the adjustment program than he paid in the past. The Agricultural Adjustment Act contains a consumer-protection clause which puts a ceiling on price increases through control of production or marketing, the ceiling being the proportion of his dollar the consumer spends for food now as compared with the pre-war years, 1909-14. It would be interesting to see such a ceiling in all tariff schedules.

The responsibilities of sugar-beet growers toward labor, in consideration of benefits obtained under the Jones-Costigan Act, have warranted and received both study and action. The act became law so late in the spring of 1934 that it was not possible to affect labor relations last year. Determination of wage rates, therefore, was left to the usual bargaining between individual producers and laborers. But in order to guard against nonpayment of wages, much complained of by laborers, the adjustment contract provided that the second installment of the benefit payment to producers on the 1934 crop should be conditional on settlement of all bona fide wage claims. Some 2,000 complaints were subsequently acted upon by control committees, and 200 of these are awaiting settlement by the sugar section of the A. A. A. Many other complaints were settled informally.

This year, for the 1935 crop, it has been possible to take further steps to insure satisfactory relationships between producer and laborer. Producers' associations in southern Colorado and in Montana, and numerous associations of laborers, requested a determination of minimum wage rates for the season. Growers' organizations in northern Colorado, Nebraska, and Wyoming reported failure to agree on such rates. Accordingly hearings were held in Colorado, Nebraska, and Montana, and minimum-wage rates were subsequently determined.

The rates have been based on three considerations: The past relationship of wages to income from beets, past relationship of wages to prices of beets, and the past relationship of labor costs to total costs. The rates set are roughly 40 percent higher than those paid in 1933. Though lower than the rates demanded by the laborers, they are in line with purchasing power criteria of the years 1924-26, chosen as the base period for this determination.

In addition to this rate determination, the administration and the growers have taken preliminary steps to eliminate child labor from the beet fields. The adjustment contract specifies that no children under 14 years of age, other than members of the producer's immediate family, may be employed in the beet fields, and that for those between 14 and 16 years of age the working day shall not be longer than 8 hours.

In sugar-beet areas there is likely to be much talk of the value of high tariffs in general and of sugar-beet tariffs in particular. I have already dealt with the way in which a tariff on Cuban sugar amounting to more than 100 percent ad valorem built up insular competition behind the tariff wall to bring the domestic sugar-beet producer to ruin, and how we have used a smaller tariff and a processing tax-benefit payment program to restore a modest prosperity. I wish now to discuss tariffs in general as they affect agriculture in general. There has been much talk along this line because 1934 was the worst drought year in the Nation's history. Drought cut grain production by 2,000,000,000 bushels. It is not surprising, therefore, that there have been imports of feed grains into the United States. For the 11 months ending May 31, 1935, however, they have amounted to less than 3 percent of the drought-created vacuum.

This coming year we shall harvest probably 40,000,000 acres more crops than last year. In spite of very unfavorable weather for corn in May and June, it now appears from July 1 reports that we may harvest in 1935, roughly, one and one-half billion more bushels of grain than last year. This means that with many crops we shall again be faced with a very interesting export problem. This is especially true of wheat and rye. Agriculture as a whole is on an export basis normally to the tune of 50,000,000 acres. As long as this is the case, Colorado cannot build a wall around herself. Neither can the United States. High tariffs by destroying the market for the product of 50,000,000 acres and by increasing the costs of products which Colorado farmers buy have done the Colorado farmer infinitely greater damage than he will ever know. But it happens the tariff is such a sacred thing and has built up so many vested interests that nothing can be done about it suddenly or without careful consideration. Therefore the farmer must have his processing tax and benefit payment as his offset to the havoc wrought by the tariff. In this way we have helped the cotton, wheat, corn, tobacco, and sugar farmers to meet an otherwise impossible situation. With ordinary weather in 1936 we will hear nothing about imports of farm products except from politically minded demagogues. There may still be small imports of a few products as a result of a hangover of the drought, but the economic effect will be so slight as to be insignificant. I hope and believe that 1936 will see the last attempt of designing politicians to fool farmers with promises about paper tariffs which never have and never can do him any good.

TRIBUTE TO THE STATE OF CONNECTICUT

Mr. LONERGAN. Mr. President, I ask unanimous consent to have inserted in the RECORD an editorial published in the

New York Sun of Saturday last touching briefly on some aspects of the history of the State of Connecticut.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Sun of July 13, 1935]

LITTLE, BUT OH MY!

Connecticut, as many have observed, is a small State. Its area is less than 5,000 square miles. In extent it ranks forty-sixth among the States; in population, twenty-ninth. Its inhabitants number not so many more than there are residents in the Bronx; just about as many as there are in Detroit. But, like many persons who are under the average height and weight, Connecticut has always had plenty of energy—plenty of initiative, get-up-and-go. It has always been good at starting things.

Connecticut can claim to have written the first democratic constitution, to have founded the first school of law, the first school with really systematic instruction in music, and the American system of agricultural experiment stations. It was among the first to offer higher education to women. There are some who believe that Eli Whitney began modern manufacturing methods that led to mass production in his factory at Whitneyville, Conn., much more than a hundred years ago. True or not, no one can deny that the Connecticut Yankee has had great inventive genius; that modern industry, as well as representative government and education, has found Connecticut's relatively few acres a very fertile soil.

A professor of political economy at Princeton—not a native son of Connecticut—called the Connecticut Constitution "the first conscious and deliberate effort on this continent to establish the democratic principle in control of government * * * the first written and democratic constitution on record." In the course of a quarter of a century Connecticut's first law school, founded at Litchfield in 1784, educated in the law 16 United States Senators, 50 other Members of Congress, 2 Justices of the United States Supreme Court, 10 Governors, 5 Cabinet members, and uncounted judges. Aaron Burr and John C. Calhoun were two of the many brilliant legal minds polished here in the early days of the Republic.

In literature and journalism Hartford takes title to two priorities: the Hartford Wits, said to be the first literary school in the United States, and the Hartford Courant, the oldest newspaper in the country published in the same town with the continuous use of the same name and the unbroken continuity of its publishing corporation.

Connecticut, then, to recapitulate, has very notably started things in politics, education, industry, literature, and journalism, and at her three hundredth birthday party, at its height this summer, deserves a great big hand from her next-door neighbor, New York. It may be said of her again at this time, "She is little * * * but, oh, my!"

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. POPE. I offer an amendment to the committee amendment.

The VICE PRESIDENT. The Senator from Idaho offers an amendment to the committee amendment, which will be stated.

Mr. McNARY. Mr. President, I inquire was there an amendment pending at the conclusion of the session on Friday?

The VICE PRESIDENT. As the Chair understands, there was pending at that time the committee amendment, as amended, on page 11, line 6, including soybeans, and so forth, in the bill.

Mr. McNARY. I ask that the clerk state the amendment then pending.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 11, line 6, after the word "canning", it is proposed to insert the words "soybeans, package bees and queen bees, poultry."

Mr. McNARY. Mr. President, I thought, in order to serve the best interests of desirable parliamentary procedure, that, by unanimous consent, we were to take up, separately and not as a group, each one of the commodities mentioned in the amendment. I am sure such an order was made. At the time I propounded to the then occupant of the chair, the Senator from Nevada [Mr. PITTMAN], that question.

The VICE PRESIDENT. The parliamentary clerk suggests to the Chair that the same object can be accomplished by moving to strike out. The Chair does not know exactly what the agreement was.

Mr. McNARY. I think I can tell the Chair in a moment. The occupant of the chair at that time was the Senator from Nevada [Mr. PITTMAN]. Effort was made to consider

all these commodities in a group as one amendment. I made the objection and suggestion that we treat them as separate amendments so that we could take up soy beans, package bees and queen bees, and poultry, each separately, for the particular reason that I knew there would be some objection to poultry remaining in the bill; and if no one else is prepared to do so, I think the Senator from Rhode Island [Mr. METCALF] has an amendment to strike poultry from the bill.

The VICE PRESIDENT. Let the Chair state to the Senator from Oregon that he has recognized the Senator from Idaho [Mr. POPE], who has sent to the desk an amendment proposing to strike the word "poultry" from the committee amendment.

Mr. McNARY. Very well.

The VICE PRESIDENT. The amendment offered by the Senator from Idaho to the amendment reported by the committee will be stated.

The CHIEF CLERK. In the committee amendment, on page 11, line 7, after the words "queen bees", it is proposed to strike out the word "poultry."

Mr. POPE. Mr. President, I offered this amendment in the committee. I offered it because of the request of the poultry growers of my State. I received a telegram from the Idaho State Hatcherymen's Association, signed by the president and secretary, requesting that I support such amendment. I should like to offer this telegram for the RECORD as a part of my remarks to show that fact. It reads:

CALDWELL, IDAHO, June 12, 1935.

HON. JAMES POPE:

We urge your support that poultry and poultry products be included in marketing agreement section of triple-A amendments. IDAHO STATE HATCHERYMEN'S ASSOCIATION, OSCAR DUNLAP, President. GEORGE LYNCH, Secretary.

I also have the report of the American Farm Bureau which made the statement that the poultrymen throughout the country were in favor of that amendment.

However, I find that many of the poultrymen of my State are now opposed to it, and on July 13 I received a telegram reading as follows:

CALDWELL, IDAHO, July 13, 1935.

HON. J. P. POPE,

Senate Office Building, Washington, D. C.:

Idaho hatcherymen agreed that poultry and eggs be eliminated from A. A. A. Would like to have baby chicks included.

IDAHO STATE HATCHERYMEN'S ASSOCIATION, OSCAR DUNLAP, President.

I also find that the American Farm Bureau now makes the statement that they are not further interested in the amendment. Therefore, I am moving to amend the committee amendment by striking out the word "poultry."

Mr. BORAH. Mr. President, I desire to concur in the request of my colleague. In support of it, I ask to have inserted in the RECORD a number of telegrams on the subject.

The VICE PRESIDENT. Without objection, the telegrams will be printed in the RECORD.

The telegrams referred to are as follows:

CALDWELL, IDAHO, July 11, 1935.

HON. WILLIAM E. BORAH,

Senate Office Building, Washington, D. C.:

Understand Senate bill A. A. A. amendments on floor including poultry eggs. Absolutely opposed including poultry eggs under this amendment giving Secretary of Agriculture virtual dictatorship over poultry egg industry. Appreciate your support. Have poultry eggs taken out of this bill.

L. A. McBRIDE.

TWIN FALLS, IDAHO, July 4, 1935.

Senator WILLIAM E. BORAH,

Senate Building, Washington, D. C.:

Notice Senate Committee on Agriculture and Forestry have included poultry and eggs, their redraft House bill 8492. Feel this injustice. Our Idaho farmers also should demand there be hearing on bill if poultry and eggs be added. Wiring Senator POPE effort secure hearing. Anything be done this end advise.

H. J. BONTE.

NAMPA, IDAHO, July 11, 1935.

Senator WILLIAM BORAH,

Senator Chamber, Washington, D. C.:

We object to the inclusion of poultry and poultry products and the products of milk in the amendment to the agricultural act,

or H. R. 8492, as being detrimental to both the poultry and dairy industries, and especially in this district which is so far from the large markets, and urge that you vote against same.

JENSMIA CREAMERY Co.

NAMPA, IDAHO, July 10, 1935.

Hon. WILLIAM E. BORAH,

Senate Office Building, Washington, D. C.:

We are not in favor of Senate bill corresponding to H. R. 8492, of the three-A amendment, with reference to poultry and eggs.

NAMPA CREAMERY Co.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Idaho [Mr. POPE] to the amendment reported by the committee, as amended.

The amendment to the amendment, as amended, was agreed to.

The VICE PRESIDENT. The question is on agreeing to the committee amendment, as amended.

Mr. SMITH. Mr. President, as the committee amendment now stands, hops and poultry have been eliminated. The question is now upon agreeing to the committee amendment, as amended.

The VICE PRESIDENT. That is correct.

Mr. BORAH. Mr. President, did I understand the Chair to say that the question is on the adoption of the amendment, as amended?

The VICE PRESIDENT. That is correct.

Mr. BORAH. May we have the amendment, as amended, stated so we may know what we are to vote on?

The VICE PRESIDENT. The clerk will state the amendment, as amended.

The CHIEF CLERK. The amendment, as amended, is on page 11, lines 6 and 7, and now reads as follows:

Soybeans, package bees, and queen bees.

Mr. KING. Mr. President, in view of the statement made by the Senator from Virginia [Mr. GLASS] a few days ago with respect to queen bees and their progeny, I assumed he was going to move to strike out "package bees and queen bees." If not, I shall move to strike out those words.

Mr. GLASS. Mr. President, I hope the Senator will do so. I shall vote with him.

The VICE PRESIDENT. The Senator from Utah offers an amendment, which will be stated.

The CHIEF CLERK. In the committee amendment, on page 11, lines 6 and 7, it is proposed to strike out the words "package bees and queen bees."

Mr. SMITH. Mr. President, before action is taken on that question, as chairman of the committee I wish to make a statement. Different members of the committee saw fit to move to amend the text as it came to us from the House. This particular item has been the object of more or less facetious remarks here on the floor of the Senate. I do not remember who was the proponent of the amendment.

I think at this point it is very well for me to state in reference to the action of the Senate the other day on a roll call refusing to strike out the words "and not including fruits for canning" that every member of the committee heard the discussion, and every member of the committee, as I recall—and a majority were present—voted for the action of the committee in reference to that phraseology.

I was disappointed that the members of the committee who were most responsible for the discussion and inclusion of this phraseology did not come to the defense of it at all on the floor of the Senate. I now submit that the market for canned fruits is the major market in some instances for producers of fruits. By the action of the Senate we have divided the market, one portion, perhaps the major portion of the farmer's product, being unregulated and at the mercy of the canner, while the other portion, embracing fresh fruits, is wholly regulated.

I desire to reemphasize what I have said. Members of the committee heard this matter discussed in detail. All the elements which entered into it were fully discussed before the committee. The members of the committee unanimously voted to incorporate the amendment, and yet

when it came here for discussion not a member of the committee, with the exception of the Senator from Nebraska [Mr. NORRIS], rose to express his opinion. Of course, the Senate has a right to do as it pleases, but it seems to me the members of the committee should have expressed the fact that, after full discussion, they had consented to the insertion of the language.

As to the question of package bees and queen bees, I do not know anything. I would not handle the things by regulation or otherwise. Someone brought the items before the committee, thinking it would be advisable to regulate them along with other farm products, and I now invite whoever did so to defend the proposal or let the items be stricken from the bill.

Mr. BANKHEAD. Mr. President, I offered the amendment in the committee, as I stated on the floor a few days ago. There is quite a bee industry in some six or eight States, mostly in the South. They are at present operating under marketing agreements. I received telegrams from the representatives of the bee shippers in some six or seven States, pointing out that they are now operating under such agreements, and asking that the bee-shipping industry be included so they might continue under their present program. On the basis of the requests from the chairman of the organization of the bee shippers, a very high-class man who lives in my State, I offered the amendment.

If the people engaged in the business in quite a number of States have requested that they be permitted to remain under the marketing agreement program, I cannot see why Members of the Senate, because of facetious remarks or because they have no direct contact with the bee-shipping industry, should object to granting their request and letting them be included.

In view of their desire to remain under the provisions of the bill purely upon the basis of marketing agreements provided for by the bill, I hope the motion of the Senator from Utah will not prevail.

Mr. GLASS. Mr. President, I again protest that the remarks made by me were not altogether of a facetious nature. They may have assumed that tenor because of the ridiculous proposal to make queen bees a primary agricultural commodity, the production of which is to be controlled by the Secretary of Agriculture.

Mr. BANKHEAD. Mr. President—

The PRESIDING OFFICER (Mr. MALONEY in the chair). Does the Senator from Virginia yield to the Senator from Alabama?

Mr. GLASS. I yield.

Mr. BANKHEAD. The Senator misconceives the object of the amendment. It does not make bees of any sort a basic agricultural commodity. It does not in any manner seek to control production. It only relates to the shipment of bees in interstate commerce.

Mr. GLASS. It makes the produce of queen bees an agricultural commodity.

Mr. BANKHEAD. No; I beg the Senator's pardon. It merely authorizes the bee shippers to remain under a marketing agreement, not a production agreement, but a sales agreement.

Mr. GLASS. Incidentally and inevitably there will be an effort to control the production of queen bees. A few days ago I received a letter from an intelligent and most estimable lady in Wisconsin, as I recall, telling me how the production of bees might better be controlled; that is, telling me what would be a more feasible plan for birth control of bees than is provided in the pending provision of this particular bill. [Laughter.] I do not precisely recall what her method was. I simply thanked her for the information, and told her that on general principles I thought my queen bees were as much entitled as were any other species of animal to enjoy the "more abundant life" that Professor Tugwell is providing for human beings.

With all due respect to the distinguished Senator from Alabama, I think it makes the bill ridiculous to undertake to let the Secretary of Agriculture control the bee industry of the country.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Utah [Mr. KING] to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. VANDENBERG subsequently said: Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. VANDENBERG. What happened to the amendment in line 6, page 11, involving soybeans? Was that adopted by the Senate? I do not think the Senate ever voted on the committee amendment as amended.

The PRESIDING OFFICER. The Chair is advised that the Senate has not as yet voted on that question.

Mr. VANDENBERG. Is that being passed over?

Mr. SMITH. Mr. President, let us have this matter clearly understood. The Senator from Oregon [Mr. McNARY] asked that each item included in the Senate committee amendment should be voted upon; and, pursuant to that suggestion, the Senator from Idaho [Mr. POPE] moved to eliminate poultry. That was acted upon. I ask unanimous consent that the articles enumerated in the amendment may be now voted on separately, so that there will be no confusion. We have eliminated hops. We have eliminated poultry.

Mr. VANDENBERG. There is only one left. We can very easily vote on that separately. [Laughter.]

Mr. SMITH. The Senator is correct.

The PRESIDING OFFICER. The request of the Senator from Oregon was made before the present occupant of the chair assumed the chair.

Mr. VANDENBERG. Are we going to return to soybeans for a vote? That is all I wish to know.

The PRESIDING OFFICER. It would seem to the present occupant of the chair that it would be in order now to take action on the committee amendment as amended inserting soybeans.

Mr. POPE. Mr. President, will the Senator from Michigan yield for a moment?

Mr. VANDENBERG. Yes; if I have the floor.

Mr. POPE. A few moments ago my motion to strike out the word "poultry", in line 7, page 11, was adopted. My attention has been called to the fact that the words "poultry and its products" appear in line 13, page 16. I now move to strike out the words "poultry and its products", in line 13, page 16, in order to make the bill conform to my amendment.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Idaho is agreed to.

Mr. VANDENBERG. Now, Mr. President, is the pending question soybeans?

The PRESIDING OFFICER. It is.

Mr. VANDENBERG. I should like to ask the chairman of the committee something about the soybean amendment. I should like to know where it comes from and who asked for it.

Mr. SMITH. We simply transferred what was already in the House bill. If the Senator will look on lines 9 and 10, page 11, he will see the words:

As used in this section, the term "vegetables" includes soybeans.

The committee thought that was rather an indirect way of doing a thing, so we struck out that language and inserted the word "soybeans" where it properly belongs. It seems that the insertion of the word was discussed in the House, and it was inserted. I do not remember, in the committee, any proposal to include this oil-producing industry.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. HATCH. As a matter of fact, in the committee, no person suggested the inclusion of soybeans. It was merely a correction of the House bill.

Mr. SMITH. The word "soybeans" was in the House text, and we merely clarified the House text by putting soybeans in the category in which it was intended to go.

Mr. VANDENBERG. How can we deal with one oil-producing bean and not deal with them all?

Mr. SMITH. All the others are more or less being dealt with, I presume.

Mr. VANDENBERG. I do not follow the Senator. He says "all the others are more or less being dealt with, he presumes." [Laughter.]

Mr. SMITH. Yes; I presume they are.

Mr. VANDENBERG. That is conclusive.

Mr. KING. Mr. President, I am not satisfied with the importance and the necessity of including soybeans. I should like to find out who asked for it—what industry demanded it.

Mr. HATCH. It is in the House bill.

Mr. KING. I know it is in the House bill, but it seems to me we should reject the House provision.

Mr. SMITH. The House committee held extended hearings and considered all these products. They included soybeans in the manner I have indicated; and the Senate committee merely simplified the language by putting soybeans in the proper category. I myself think that if we are going to include the commodities already included—pecans, walnuts, and so forth—the House provision, ratified by the Senate committee, should be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee as amended.

The amendment as amended was agreed to.

Mr. KING. Mr. President, a moment ago I offered an amendment to strike out, in lines 6 and 7, page 11, the words "package bees and queen bees." The same provision is found in the committee amendment in line 12, page 16, in the following words:

Package bees and their products and queen bees and their products.

In order to be consistent, I move to amend the amendment by striking out the words I have just read, so as to harmonize with the first amendment.

The PRESIDING OFFICER. Without objection, the amendment to the amendment is agreed to.

The clerk will state the next amendment passed over.

The CHIEF CLERK. On page 11, line 7, after the word "as", it is proposed to strike out "defined" and insert "included."

The amendment was agreed to.

The CHIEF CLERK. On page 11, line 8, after the word "act", it is proposed to insert "and standards established thereunder (including refined or partially refined oleoresin)."

Mr. KING. Mr. President, I rise merely to obtain information, because I am not clear as to what is meant by the words "and standards established thereunder (including refined or partially refined oleoresin)." I should like some information as to that clause.

Mr. SMITH. This amendment refers to the regulations made under the act defining the standards. The Department already has under general legislation standards as to quality, and so forth.

Mr. KING. This amendment does not amend or modify the regulations or standards which heretofore have prevailed?

Mr. SMITH. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHIEF CLERK. On page 11, lines 9 and 10, the committee proposes to strike out:

As used in this section, the term "vegetables" includes soybeans.

Mr. KING. Mr. President, in view of the fact that we have soybeans in the bill heretofore without defining it as a vegetable or food or anything else, it seems to me there is no necessity for this amendment.

Mr. HATCH. We are striking out the language.

Mr. KING. Very well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. JOHNSON. Mr. President, I think that concludes the particular paragraph which has been under discussion. So that there may be no mistake about the parliamentary

situation, I desire information, if the Chair will be kind enough to give it to me, and to state what it is my intention to do subsequently.

We have been acting upon committee amendments which were passed over. We are supposed, I assume, to go through the bill in that regard. I intend to offer certain amendments including certain particular products in this section, numbered "(2)", entitled "Commodities to Which Applicable"; but I assume that those are specific amendments which must be taken up after we shall have concluded the bill in the aspect of taking care of those amendments of the committee which have been passed over. Is that accurate?

Mr. SMITH. That is the understanding of the chairman of the committee. I do not know just what the parliamentary situation is.

Mr. JOHNSON. I wished to make it plain, so that I should not be cut off hereafter in offering amendments to this particular section.

The PRESIDING OFFICER. The Chair is advised that any individual amendments to the House text will be in order after the consideration of committee amendments shall have been concluded.

Mr. McNARY. Mr. President, the statement made by the Senator from California conforms to the rule and the understanding.

Mr. KING. May I inquire of the Senator from California whether the amendments which he expects to offer, as just indicated, deal with the same subjects, considering milk or wool or mohair as a subject, as those which have been dealt with?

Mr. JOHNSON. No; I intend, for instance, to offer an amendment to the language in line 4, page 11, which was adopted by the House, stricken out by the committee, and reinserted by the Senate, so as to read "fruits for canning other than olives." To that there will be no objection, I know, because the canners do not object to it, so I assume it will be adopted without difficulty.

Then there are a couple of other products as well which I intend to endeavor to include, and I speak of the matter now merely that there may be no mistake about the parliamentary situation, and that I may not be precluded hereafter.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The CHIEF CLERK. On page 12, line 7, after the word "which", it is proposed to strike out the words "it is ultimately used or consumed" and to insert in lieu thereof the words "or the purpose for which it is used", so as to read:

"TERMS—MILK AND ITS PRODUCTS

"(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

"(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

Mr. KING. Mr. President, I think there will be some amendments, either to this section or to another dealing with milk and its products, and I was wondering whether the amendment just read might not be passed over to be considered when the "milk and its products" amendments are brought up.

Mr. McNARY. Mr. President, is it the desire of the Senator from Utah that we pass over the whole subject matter treating with milk?

Mr. KING. Yes; it seemed to me, in view of the fact that it is spread through various sections, that it might be well to

deal with the entire question of milk and its products at one time. I have no objection to dividing it up.

Mr. McNARY. The subject starts on page 12 and continues for several pages consecutively. I wish to know whether it is the desire to pass over the whole matter or only a portion of it.

Mr. SMITH. Mr. President, I think the language here merely clarifies the intent. It has nothing to do with the principle of milk control. I think we ought to make progress by accepting or rejecting the committee amendments. This amendment has been passed over, and it is now the province of the Senate to do what it desires to do with the milk provision.

Mr. ROBINSON. Mr. President, in support of what the Senator from South Carolina has said, let me state that we are laboring under an agreement first to consider committee amendments. We passed over several committee amendments once; now we are reaching them in order, and it is suggested that we pass over certain amendments again. I do not think that is good legislative procedure. Let us take them up and dispose of them. Let us make progress in the disposition of the controverted questions in the bill.

We have before us now, according to the agreement under which the Senate is laboring, the committee amendments. Having passed them over once, I do not see the justification for passing them over again, and if we do so, then when we reach them again someone may suggest that we pass them over a third time, and so on, indefinitely.

Mr. KING and Mr. LEWIS arose.

The PRESIDING OFFICER. Does the Senator from Arkansas yield; and if so, to whom?

Mr. ROBINSON. I yield first to the Senator from Utah.

Mr. KING. No amendment, as I understand, can as yet be offered; for instance, to strike out the words "milk and its products", because they are in the House text; and it seemed to me, in view of the fact that this subject would not be reached until after we dealt with the committee amendments, that we would have to defer until we reach the amendments which deal with milk and its products, and if an amendment prevailed, then we would have to go through the bill again to readjust the amendments which had been offered, and the subject would then be dealt with.

Mr. ROBINSON. Almost the universal practice here is first to consider committee amendments. When committee amendments are reached in the Senate they are subject to amendment, and the proper procedure is, if these amendments in their present form are not acceptable, to consider amendments to them now. I cannot see any advantage to be gained by passing them over every time we reach them.

Mr. KING. Mr. President, may I interrupt the Senator again?

Mr. ROBINSON. I yield again to the Senator from Utah; then I will yield to the Senator from Illinois.

Mr. KING. I again invite the attention of the Senator to the fact that if we should agree to insert the words "or the purpose for which it is used", referring to milk, which is quite likely, and later, when we had concluded all the committee amendments, a motion was made to strike out the words "milk and its products", then the amendment which was just being considered would have to be dealt with.

Mr. ROBINSON. The motion would be to strike out the paragraph, which, of course, would be effective if it were agreed to. The pending amendment is simply a perfecting amendment. It uses different language from that which was used in the House text to accomplish substantially the same purpose. If a motion should be made to strike out the words "milk and its products", it would carry practically the whole section. So that I still insist that the correct procedure is to go ahead and dispose of the committee amendments perfecting the text.

I yield to the Senator from Illinois.

Mr. LEWIS. Mr. President, I desire merely to point out that those for whom I speak seem to be very much interested in the milk feature of the bill. I ask the Senator from Arkansas, the able leader on this side, what is the reason, if any is advanced, why we cannot vote on this provision, now that

we have reached it? What is the objection to voting on it now?

Mr. ROBINSON. That is exactly what I am suggesting and advocating, that we vote on it now. The Senator and I are in entire accord on that proposition. Let us vote on it.

Mr. LEWIS. I heartily agree.

Mr. WAGNER. Mr. President, before a vote is taken I should like to have read at the desk a telegram which I received this morning on the subject of milk from the chairman of the Governors' Committee.

The PRESIDING OFFICER. Without objection, the clerk will read.

The Chief Clerk read as follows:

NEW YORK, N. Y., July 13, 1935.

Senator ROBERT WAGNER,

United States Senate:

The committee appointed by the Governors of the States of New York, New Jersey, Pennsylvania, Vermont, Massachusetts, Connecticut, and Maryland meeting in New York City today instructs me to advise you the committee is firmly convinced producer sentiment in the Northeastern States favors regulation of interstate commerce in milk and urges your favorable action.

PETER TEN EYCK,

Chairman Governors' Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment on page 12, line 7.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The next amendment passed over was, on page 13, line 20, after the word "milk" to strike out "sold" and insert "purchased"; so as to read:

"(B) Providing:

"(1) For the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

"(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered; subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

The amendment was agreed to.

The next amendment passed over was, on page 14, after line 15, to strike out:

"(D) In order to accomplish the purposes set forth in paragraph (A) of this subsection (5), providing that all handlers shall pay the price specified in such order for milk utilized for manufacturing purposes for all milk delivered to them by producers who were not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, for the period of 90 days from and after the commencement of deliveries by such producers, respectively.

"(E) Providing for the verification of weights, sampling, and testing of, and security for the payment for, milk purchased.

And to insert:

"(D) Providing that, in the case of all milk purchased by handlers from any producer who was not, upon the effective date of such order, regularly selling milk for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing for 3 full calendar months from the first day of the next succeeding month, shall be made at the price for the lowest use classification specified in such order.

"(E) Providing for market information to and the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), and assurance of, and security for the payment by handlers for, milk purchased.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

Mr. McNARY. Mr. President, while we have agreed to the amendment on page 14, relating to subsections (D) and (E), I think there should be some explanation of that language.

Mr. SMITH. Mr. President, if the Senator will read the provisions carefully he will find that they are really a redraft of the House text. I do not know that they change the intent or purpose at all. However, members of the committee who come from the region which would be more vitally affected by the amendment than would my section, I think should give the Senate the benefit of just what is intended by this milk provision. I know that it gave the committee more concern than any other amendment, but both those who have to administer the law and the committee hearing them give an explanation thought the language which the Senate committee included was more apropos to the subject than the House text. It does not change the principle.

Mr. McNARY. Perhaps the Senator from Iowa can give us an explanation.

Mr. MURPHY. Mr. President, does the Senator have reference to subdivision (D)?

Mr. SMITH. The Senator from Oregon asked what was the difference between the language inserted by the Senate committee and that found in the text of the House. There is no material difference.

Mr. MURPHY. Mr. President, having reference to paragraph (D), the purpose sought in the amendment is to create areas governing the marketing of milk, and the handlers purchasing milk in those particular areas are obligated to pay uniform prices for milk.

It has been the custom in some of the eastern markets, where there is heavy consumption, to draw milk from nearby States, and break down the price the local producer is paid. The desire is to give some protection to the price fixed in the local marketing areas. The protection given is in the requirement that the handler buying milk from the persons shipping it from outside the State shall pay the lowest classification-use price for the milk for a period of 90 days, in order to determine whether or not he is a regular producer.

There are regular producers in a given area. Outsiders shipping in irregularly break down the price. To protect the regular producers against a price breakdown, it is provided that the outsider shipping in, if he is a regular shipper, may have access to the market at the same price as the producer in that market. If, however, he is an irregular shipper, taking advantage of the market occasionally, it is sought to subject him to the low classification-use price.

Milk itself, for consumption as such in the home, takes the high-classification price. There is a second classification price comprising cream for use in the manufacture of butter and ice cream. There is a third classification price for evaporated or dried milk. The purpose of paragraph (D) is to determine the good faith of the producer from another State selling his product in a marketing area other than that of his residence, the effect of which is to break down the local price.

If that explanation be adequate, I shall let it stand; if it be not adequate, I shall be glad to give the Senator any further information he may desire.

Mr. COPELAND. Mr. President, may I ask a question of the Senator from Iowa?

Mr. MURPHY. I yield.

Mr. COPELAND. The up-State distributors of milk in my State feel that the safety of the industry in New York State depends upon the continuation of the fixing of resale prices by any governmental agency controlling the milk industry within the State, and unless the resale prices are fixed there will be a reversion to wholesale price cutting and chiseling. Does this amendment, in the opinion of the Senator from Iowa, guard against that sort of thing?

Mr. MURPHY. No, Mr. President; this amendment does not give the Secretary of Agriculture any power whatsoever to fix a resale price. He has not attempted to do that. My information is that the New York State law fixes the

resale price as well as the price to the producer. To make such attempt here would take this bill into a field where the question of consumer protection might be raised. This is a bill primarily for the producer of milk, and the Secretary of Agriculture feels that, for the present at any rate, it should concern itself wholly with the price the producer shall receive. If the Senator from New York wants to advocate a plan whereby the resale price shall be fixed, he is free to do that. It would open up a new field of discussion and debate.

Mr. COPELAND. Mr. President, I am glad to have the Senator's opinion. I am very much interested in the general subject. The amendment which is before us, however, is not one which I have studied, but there are some other matters which at the appropriate time I wish to present for the consideration of the Senate. I presume the Senator from Iowa has studied this amendment and has accepted it.

Mr. LA FOLLETTE. Mr. President, will the Senator from Iowa yield?

Mr. MURPHY. I yield.

Mr. LA FOLLETTE. I was called from the Chamber when the Senator from Iowa was discussing this provision insofar as it affects milk and its products. I should like to ask the Senator if his understanding of the provisions of this section is the same as mine, if he will indulge me for that purpose. As I understand, the agreements can be made to apply only to whole milk, and there is nothing in these provisions which would enable marketing agreements to be applied to the products of milk, such as cheese and cream and butter, insofar as they are being shipped from one State into the markets of another. Is that the Senator's understanding?

Mr. MURPHY. That is my understanding.

Mr. LA FOLLETTE. And, insofar as whole milk is concerned, it is my understanding that the agreements could apply, so far as the shippers of whole milk are concerned, only to those who have not, at the time the orders are issued, been shipping regularly into the given market.

Mr. MURPHY. Precisely.

Mr. LA FOLLETTE. In such a case, as to those who have not been accustomed to ship into such market, the terms would apply which apply to everyone else within the marketing area. In case an order is issued, however, and a particular shipper of whole milk, who had not been previously shipping into the marketing area, desires then to enter the marketing area, he would for a 3 months' period have to take the lowest price classification for his product, after which time he would obtain the same prices as provided for others who had been regularly shipping in or who were producing within the area. Is that the Senator's understanding?

Mr. MURPHY. The Senator has stated my understanding of the matter.

Mr. LA FOLLETTE. I thank the Senator.

Mr. TYDINGS. Mr. President, will the Senator from Iowa yield?

Mr. MURPHY. I yield.

Mr. TYDINGS. Is it the understanding of both the Senator from Iowa and the Senator from Wisconsin that the agreements and the orders issued by the Federal Government apply only to milk which is in interstate commerce, and do not under any circumstances apply to milk in intrastate commerce?

Mr. LA FOLLETTE. My understanding is that the phraseology in the bill—I am not sure that I can turn to it at once—insofar as it defines interstate and intrastate—

Mr. SMITH. It appears on page 10 of the bill.

Mr. LA FOLLETTE. As I have read it in each particular case, if a legal controversy arose, there would have to be an adjudication by the courts to ascertain into which classification the particular shipment in controversy fell. In other words, the court would have to find the fact as to whether or not it actually flowed in interstate commerce or tended to obstruct interstate commerce.

Mr. TYDINGS. In order to bring the example before the Senate in a concrete way, let us suppose milk is produced in a State and sold within that State.

Mr. LA FOLLETTE. My interpretation would be that that would not fall in the classification of moving in interstate commerce, or flowing in interstate commerce, or directly burdening or obstructing interstate commerce.

Mr. TYDINGS. There are cases where farmers, through their cooperatives, have already created and fixed a price which is satisfactory to them. If that arrangement were set aside, where the transaction is intrastate, it would disorganize all the farm cooperatives dealing in milk, whereas, on the other hand, if it applied only to interstate commerce no harm would be done. In California and in Maryland and in many other States I might mention there are farmers' milk cooperatives. They produce milk in the State and sell it in the State.

Mr. BORAH. This bill could not possibly interfere with them.

Mr. TYDINGS. I should not think so.

Mr. BORAH. If it did, the bill, so far as that is concerned, would have no effect. It is here attempted by language to confine it to interstate commerce, but even if the bill did not so confine it the Court would.

Mr. TYDINGS. That is what I think; but my main reason for raising this point again is that, if I interpret correctly the argument on the floor of the Senate in reference to this bill, Senators are assuming that the Federal Government might come into a State and issue an order as to the price a farmer shall receive for his milk, assuming that he produces it and sells it all within the State, and I do not think that argument is sound.

Mr. LA FOLLETTE. I will say to the Senator from Maryland that I do not understand that there is any attempt here to control the intrastate shipment of milk. Where there is a controversy, where a case might approach the border line, then it will be for the Court to determine what are the facts; and, according to the definition found on page 10, the Court will determine whether the particular handling or shipment is within intrastate or interstate commerce. I will say to the Senator that that is my understanding of the situation.

Mr. TYDINGS. That is also my understanding. My reason for wishing to bring out this point is that I hope no attempt will be made by those charged with the administration of this bill to exceed the authority intended to be placed in the administrative officers, because, if there should be such an attempt, it would disorganize the whole price structure, insofar as the milk producer—the farmer—is concerned. It will bring on a disorganization of such producers who through cooperation have agreed upon a price which is satisfactory to them, and I want it distinctly shown in the debate that no Senator on this floor conceives that the milk provisions of the bill give any Federal officer the right to have anything to do with milk which originates in the same State where it is sold.

Mr. SHIPSTEAD. Will the Senator yield?

Mr. MURPHY. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. It seems to me that it must be plain that this language is inserted here to affect the price of milk in intrastate commerce if and when it becomes directly burdensome or obstructs or affects the price of milk in interstate commerce.

Mr. TYDINGS. In my judgment, however, Mr. President, if milk originates in the same State where it is sold, it is intrastate commerce, and the Federal Government has nothing to do with that particular shipment of milk. The Senator from South Carolina [Mr. SMITH] and the Senator from Nebraska [Mr. NORRIS] and the Senator from Idaho [Mr. BORAH], as well as I, all agreed the other day that this was an interstate provision only, and I do not think that construction can be too greatly accentuated in this discussion, so that the Federal agency charged with administering this provision will not attempt to regulate intrastate shipments, when such shipments are not within the purview of the law.

Mr. BORAH. Mr. President, the language on page 10 "as directly burdens, obstructs, or affects interstate or foreign commerce", is purely surplusage. It does not add anything whatever to the power of control by the Congress. It may be, that language having been used, that someone may assume it gives an additional control over intrastate commerce; but the court would have to determine for itself in each particular case whether intrastate commerce did directly affect or directly burden interstate commerce. In other words, the language here, in my opinion, adds nothing whatever to the power of Congress.

Mr. TYDINGS. Mr. President, will the Senator from Iowa permit one concluding observation?

Mr. MURPHY. I yield.

Mr. TYDINGS. I agree completely to what the Senator from Idaho has said. My only reason for restating the proposition is that if the Federal agency charged with the administration of this provision were to serve notice upon a producer of milk that the Federal Government had jurisdiction, the producer might be frightened into the belief that if he did not carry out the Government's order he might be fined or put in jail, or that something else might be done to him; and I want it known by this debate, iterated over and over again, that if the Congress passes this proposed act it is presumed that those who are charged with its administration will not, in the case of an intrastate shipment of milk, attempt to issue Federal orders and thereby cause producers to be put to the expense of hiring lawyers to prove that the Federal Government has no right to do the thing which it is attempted to do.

Mr. DICKINSON. Mr. President, will the Senator from Iowa yield in order that I may ask a question of the Senator from Maryland?

Mr. MURPHY. I yield to the senior Senator from Iowa.

Mr. DICKINSON. I want to make a suggestion to the Senator from Maryland. Intrastate and interstate milk are so intermingled by many of the marketing associations that a time may come when in a given locality there is a surplus which may burden the market. Therefore if we are going to permit the interpretation to be placed in the proposed act that this provision shall operate only so far as interstate commerce is concerned, the product will be so intermingled under the trade and marketing associations that it will not be known which is which. So it is through this entire bill. It deals with an association which has to do only with a local concern which supplies extra milk through interstate commerce coming in from outside that State. When we read this bill through, I say that no one knows where the authority begins and where it ends.

Mr. BORAH. That is due to a physical fact.

Mr. TYDINGS. Mr. President, will the Senator from Iowa yield? If so, I will promise not to interrupt him again.

Mr. MURPHY. Very well.

Mr. TYDINGS. I may say to the Senator from Iowa that even if intrastate milk did become commingled with interstate milk, insofar as the man who produced and sold in the same State is concerned, that would not affect his situation. But here is the point: As we all know, the twilight zone, which the Senator from Wisconsin just described, offers an opportunity for the Federal administrators to issue orders to State shippers and producers of milk where the whole transaction is within a State, which will force them to go to law in order not to be bound in cases by the Federal decree. I want it distinctly understood that it is the sense of the Senate that those in charge of the administration of this provision will have no right to issue orders which will take over the government or control or the price-fixing or any other phase of the milk situation where the milk is produced and where it is sold always within the same State.

Mr. DICKINSON. The very purpose of the "weasel" words to which the Senator from Idaho has just referred is to do the very thing the Senator from Maryland has said should not be done.

Mr. TYDINGS. I quite agree with the Senator, but I wanted it made clear that the Senate does not interpret the

provision in that way. Insofar as I know, no Senator upon this floor claims that the Federal Government has anything to do with milk which is produced and which is sold in the same State; and that ought to be the way in which the proposed act will be enforced.

Mr. BORAH. Mr. President, I was going to say that it was my intention at some time or other to offer the following amendment:

Provided, That nothing in this act, or the law to which the act is amendatory, shall be construed to include wholly intrastate trade or commerce.

That would make it as plain as the Congress could make it; and if an administrator thereafter did something we fear he may do, it would be something he could not legally do.

Mr. KING. Mr. President, as one of the conferees upon the social-securities bill I will be compelled to leave the Chamber within a few minutes, and therefore ask the Senator from Iowa to yield to me for a short time.

Mr. MURPHY. I yield.

Mr. KING. Under the terms of section 8 (c) (1), page 10 of the bill before us, the Secretary of Agriculture is not only authorized but is required to issue orders and "from time to time amend the same", which orders are applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2). Among the products referred to are milk, fruits, various kinds of nuts, tobacco, vegetables, and so forth.

The orders referred to are, to all intents and purposes, licenses, and possess the qualities, limitations, and authority of licenses; and the bill provides that then the orders so issued shall contain various terms and conditions which limit or provide methods for the limitation of the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, and also allot or provide methods for allotting the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, and so forth. Further terms and provisions are also prescribed, among them provisions—

Fixing or providing methods for fixing minimum prices at which any such commodity or product, or any grade, size, or quality thereof, shall be purchased by handlers subject to such order.

There is also a further provision to the effect that the handlers as a group shall purchase or otherwise acquire not less than 50 percent of the total quantity of the commodity or product covered by such order directly from producers or associations of producers.

The amendment which is found in paragraph (G), page 18 of the bill, provides that the orders issued by the Secretary shall contain terms and conditions—

Fixing or providing methods for fixing minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof—

And so forth. In other words, in subdivision (F), as well as subdivision (G), the orders or licenses shall contain provisions for price-fixing, and also shall fix the grade, size, or quality of the commodities referred to.

Mr. President, it was a common practice in ancient times and during the feudal ages, and wherever tyranny and oppressive government existed, for those who were clothed with authority, whether by usurpation or otherwise, to control the economic as well as the political life of the people. The prices of labor and commodities were fixed by autocratic rules and regulations, and the masses of the people were largely hewers of wood and drawers of water.

It took centuries and sanguinary struggles for the people to throw off the yoke of bondage and tyranny and to set up forms of government in which civil, economic, and political liberty were enjoyed. Civilization has advanced in proportion as oppressive rules and regulations imposed by governmental authority have been withdrawn.

The progress of this Republic is in marked contrast to those countries in which the inhabitants were subjected to autocratic rules and to regulations at variance with economic

laws and the assertion of individual rights. The Federal Government has set its seal of disapproval upon price-fixing, and enacted antitrust laws to prevent monopoly. The Federal Trade Commission was created for the purpose of protecting the people against all forms of price-fixing and monopolistic control. I believe that every State has enacted laws prohibiting monopolies and restraint of trade and every practice which resulted in price-fixing. The people have recognized the evils growing out of monopolies and trusts and practices in restraint of freedom of trade; and as stated, they have enacted laws to keep open the channels of trade, to prevent unfair practices or fixing of prices, and every form of monopolistic control of industry. Yet, we are confronted with a proposition not only permitting but requiring price fixing and the enforcement of provisions limiting production and providing for innumerable obstacles to legitimate trade in commerce, not only among the States, but in the States themselves.

Mr. President, it seems evident to me that there are movements in some of the executive departments which have as their objective the absolute and unlimited control by the Federal Government of all trade and commerce, and of every transaction, even if confined to the limits of a single State. These movements, which are receiving no little support, contemplate the breaking down of State lines and the control by the Federal Government of substantially all of the activities of the American people.

Undoubtedly these movements have received additional impetus since the decision in the Schechter case, and we may look for a Nation-wide propaganda to increase the power of the Federal Government and to further impinge upon the rights not only of sovereign States but of individuals themselves. The lessons of history are to be ignored. Local self-government is to be regarded as antiquated. The statement is not infrequently made that the American people have been following a laissez faire policy and that they must now abandon the ideas and ideals of the fathers, and the policies which have made this the richest and most powerful Nation in the world, and rush headlong into every form of social experimentation, even though it results in the conference of dictatorial powers upon executive agencies and building up of a more powerful bureaucratic system.

For myself, I prefer democratic institutions and the philosophy of Jefferson; and I desire rather to follow in the paths of freedom and liberty than in the highways and byways hedged about and controlled by a powerful federal government and an oppressive and hateful bureaucracy.

The efforts to introduce a price-fixing system into our economic life, to be controlled and directed by the Federal Government, are all too evident; and if they succeed and our economic and industrial life is controlled by a multitude of Federal agencies, the results will hamper our industrial progress, interfere with individual liberty and individual success, and provoke controversies and sectional disturbances.

Mr. President, it is claimed, as I understand, that the authority herein sought to be conferred will be wisely exercised, and that there will be no stretching of the powers of authority herein conferred; that any discretion conferred upon the executive agencies will not be abused. Mr. President, whenever power is sought by governments, or agencies of governments, the claim is made that it will not be abused, that the authority conferred will not be transcended, and that only the welfare of the people will be sought. History is replete with examples of abuse of authority and the gradual encroachment, where discretion was allowed, upon the rights of individuals, as well as of local communities.

Rules and policies which might possess some merit when applied in a small country with a limited population, homogeneous in character, will be ineffective, and, indeed, may work irreparable injury when applied to a country as large as the United States, which possesses so many diversities, geographically, ethnologically, and industrially.

To attempt to apply uniform rules and regulations to the industrial, commercial, and agricultural life and practices of the American people would end in confusion and produce serious maladjustments and injurious consequences. There

have been many complaints growing out of the enforcement of the present Agricultural Adjustment Administration law, and I predict that if the bill before us shall be enacted into law there will be a larger volume of complaints and increasing resentment against the Federal Government. As illustrative of the extent to which Federal agencies will assert authority, I called attention a few days ago to the provisions of what I denominated the "code" promulgated by the Department of Agriculture with respect to the milk sales area of Los Angeles, Calif. This code contains from 24 to 26 pages.

Mr. SMITH. Mr. President, will the Senator give me the date of that document?

Mr. KING. It was issued by the Secretary of Agriculture February 27, 1935, and was amended upon several occasions since then. This code declares that under section 8 of the Agricultural Adjustment Act as amended the Secretary shall have power—

(3) To issue licenses permitting processors, associations of producers, and others, to engage in the handling, in the current of interstate or foreign commerce, of any agricultural commodity or product thereof, or any competing commodity or product thereof. Such licenses shall be subject to such terms and conditions not in conflict with existing acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices or charges that prevent or tend to prevent the effectuation of the declared policy and the restoration of normal economic conditions in the marketing of such commodities or products and the financing thereof.

This document further declares that:

Whereas R. G. Tugwell, Acting Secretary of Agriculture, acting under the provisions of said act, for the purposes and within the limitations therein contained, and pursuant to the regulations issued thereunder, has, on the 31st day of May 1934 issued a license for milk—Los Angeles area—which license was subsequently amended on August 21, September 29, and on December 15, 1934.

As I understand, the contention is made by the supporters of this bill that it is now so drawn as to cover interstate dealings, but not intrastate transactions. Mr. President, it is my opinion that in the administration of the A. A. A. Act and the present bill, if it shall be enacted into law, State boundaries will suffer obliteration. I am fortified in that view by the following provision of this remarkable code promulgated by Secretary Wallace and Acting Secretary R. G. Tugwell. Its provisions are as follows:

Whereas the undersigned finds that the marketing, distribution, and handling of milk and the products thereof, covered by this license, are in the current of interstate and/or foreign commerce since the portion thereof which occurs within the bounds of a single State affects and actually and potentially competes with the marketing, distribution, and handling of commodities and products which occur between or among several States, and since the commodity, and the products thereof, covered by this license, cannot be separated into interstate and intrastate portions, the supply and the marketing, distribution, and handling thereof being inextricably commingled, so that it is impossible to regulate the interstate marketing, distribution, and handling without also regulating the intrastate marketing and handling, and the failure to regulate the latter will defeat and obstruct the purposes of the act with respect to the former. * * *

If time permitted I should like to read further from this remarkable document. I invite attention briefly to two or three provisions, one of which declares that "it is necessary to fix prices which distributors will pay", and "it is necessary to classify the prices which distributors shall pay for milk in accordance with the form in which it is ultimately consumed"; "it is also necessary to provide for the equitable distribution among all producers supplying milk to the area referred to."

It further declares that "the licenses which are issued are necessary to establish and maintain prices for milk specified in the licenses." It provides the quantity of milk allotted to each producer and generally governs and controls the production and distribution of the milk within the area and fixes certain prices to be paid for the milk.

There are pages of rules and regulations relating to the duties of the Government agencies and the rights of the Market Administrator, the classification of milk sales and uses, the prices to distributors and conditions of sales, payments to purchasers, the duties of the Advisory Committee;

provisions in regard to the books and records and reports, provisions for the deduction of one-half cent per pound butter fat for market administration, such payments to be retained by the Market Administrator to meet his cost of operation, and provisions for deduction of 1 cent per pound butter fat for marketing services.

Later in the discussion I may ask to insert the provisions of this code in the RECORD.

Mr. BORAH. Mr. President, I do not hold any brief for the Agricultural Department, but in view of the language which the Congress itself used in the Agricultural Adjustment Act when it was passed in the first instance, it is not surprising that the Department should undertake to assume to do many things which they are under censure for doing. I think, though, if the Agricultural Department were dealing with an interstate commodity which was so intermingled with intrastate commerce that it could not be separated, and they could not formulate a line of demarcation, that they would be justified in dealing with the intrastate portion of the commodity just as the Supreme Court held in the railroad case that where the interstate business and the intrastate business were so intermingled and the intrastate portion of it was so much a part of the interstate business that the two could not be separated, the Congress would have a right to that extent to control intrastate business.

Mr. MURPHY. At that point, will the Senator apply the principle just voiced to the condition of the Boston milk market, where 25 percent of the production is intrastate and 75 percent, necessary for the use of the people of Boston, is brought in from outside the State, in interstate commerce? Would he not think under such a condition, the intrastate and the interstate commodities being so completely commingled, that on the ground of the intrastate portion burdening interstate commerce, an order would be justified?

Mr. BORAH. The rule, as I understand, is that the Congress has the right fully and completely to regulate interstate commerce, and if, in exercising that right fully and completely to regulate interstate commerce, it becomes necessary by reason of the intermingling of interstate and intrastate commerce to affect intrastate commerce, it may do so.

As to the physical fact of which the Senator speaks, I am not able to pass upon it; but there is not any doubt that we ought not—even those of us who are very meticulous about protecting State rights—to undertake to curtail the right of the National Government practically to control interstate commerce fully and effectively and to remove all obstacles which interfere with such effective control of interstate commerce. Therefore, if milk is so intermingled and so confused, as it were, one part being such a part of the other that it is impossible to control interstate commerce without affecting intrastate commerce, I think the Congress may act accordingly.

Mr. KING. I do not quite agree with the observation just made by the able Senator from Idaho, but conceding as a legal and technical proposition the conclusions stated by the Senator, we may concede that there may be authority in the Federal Government to do certain things, and yet the exercise of such authority might be very unwise. I concede that the Federal Government has the power to regulate interstate commerce. It may not destroy under the guise of regulation. I think the decisions of the courts have gone too far, but, conceding that the Federal Government has power to deal with interstate commerce, I affirm it as my conviction that in many matters the exercise of that power would be highly disadvantageous to individuals, to communities, to the States, and ultimately to the Nation.

Mr. BORAH. That might be true.

Mr. KING. Therefore, I am always reluctant to confer power upon the Federal Government even where under the Constitution it may in a technical sense possess the right to exercise that power.

In my opinion Congress should examine with the utmost care every measure which limits the power of the States or local communities or individuals. Whenever measures are under consideration to augment the authority of the Federal Government or increase the jurisdiction and power of execu-

tive agencies, Congress should require convincing evidence that such legislation is necessary and that in its enactment the rights of sovereign States are not abridged and the freedom of individuals is not impaired. There is a never-ending struggle between the forces upholding democracy, local self-government, individual rights, and those powerful elements whose objective is a centralized government possessing autocratic, if not unlimited powers.

Mr. BORAH. Mr. President, a short time ago we adopted an amendment relating to soybeans. I desire to give notice of my intention to move a reconsideration of the vote on that amendment. I shall merely permit the notice to stand for the present. I do not know whether or not I shall ultimately urge it.

In connection with that notice I ask to have inserted in the RECORD a telegram.

There being no objection, the telegram was ordered to be inserted in the RECORD as follows:

TWIN FALLS, IDAHO, June 26, 1935.

Senator WILLIAM E. BORAH,

Washington, D. C.:

Marketing-agreement hearing held here last year showed bean growers overwhelmingly opposed to marketing agreements. For this reason bean dealers, southern Idaho, ask that you do all possible to kill pending A. A. A. amendments.

WESTERN BEAN DEALERS ASSOCIATION,
JOHN P. KINNEY, President.

Mr. COPELAND. Mr. President, I should like to ask the Senator from Iowa a question. I have a memorandum here and I feel it my duty to present it to the Senate because apparently there are milk producers and distributors in my State who are concerned over these amendments. The bill, according to the memorandum I have, attempts to qualify intrastate commerce so as to subject it to Federal control and seeks to obtain a similar effect cooperatively with the States. The milk sold in upper New York State is purely intrastate in nature. It is believed that under the provisions of the bill the Secretary of Agriculture could well assume that that business directly affects interstate commerce, and that any change in the price of milk in that territory would directly affect evaporated milk which is moved in interstate commerce. Does the Senator from Iowa share this anxiety?

Mr. MURPHY. I do not share the anxiety any more than the anxiety is shared by the conference of Governors being held in New York today. A telegram was submitted a little while ago which was read at the desk. I do not know whether or not the Senator from New York heard it read.

Mr. COPELAND. Yes; I heard it read.

Mr. MURPHY. I repeat, I do not have any anxiety on that score.

Mr. COPELAND. In up-State New York a great many of the milk handlers are producers and distributors. According to the amendments as they are set up, if I am correctly advised, every one of those who may directly burden, obstruct, or affect interstate commerce would be subject to all the orders promulgated by the Secretary of Agriculture. These producers and distributors would be required to make adjustments in payments by being compelled to contribute to the maintenance of an adjustment or equalization fund and to pay their pro rata share of the expenses of the authority or agency which administers the order. Therefore the distributors who have an additional investment in not only producing their own milk but also pasteurizing the milk, which is absolutely necessary under the law, would have to share their position in the market with other producers. Is that correct?

Mr. MURPHY. Yes; that is correct.

Mr. COPELAND. In up-State New York very few of the smaller distributors maintain adequate records. It would be impossible for them to know the quantity of milk for which they should pay the various class prices. Already under New York State control it has proven very difficult, because of this fact, to enforce State regulations. For these reasons my friends believe it would be practically impossible in up-State New York to enforce any provisions of the A. A. A. amendments as they are set up at the present time. What does the Senator say about that?

Mr. MURPHY. In my view, it is possible to enforce them. There are a great many marketing agreements now in effect. The only place where marketing agreements as to milk are not now in effect are in those markets where the handlers of milk, the processors and distributors of milk, decline to concur in the marketing agreements.

Possibly the producers of no other State have suffered more than have the producers of New York from low prices received by them for milk. Possibly the producers of no other State have made more vigorous efforts than have those of New York State to obtain remunerative prices.

As the Senator well knows, the milk-control board was empowered to and did fix the price of milk to the producer. It also fixed the price of milk to the consumer. As the Senator also knows, decisions of the Federal courts made it impossible to protect New York producers against the surplus milk from other States.

With reference to the records which the Senator says these producers are lacking, it may always be said as to any new program that such a statement is quite true as to every basic commodity covered by the Agricultural Adjustment Act. It was necessary to establish records. It required a great deal of work. There were many heartaches attendant and a great deal of inaccuracy involved. For instance, in the corn-hog program it was necessary to go back and determine what the production of the farmer was in acreage of corn and what was the number of hogs he produced. He had kept no records as such in a very great many instances. Still it was possible to arrive at his past production.

The position of the committee in respect to these amendments is that intrastate commerce may burden or affect interstate commerce and that consequently this is a constitutional enactment under the decision of the Court in the Shreveport case.

Mr. HATCH. Mr. President, will the Senator from Iowa yield?

Mr. MURPHY. Certainly.

Mr. HATCH. In the case of wheat, we took the 5-year average. A lack of records would seem to preclude an absolutely accurate average, but is it not true that in the case of all the basic commodities the approximations arrived at by the Department of Agriculture have proved to be very fair and very just in consideration of the whole program?

Mr. MURPHY. The approximations were arrived at through local committees. There is democratic control, I will say to the Senator from New York, in all these programs; that control is exercised locally in the smallest political unit, and it has been possible to arrive at what represents a reasonable determination of past production.

Mr. COPELAND. I confess that I am distressed over this matter, because, as I go further into the statement made to me, I find it pointed out that during the month of August 1933—2 years ago—the State of New York, as referred to by the Senator from Iowa, made an investigation of the milk industry; and the result of that investigation indicated that the average milk distributor in up-State New York who did keep proper accounts was making a profit of only one-seventh of a cent per quart on all milk handled. Since that time, due to increased cost of production, labor, and materials, certainly the net profit has not increased, but rather has tended to decrease.

Under these amendments my constituents fear that the cost of the authority or the agency which administers the order, being prorated among the various handlers of milk in the market, will still further increase the expense. In the majority of markets where there is at the present time a Federal license the average cost of administration is between 2 and 3 cents per hundred pounds, and is for the benefit of the producers, not the handlers. In up-State New York this additional cost would, for the most part, wipe out the profit of the handlers, and, as they fear, would violate the due-process clause of the fifth amendment.

The amendment which we have before us provides that a cooperative association shall not sell its milk or products to any handlers at prices less than those fixed. In New York

State there are a great many cooperatives that sell their milk directly to consumers. There is nothing in the proposed amendments which provides that the cooperative that sells milk and milk products directly to the consumer shall charge itself with the prices fixed. If this condition shall be allowed to exist, it will be a short time only before the entire fluid market in every city will be taken away from the regular handlers of milk who are purchasing their supply directly from the producers, as they will be required to pay the prices set by the order. It is further contended that the cooperatives, in the absence of a set resale price, and with the exemption I have mentioned, would be able to sell milk at a lower figure, and return to their members the net proceeds of their sales, regardless of what they may be.

A conference was held in Syracuse in February 1934, as I remember. The producers did not agree "upon acceptance of the proposed program or upon any other plan of production adjustment" which included a processing tax.

Mr. MURPHY. Mr. President, if the Senator will pardon me, there is no processing tax in this provision. Furthermore, in the case of the particular producers to whom the Senator refers, there is not any obligation upon them to come in under this provision at all. They are free to stay out. If they do not wish to come in and have their condition bettered, and a proper price paid them for their milk, this is a matter of their election. It will not be imposed upon them.

I will make this reservation to that statement. The Senator from Virginia [Mr. BYRD] the other day offered an amendment with which I am in sympathy practically in its entirety. He pointed out that the powers here given the Secretary of Agriculture authorize him to issue an order on the petition of 50 percent of the handlers. The Senator from Virginia contended, and rightly, that that shut the producers out of a voice in the agreement. I will say now that I am prepared to accept, and I think the chairman of the committee is prepared to accept, an amendment which will require producer consent as to that. The percentage fixed is two-thirds.

Mr. COPELAND. Would the Senator also be willing to accept an amendment on page 13 striking out the language from lines 10 to 14, inclusive?

Mr. MURPHY. That provides for the pooling of milk.

Mr. COPELAND. Yes.

Mr. MURPHY. No; I should not want to deprive the Secretary of Agriculture of the alternatives erected in the bill. He has three conditions to deal with, and his desire is to seek to deal fairly with the producers without discrimination in favor of one to the prejudice of another. Since we are seeking to promote the welfare of the farmer, the welfare of the producer, I do not see why we should manacle the Secretary and keep him from having any alternatives in the means to be employed to attain the objective. This is one means which is offered, and it is a vital means. Another means is offered, and it is a necessary option to include here. I do not see why we should strike out the provision enabling the producers to pool their milk, if that is their election, and to take prices for the milk which represent the use classifications to which it is put.

Mr. COPELAND. What has the Senator to say to the suggestion that in a number of communities in up-State New York there is not a sufficient supply of milk surrounding the market to take care of the demand; therefore, milk must be brought into the market from more distant points? The provisions of the equalization which we are now discussing provide that a producer who is producing his milk on farms near to cities would receive the same price for his product as a farmer who produces his milk, say, 40 or 50 miles away from the same community.

Mr. MURPHY. If they were embraced in the same marketing area, that would be true. Let us keep in mind what the situation is. There is a deficiency of consumer demand. There is a surplus of milk. The price is greatly depressed, and has been for 5 years. The only way in which one can determine how each one of the producers included in the plan provided here shall bear his share of the cost of

effecting a higher price is to divide the milk by classification uses.

Mr. BYRD. Mr. President, a little while ago the Senator stated that the producer could exercise his own choice as to going into these marketing agreements or staying out of them. I doubt whether that statement is quite correct, because if a producer handles his own milk he becomes a handler, and therefore is subject to all the rules and regulations affecting handlers.

Mr. MURPHY. The point that the producer and the handler cannot be regulated at the same time is well taken. But the producer who is also a handler is not denied a voice. He can vote as a producer.

Mr. BYRD. He can vote; but once the marketing agreements are established, he is subject to the marketing agreements as a seller of milk.

Mr. MURPHY. Precisely.

Mr. BYRD. Therefore, as a producer, he is being regulated possibly without his consent.

Mr. MURPHY. Well, he has voted on the question. We provide for a two-thirds majority rule. How much more majority do Senators want? Suppose 66 $\frac{2}{3}$ percent of the producers are in favor of this plan, and one-third are not in favor of it; who should be our guide?

Mr. BYRD. The Senator is assuming that the amendment I have offered will be adopted. Under the bill as it stands at the present time, 50 percent of the handlers may impose licenses on the producers.

Mr. MURPHY. I have already indicated to the Senator from Virginia my agreement with his amendment, and I will give him whatever assurance I can that his amendment will be incorporated in the bill to that extent—not, however, the final extent of the amendment.

Mr. COPELAND. Mr. President, I should like to say a little more about this matter.

Mr. MURPHY. May I proceed a little further in respect to this subject?

Mr. COPELAND. Certainly.

Mr. MURPHY. Obviously, it would present a great many administrative difficulties.

Mr. COPELAND. I do not think the Senator has quite stated all the conditions. He does not take into consideration the difference in the cost of production. Taxes and values of property near the city are very much higher than in the case of property farther away from the city. The transportation differential does not compensate for the difference in cost, as I see it.

Mr. MURPHY. If the Senator will refer to page 12, line 13, he will see that there is this qualification:

Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order—

They adopt the present practice of business—

(2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

Mr. COPELAND. If the Senator will bear with me just a moment more, and then I will desist. In up-State New York there is a situation which is vastly different than the one in New York City proper. There is a certain association of upward of 800 milk dealers. These distributors, in the main, purchase their supply from individual farmers. To form a pool for the whole of New York State, to say nothing of a part of New Jersey and perhaps part of Vermont and part of Pennsylvania, would be to have a pool in which the accounts of several thousand distributors would be involved. In my State alone there would be 3,300. There would be upward of 100,000 producers involved. It would mean that to carry out this proposal there would have to be enforced collections from the many distributors scattered throughout a very large territory. Payment would have to be passed to the producers through the same area and to other thousands of scattered producers. If any appreciable number of the dealers in this large area failed to make their payments, it would throw the whole plan into disorder.

Then certainly the up-State distributors would have an unwieldy, unworkable plan. With the great territory involved, it would be bound to be so, as I view it. I fear that the bill will not tend to improve the milk industry in up-State New York, but, on the other hand, will tend to hamper it and place it in a state of chaos, a state of chaos greater even than that which existed before the formation of the State Milk Control Board. That is the reason why the people of my State are eager to have these amendments defeated.

Mr. MURPHY. The Senator's constituents, in the circumstances recited, may market individually. I have no thought that the Secretary of Agriculture would declare the entire State of New York in one region, subject to one order. Very likely the conditions being as the Senator has stated, he would establish another region in up-State New York, if the producers desired it. They can come under the first provision, in line 20.

Mr. COPELAND. The trouble is, the Senator from Iowa is not administering the law.

Mr. MURPHY. The Secretary of Agriculture, like myself, is from Iowa, and, so, whatever virtue is resident in the State, he has also.

Mr. COPELAND. The people of my State who are interested in the subject are asking that lines 10 to 14 on page 13 be stricken out, and that the language from line 19, near the bottom of the page, to the end of line 5, on the next page, be stricken from the bill, and an addition made on page 19, line 18. Provision is made here for the appointment or selection by the Secretary of Agriculture, or a method for the appointment or selection of an agency or agencies. The people of New York are not anxious to have some one cooperative out of many selected for that agency. Would the Senator be willing to insert after the word "agencies", in line 18, in parenthesis the words "which in the case of milk shall be a market administrator"?

Mr. MURPHY. I am perfectly willing to accept an amendment to insert the word "administrator." Would that cover it? I have had the same thought in mind.

Mr. COPELAND. Does the Senator think that one word would be sufficient?

Mr. MURPHY. If it should not be, I would be very glad to consider the Senator's amendment.

Mr. COPELAND. It has been suggested to me that this language be added after the word "agencies" in line 18, in parentheses, "which in the case of milk shall be a market administrator." Of course, I am not particular as to the language, but the idea should be inserted in some way in order to make clear exactly what is meant.

Mr. MURPHY. The Department will have no objection to any language the Senator may see fit to move to insert there to give him assurance that independent producers in New York not associated with cooperatives shall not have the door shut against the possibility of an administrator who is not a member of a cooperative, or shall have an administrator who will seek to serve only the cooperatives, and close his ears to others.

Mr. COPELAND. Will the Senator make a note in his bill so that when we come to that point that will be added? It is on page 19, line 18, after the word "agencies", to add the words in parentheses "which in the case of milk shall be a market administrator." Has the Senator made a note of that?

Mr. MURPHY. Yes; I have.

Mr. COPELAND. Now I wish to refer to another matter. A moment ago the Senator referred to two-thirds of the producers making certain agreements, having reference to page 22. Would the Senator be willing to change that to three-fourths?

Mr. MURPHY. When two-thirds of the producers are required to an agreement, why seem to impose a limitation of 75 percent?

Mr. COPELAND. The Senator has used the proportion of three-fourths in the bill.

Mr. MURPHY. I think it is practically unanimous when it is two-thirds.

Mr. COPELAND. The Senator has used three-fourths somewhere else.

Mr. MURPHY. I do not at the moment recall where we have used it. The Senator from Virginia [Mr. BYRD] used two-thirds in his amendment, I believe.

Mr. BYRD. No; my amendment provided for three-fourths.

Mr. MURPHY. I submit to the Senator from Virginia that on line 7 his amendment reads "by at least two-thirds of the producers."

Mr. BYRD. I have several amendments. On page 22 there is an amendment which provides for 75 percent.

Mr. MURPHY. This is with reference to page 21, line 2.

Mr. COPELAND. Let me call the attention of the Senator to page 13, line 5, where reference is made to "three-fourths of the volume of such milk." He has used that proportion. Why not make it uniform, and make it three-fourths on page 22, line 14 and line 25? The Senator is in a yielding and agreeable mood this afternoon. Will he make that change?

Mr. MURPHY. That is in the pool provision. Three-fourths is required in that instance.

Mr. COPELAND. Let us have it uniform. The Senator says there is no difference between two-thirds and three-fourths, so let us have it three-fourths. Does the Senator agree to that?

Mr. MURPHY. Inasmuch as three-fourths is elsewhere used, I will agree to an amendment to that effect.

Mr. COPELAND. Very well. That is three-fourths, on line 14 and line 25, page 22.

What does the Senator say about an amendment on page 13, to strike out lines 10 to 14, inclusive? Have I made sufficient argument to the Senator to justify such an amendment?

Mr. MURPHY. No; the Senator from Iowa will not assent to the elimination of that provision from the bill, because we might just as well tear up the whole milk provision in the bill as to assent to the elimination of that paragraph.

Mr. COPELAND. Does the Senator feel the same way about the language in line 19, beginning with subdivision (d)?

Mr. POPE. On what page?

Mr. COPELAND. Page 13, line 19, to strike out subdivision (d).

Mr. MURPHY. The Senator seeks to nullify the provision itself, failing to eliminate paragraph (ii). Striking out subsection (d) would hamper and impair paragraph (ii).

Mr. COPELAND. Then I take it the Senator has yielded all he can yield to me?

Mr. MURPHY. I feel that I have.

Mr. COPELAND. I am very much obliged to the Senator.

Mr. GORE. Mr. President, I should like to have the attention of the Senator from New York while other Senators are in a yielding mood.

I have an amendment proposing to strike out all the provisions in the bill with reference to price fixing, so far as related to milk and its products. Is the Senator from Iowa obliging enough to yield to that?

Mr. MURPHY. I regret that I cannot yield to the Senator from Oklahoma.

Mr. GORE. I will hand the Senator a copy of the amendment, which I shall call up at the proper parliamentary stage. It is requested by the dairy industry committee of my State.

Mr. MURPHY. I am frank to say to the Senator from Oklahoma that if the price fixing were coupled with adjustment of production, I should be sympathetic with his proposal; but it is not. There is no repression of the production of milk whatsoever.

Mr. GORE. Mr. President, there may not be a direct repression of the production, as the Senator suggests, but there certainly is indirect repression and control, because, as I recall, the Secretary is given the power to limit the area and the quantity of which producers can dispose.

Mr. MURPHY. No; if the Senator will permit me, I do not know that any such authority is given the Secretary of Agriculture.

Mr. GORE. That is the way I interpret it in the bill.

Mr. MURPHY. Not in the case of milk. What the Senator says is true as to other commodities, but as to milk it is not true, as I understand.

Mr. GORE. I am glad to know that milk escapes that provision. I recall now that there is an exception in respect to milk, section G, page 16.

Mr. MURPHY. Yes; the cow may give just as much milk as she formerly gave, and there will be no protest.

Mr. GORE. I will bring the matter up at a later stage.

The PRESIDING OFFICER. The clerk will state the next committee amendment passed over.

The CHIEF CLERK. On page 16, line 11, after the word "products", it is proposed to insert the words "soybeans and their products" and a comma, so as to read:

"TERMS—OTHER COMMODITIES

"(6) In the case of fruits (including pecans and walnuts but not including apples) and their products, tobacco and its products, vegetables (not including vegetables for canning) and their products, soybeans and their products—

And so forth.

Mr. SMITH. Mr. President, I understood that the word "soybeans", where it appears on page 11, line 6, was stricken out.

The PRESIDING OFFICER. The Chair will state that the word "soybeans" was not stricken out.

Mr. BORAH. Mr. President, I feel that "soybeans" should have been stricken out. As I am going to move to reconsider the action upon soybeans taken this morning, I ask that the amendment which has just been stated go over, because the two provisions are directly connected.

The PRESIDING OFFICER. Does the Senator now make the motion to reconsider?

Mr. BORAH. No; I have entered a motion to reconsider, and whatever action may be taken on the motion should include soybeans on page 16, line 11. I ask that the particular amendment now pending be passed over until we come to a consideration of my motion.

The PRESIDING OFFICER. Without objection, it will be so ordered.

Mr. SMITH. The Senator refers to soybeans?

Mr. BORAH. Yes; just to soybeans.

The PRESIDING OFFICER. The clerk will state the next committee amendment passed over.

The next amendment passed over was, on page 16, line 14, after the word "as", to strike out "defined" and insert "included"; and in the same line, after the word "Act", to insert "and standards established thereunder (including refined or partially refined oleoresin)."

The amendment was agreed to.

The next amendment passed over was, on page 18, line 16, after the word "the", to strike out "first", and in line 17, after the word "such", to strike out "first", so as to read:

"(F) Fixing or providing methods for fixing, minimum prices at which any such commodity or product, or any grade, size, or quality thereof, shall be purchased by the handlers subject to such order: *Provided*, That such handlers, as a group, purchase or otherwise acquire not less than 50 percent of the total quantity of the commodity or product covered by such order directly from producers or associations of producers.

The amendment was agreed to.

The next amendment passed over was, on page 18, after line 20, to insert:

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. BYRD. Mr. President, I should like the chairman to explain that provision.

It was evidently the intent of the committee to fix prices on perishable foods and vegetables. Under paragraph (F) prices can be fixed as to the purchase by the handlers from the producers; and then under paragraph (G) the price would be fixed at which the handlers may resell the product. I regard the provisions as conflicting, as not workable, and as bringing about confusion.

Mr. SMITH. Mr. President, that provision was discussed by the committee, and it was inserted in the bill in order to take care of the resale price where certain producers fixed the price at which they sold. The language is:

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. BYRD. Does the Senator from South Carolina think any dealer would purchase a particular commodity and then later have the producer fix the price at which he could sell that commodity?

Mr. SMITH. The purpose of this provision is to fix the price at which the producer is willing to enter into an agreement with the first handler, so as to make the price uniform.

Mr. BYRD. Mr. President, paragraph (G) provides for fixing the price at which the particular commodity shall be sold by the first handler.

Mr. SMITH. Yes; that is the point.

Mr. BYRD. I ask the Senator from South Carolina, as a matter of common sense and practical business—and I know he is efficient in such matters—whether any dealer would be willing to buy a certain commodity and then have the producer tell him at what price he could resell that commodity?

Mr. SMITH. The provision has for its object the protection of the resale price through the producer himself, who becomes a salesman.

Mr. BYRD. It does not so provide.

Mr. SMITH. That is the object of it. That is what the provision is for.

Mr. BYRD. I shall have to oppose that committee amendment. Price fixing is something which, though tried time and time again, never has been successful. England tried to fix the price on rubber. Brazil tried to fix the price on coffee. It has been tried in a number of other instances. The price of a perishable food, which varies in value from day to day, because of its perishable nature, as those who have shipped such products know, is determined by its condition.

Take peaches, for example. One can ship some hard peaches which may be small, but they will bring a good price on the market. Then one can ship some large peaches which are soft, and they will not sell for the freight charges on them. The attempt to write into these marketing agreements the price at which the article can be first purchased, and then, further, the attempt to fix the price at which it can be resold, seems to me to be an absurdity; and if it is done, it will be absolutely unworkable.

Mr. SMITH. If the Senator will allow me, no one should know better than the Senator from Virginia himself that the object of this amendment is to keep the handler from doing as he has done from time immemorial, especially with respect to perishable products, namely, getting any price he sees fit, at any time, anywhere, and under any conditions, regardless of the interest of the producer. The Senator knows that unless there is some kind of an agreement among the producers, aided by the Government, to arrange some kind of a price by which they can protect themselves, the producers will, because of the perishable nature of the product, be unable to dispose of the product at a profit.

Mr. BYRD. I should like to ask the Senator a question. Suppose a certain price were fixed on beans, and the consuming public would not pay that price; then what would be done with the beans?

Mr. SMITH. I take it for granted that the producers, now being organized and having an agency of the Government

to aid them, would find at what price the beans could be sold; and if it became evident that the public did not want them at a price which would remunerate the grower, it would be a question of ceasing to produce beans.

Mr. BYRD. Does not the Senator understand, though, that the condition of perishable foods changes from day to day?

Mr. SMITH. Yes.

Mr. BYRD. By the time one came back to Washington and went through all the different processes whereby he would find out who was going to fix the price, the beans would have been thrown into the garbage can.

Mr. SMITH. No; the Senator misunderstands the whole process. There will be an understanding before there is any shipment to market.

Mr. BYRD. I understand that; but suppose the price is fixed before shipment to market and the market will not pay that price; it will be a week or 2 weeks before the price can be changed by the method which has been fixed in the bill.

Mr. SMITH. I take it for granted that the price fixed would represent nothing more nor less than a reasonable return to the producer.

Mr. BYRD. The Senator is assuming, in the Department of Agriculture, an ability which has never been possessed by any person or organization in the history of the world, if he assumes that the Department of Agriculture can determine at what price perishable products shall be sold.

Mr. SMITH. It has been possessed from time immemorial by the purchasers.

Mr. BYRD. The Senator is mistaken. The purchasers frequently make purchases of perishable foods on which they have great losses.

Mr. SMITH. That is only an exception. I have proof in my possession that a carload of watermelons was shipped to New York, and the growers not only did not get enough for them to pay the freight charges, but they had to pay the purchasers a bonus to take them. I also know of an instance concerning artichokes right at my own door, where there had been a contract prior to the production of the artichokes to buy them at \$5 a barrel, and the expenses to the grower were \$4.90.

Mr. BYRD. Why does not the distinguished Chairman of the Committee on Agriculture and Forestry, who is giving such attention to this matter, advocate price-fixing for the nonperishables? Why not fix the price for wheat? Why not fix the price for corn? It would work much better, if it would work at all, than to fix the prices for perishable foods.

Mr. SMITH. Mr. President, I do not know that the time will not come—it ought to come—when the producer will fix his minimum price. Why should he not do so? Who fixes the prices of the shoes we buy? Who fixes the prices of the clothes we wear? Who fixes the uniform price of the shirt I have on? In spite of the absurd fluctuations in cotton from day to day, the price of the shirt remains stable throughout a year.

Mr. BYRD. Has it remained stable?

Mr. SMITH. It has remained approximately stable, as the Senator knows. I have to pay \$2.50 for 5 ounces of material to go on my back. The shirtmaker gets about \$9 a pound in the form of shirts to wear, and 9 cents a pound goes to the man who produces the cotton. The manufacturer of shoes gets \$12 for a pound and a half of cow-skin to go on a man's foot in the form of shoes, and it takes about 48 hours to make a shoe.

Mr. BYRD. Will the Senator from South Carolina cite one instance in the history of the world where price fixing has succeeded?

Mr. SMITH. Not when it comes to the farmer; no. That is simply because he was unorganized, and nobody in good faith ever stood by him. He has fed and clothed and shod the world from time immemorial, and he is the most notoriously poor individual in all our organized society.

Mr. BYRD. If the Senator thinks the problem of the farmer can be solved by price fixing, I suggest to him that he do so by fixing the prices of all farm products.

Mr. SMITH. Let us start with the products we are now discussing.

Mr. BYRD. Let the Senator provide for fixing prices of all farm products instead of picking out perishable foods, which are the least possible to control by price fixing.

Mr. SMITH. I think they are the ones which should be regulated, because they quickly pass out of existence by perishing.

Mr. BYRD. They perish; but who pays the freight on them? The Senator just mentioned the case of the freight on a carload of watermelons.

Mr. SMITH. Yes; but if I can get a provision in the bill by which a majority of those who produce the products can indicate that a certain price is agreeable to them, I think they ought to have that right, and they should have the support of every loyal American citizen who knows the condition of the farmer.

Mr. BYRD. This amendment actually proposes to fix the price at which the first handler can resell a commodity he has purchased; and presumably it will be fixed after he has made the sale. I ask the Senator, what purchaser of an agricultural product of any kind would buy it and then later on have the producer tell him at what price he could resell it?

Mr. SMITH. If he is foolish enough to sell the thing before he buys it—

Mr. BYRD. I am not speaking about selling it before he buys it, but this provision says that the price can be fixed, not necessarily before he makes the purchase.

Mr. SMITH. How could he make the purchase unless the price was fixed?

Mr. BYRD. I am speaking of the price at which the handler resells what he has bought from the producer. That is what this provision affects.

Mr. SMITH. It is to take care of the producer who himself becomes the salesman.

Mr. BYRD. It does not take care of the producer who himself becomes the salesman. It applies to any handler in any field included in the title of the bill, and it provides that if a handler buys vegetables or fruit, then the producers can say at what price they will be resold to the public. I submit that that is simply an absurd condition; that is absolutely unworkable and will bring discredit and confusion upon this bill, if it is included in it.

Mr. SMITH. I do not think, Mr. President, that that necessarily will work any hardship, because, whatever the resale price may be, there must be taken into consideration the price at which the commodity was purchased. The object of this whole section is to protect the producer himself in getting a reasonable return for the commodity which he sells. If we do not control the resale price, someone, in order to break down the whole market, may lower the price to a point where he would suffer a loss in order to create demoralization.

Mr. BYRD. The Senator has overlooked the most fundamental condition that exists in the country, namely, the law of supply and demand. He thinks that we can legislate here on what the price of beans, for instance, will be next year.

Mr. SMITH. No, Mr. President.

Mr. BYRD. The fact is that those who buy beans and other perishable foods, where there is competition between them, will unquestionably fix the price before their purchase.

Mr. SMITH. Yes; but the Senator overlooks another natural law, which is as irrevocable as is the law of supply and demand, namely, the law of least resistance. The man who has suffered from that law from time immemorial is the producer, the farmer. We may talk about the law of supply and demand as much as we please, but the law of the line of least resistance is as powerful as is the law of supply and demand, and the farmer is the man who can offer no resistance. Whenever there is sales resistance as to any article, the man who is attempting to sell it recoups by deducting from the price paid the producer. That is as ancient as farming itself. The Senator from Virginia

knows, as I know, that even the processors of meat, whenever there is sales resistance because of the price of their product, do not curtail dividends and do not reduce salaries, but simply reduce the price of the cattle and hogs which they purchase, until they have reduced that price to a point where the farmers are under mortgage.

Mr. BYRD. Why does not the Senator attempt to fix the price of meat in this bill?

Mr. SMITH. Because we are now dealing with vegetables; but I state unhesitatingly that wherever the processor has a right to fix the sales price, including all overhead and all expenses, and then fixes the price to the public accordingly, the man who furnishes the raw material ought to have an organization and a resource to fix the price of the commodity which he sells. The shoe manufacturer fixes his price and governs his product accordingly; the manufacturer of cloth fixes his price, he takes into account all the overhead necessary for its production; but when it comes to the farmer, who ever heard of a farmer fixing his price on anything? When did the Senator from Virginia ever hear of it? When did he ever hear of a farmer in America fixing the price of any of the commodities he produces and sells, except sometimes locally on a dozen eggs or perhaps a rabbit? [Laughter in the galleries.]

The PRESIDING OFFICER. The Chair admonishes the occupants of the galleries that they are here as guests of the Senate and any demonstrations of approval or disapproval or amusement are strictly prohibited by the rules.

Mr. SMITH. The Senator from Virginia knows that never, in the history of organized commerce, has a farmer ever fixed the price for any commodity. He has an inferiority complex, and will say, "What will you give me for this?" And whatever is offered, that ends it; and yet he will turn right around and ask the purchaser of his products "What will you take for what you have to sell?"

The Senator knows that in this day of education and transportation and communication it is time for us, as legislators, to do all in our power that is fair and legitimate to secure a reasonable return for the man who clothes and feeds and shoes us.

I am surprised that the Senator from Virginia should make such a point of this provision. There is enough room in this bill otherwise for real difference of opinion; but, my God, when we come to the question of trying to fix a reasonable price for the poor devil out in the field, let us—well, I do not want to get started along that line. We have voted \$5,000,000,000 with which to do what? Nobody knows. I stood in this Chamber and asked for \$100,000,000 to enable the distressed and mortgage-ridden farmers of America to borrow sufficient to enable them to remain on the farm and make a crop—just a hundred million dollars; not to give it to them but to lend it to them and take a mortgage on their crops. Senators stood here and chiseled and argued until the amount was cut down to \$60,000,000 for all the farmers in America, while we poured out billions in the form of relief to the rag-tag and bobtail and the ne'er-do-well, who, God knows, are never going to pay a nickel back. And those farmers to whom we loaned the money have paid back 90 percent, in spite of the low prices and the disastrous conditions under which they have had to produce. Now, we have before us a bill which says to them "All of you get together and discuss it, and whatever 50 or 60 or 75 percent of you agree on we will undertake to carry out, so far as interstate commerce is concerned; and if you can get your State to agree, we will dovetail the Federal activities with those of your State and see if we cannot put up a little resistance."

The line of least resistance! What has the law of supply and demand got to do with a disorganized crop? It does not make any difference whether the farmer produces little or whether he produces much so long as the other fellow fixes the price; the law of supply and demand has nothing to do with it, but the law of least resistance has much to do with it. If the farmer makes a big crop he obtains a low price, and if he makes a small crop he secures little return. So far as the farmer is concerned, it is like what has been

said about the doctrine of predestination. "I can and I can't; I will and I won't; I will be damned if I do and I will be damned if I don't." [Laughter.]

Mr. BYRD. Mr. President, I have listened with a great deal of attention to the distinguished Senator from South Carolina. He says the law of supply and demand has nothing to do with the price of food products, but the line of least resistance has much to do with it. That is a new theory.

Mr. SMITH. Mr. President, I do not wish to be too radical in my statements. I think the law of supply and demand has a little to do with it, but I know, from bitter experience as a farmer, that the line of least resistance has all to do with it; and the Senator also knows it.

Mr. BYRD. Mr. President, I think it is absolutely unworkable and impracticable to try to fix the prices of perishable foods or of any foods. I do not yield to any man in this Chamber in my desire to help the farmer. I think I may claim to be a farmer; I have been in the farming business for 30 years; I know something about shipping perishable foods; and I say there is nothing more sensitive to the law of supply and demand than are perishable foods. Let me tell the Senator from South Carolina something about that phase of the question. One can ship a hundred carloads of peaches to New York City in 1 day and secure a small price for the peaches; he can ship 50 carloads the next day and obtain a large price. That is the law of supply and demand.

Mr. SMITH. Mr. President—

Mr. BYRD. Wait a moment until I finish. The condition of those peaches determines their value. The grade of the peach—and I use peaches as an illustration because I happen to be familiar with the peaches which are a perishable product—does not determine its value; it is the condition of the peach, whether it is hard or whether it is soft, which determines the value. This provision proposes to fix prices at which the handlers will resell the products they have purchased from the producer, and the handlers under another provision of the bill are to be fined \$500 a day if they violate any provisions of these marketing agreements. Suppose, for example, a producer shipped a carload of peaches to New York, and due to the condition of those peaches, according to the kind and variety—grade and condition are very different things, as the Senator knows—suppose they became soft because of abnormally hot weather, then, under this bill, the handler would have to pay a fine if he sold such peaches for a price less than that fixed.

Mr. SMITH. I hope the Senator will read line 23, where it says "grade, size, or quality." Of course, nobody is going to be simple enough to say that if a carload of spoiled peaches were sold for less than the price of sound peaches the handler would be subject to the law.

Mr. BYRD. The peaches may not be entirely spoiled, but only slightly soft.

Mr. SMITH. Even if the quality did not justify the price fixed under the law, I presume those administering the law would exercise common sense?

Mr. BYRD. Have the departments of this Government always exercised common sense, in the judgment of the Senator?

Mr. SMITH. I do not like the Senator to ask me any leading questions.

Mr. BYRD. I have heard the Senator himself time and again denounce the officials of the Department in Washington.

Mr. SMITH. Well, the Senator from South Carolina has not changed his mind up to the present time.

Mr. BYRD. Then why does the Senator state that they will exercise common sense?

Mr. SMITH. Because we are exercising it in the law and putting the burden on them to do so.

Mr. BYRD. We shall not be exercising it if we try to fix the price on perishable foods.

Mr. SMITH. That would be a very common-sense thing in connection with the farmer.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. HATCH. Has it occurred to the Senator from Virginia that paragraph (G) may have been inserted in the bill for the benefit of the handlers? Paragraph (F) of the bill to which the Senator has referred provides that the purchase price of the handler shall be fixed. Paragraph (G) provides that the sale price may be fixed.

Mr. BYRD. The reason why I am discussing paragraph (G) is because it is the only section in order at this time for amendment. It is the committee amendment, while paragraph (F) is a part of the House bill and not now subject to amendment. My intention is to move now to strike out paragraph (G) and later, when it shall be in order, to move to strike out paragraph (F). I do not believe in any price-fixing at all.

Mr. HATCH. If paragraph (G) should be stricken out, it would leave the bill in bad shape, would it not? In other words, if we should have paragraph (G) we should also have paragraph (F).

Mr. BYRD. I agree with the Senator.

Mr. HATCH. They both go together.

Mr. BYRD. I should like to ask unanimous consent to consider them together in order that I may move to strike them both out at the same time.

Mr. MCGILL. Mr. President, will the Senator yield?

The PRESIDING OFFICE (Mr. MOORE in the chair). Does the Senator from Virginia yield to the Senator from Kansas?

Mr. BYRD. I yield.

Mr. MCGILL. Paragraph (G) to which the Senator refers covers the point which he has been discussing but refers only to resale by handlers. I desire to call his attention to the proviso in paragraph (G), which reads:

That no such minimum price shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or association of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

So that the paragraph, it seems to me, clearly applies only where producers are handlers to the extent of at least 50 percent of the commodity.

Mr. BYRD. But it says "or otherwise for the account of producers." That means if a certain commodity should be consigned to commission merchants—

Mr. MCGILL. Where the producers are actually the handlers.

Mr. BYRD. I fully understand it. It provides for any commodity when not less than 50 percent of the volume of such commodity is sold by an association or association of producers "or otherwise for the account of producers or by producers who are handlers." Many of these commodities are consigned to commission merchants and sold for their account in this country and abroad. That would probably apply to a great many fruits and vegetables which are included in the bill.

Mr. HATCH. Mr. President, it occurs to me the Senator from Virginia has raised a very serious question. As suggested a moment ago, if paragraph (G) should be eliminated the bill would be in bad shape if then paragraph (F) should be left in the bill. I understand the Senator to ask unanimous consent that both sections be considered together. I am of the opinion that such consent should be granted and that they should be considered together rather than to have arise a situation similar to that which arose the other day with relation to canned fruits.

Mr. SMITH. Mr. President, I think we had better either reject or adopt the Senate committee amendment and then when we have finished them any Senator can move to strike out paragraph (F) or he can move still further to amend the bill as he desires. I think we would make better progress to take the action first on the committee amendments and then take up in order any amendments from the floor. I shall insist that we have a vote on the amendments which have been passed over and then any Senator may make such other efforts to amend as he may see fit.

Mr. BYRD. The two provisions are closely related. I should want paragraph (G) to remain in the bill in the event paragraph (F) remains in the bill, because paragraph (G) gives some voice to the producers. I hope the Senator from South Carolina will not insist upon his opposition to my request.

Mr. SMITH. I think if the Senate adopts paragraph (G) and later on a motion is made to strike out paragraphs (F) and (G) it would be within the right of any Senator so to move.

Mr. BYRD. As I understand the parliamentary situation it is that the question now before the Senate is the committee amendment. If it is now adopted by the Senate, then it would be necessary later to reconsider the vote by which it was adopted.

Mr. SMITH. That does not preclude the Senator from moving to strike it out later on. He would still have the right to move to strike it out even if the Senate should adopt it now.

The PRESIDING OFFICER. For the information of Senators the Chair will state that an amendment agreed to must be reconsidered by unanimous consent of the Senate before a motion to strike it out could be considered.

Mr. BYRD. Mr. President, I am very sorry the Senator from South Carolina has taken that attitude, but in view of the fact that he has done so, I shall have to move to strike out paragraph (G) which provides for the fixing or providing of methods for fixing minimum prices, and so forth.

The PRESIDING OFFICER. The committee amendment has not yet been adopted.

Mr. BYRD. I hope the Senate will reject the committee amendment.

The PRESIDING OFFICER. The question is on the adoption of the committee amendment.

Mr. BANKHEAD. Mr. President, before the vote is taken, let me say that I think it is perfectly apparent that if paragraph (F) is retained, paragraph (G) should also be retained. Paragraph (G) ought to be retained, as I understand the attitude of the chairman of the committee, and I am in accord with that view, if paragraph (F) is retained. If paragraph (F) should later be stricken from the bill, I think the committee would not resist reconsideration of the vote by which paragraph (G) was adopted, and let paragraph (G) go out, because paragraph (G) has no place in the bill without paragraph (F). I think it would be well to adopt the committee amendment, and then later the committee would not resist reconsideration of that vote, and paragraph (G) could be stricken out if in the meantime paragraph (F) had been stricken out.

Mr. BAILEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from North Carolina?

Mr. BAILEY. I thought the Senator from Virginia had concluded his remarks.

Mr. BYRD. No; I have not.

Mr. BAILEY. At the conclusion of the remarks of the Senator from Virginia I desire to address an inquiry to the Chairman of the Committee on Agriculture and Forestry.

Mr. BYRD. If it is the purpose of the Senator from South Carolina to refuse me unanimous consent to consider the related matters together, then I suggest the absence of a quorum, and we shall discuss the matter further.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bulkley	Costigan	Guffey
Ashurst	Bulow	Davis	Hale
Austin	Burke	Dickinson	Harrison
Bachman	Byrd	Dieterich	Hastings
Bailey	Byrnes	Donahay	Hatch
Bankhead	Capper	Duffy	Hayden
Barbour	Caraway	Fletcher	Holt
Barkley	Carey	Frazier	Johnson
Bilbo	Chavez	George	Keyes
Black	Clark	Gerry	King
Bone	Connally	Gibson	Lewis
Borah	Coolidge	Glass	Logan
Brown	Copeland	Gore	Lonergan

McAdoo
McCarran
McGill
McKellar
McNary
Maloney
Metcalf
Minton
Moore
Murphy

Murray
Neely
Norbeck
Norris
Nye
O'Mahoney
Overton
Pittman
Pope
Radcliffe

Robinson
Russell
Schall
Schwellenbach
Sheppard
Shipstead
Smith
Steiwer
Thomas, Okla.
Townsend

Trammell
Truman
Tydings
Vandenberg
Van Nuys
Wagner
Walsh
Wheeler
White

Mr. McNARY. I desire to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is absent, attending a conference on the social-security bill.

The VICE PRESIDENT. Ninety-one Senators having answered to their names, a quorum is present.

BARLOW-MOORE TOBACCO CO.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 239) for the relief of the Barlow-Moore Tobacco Co., which was, on page 1, line 7, to strike out "representing" and insert "in full settlement of all claims against the United States for."

Mr. LOGAN. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

STANDARD DREDGING CO.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 780) for the relief of the Standard Dredging Co., which was, on page 1, line 7, to strike out all after the word "of" down to and including the word "line", in line 9, and insert "\$2,486.25, in full settlement of all claims against the United States."

Mr. COPELAND. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. BYRD. Mr. President, the pending question is on the adoption of the committee amendment appearing at the bottom of page 18. I sincerely hope the Senate will reject that amendment. It provides that the orders issued pursuant to section (6) shall contain terms and conditions—

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

I am asking for the rejection of the committee amendment because, as a producer of food, I am firmly convinced that much more harm than good will result from the attempt to fix prices, those prices to be paid by the consumer; and especially is it entirely unworkable, to attempt to fix prices for perishable foods, fruits, and vegetables, because the value of those perishable foods is determined by their condition, which varies from day to day. A certain vegetable may be in good condition one day, and, due to the hot weather, may deteriorate and be in bad condition another day. So it is absolutely unworkable to attempt to fix a minimum price for which these particular commodities can be sold. I should like to call the attention of the Senate to the fact that never in the history of the world have minimum prices of food products, or, in fact, any other products, been successfully fixed.

We all know that England, for example, tried unsuccessfully to fix the minimum prices for rubber. We all know that Brazil, which has a virtual monopoly of the production of coffee, endeavored unsuccessfully to fix the price at which coffee was to be sold. We all know that Cuba—and I happened to be in Cuba at the time—which produces a large part of the supply of sugar for this country, attempted to fix a minimum price for sugar, and was unsuccessful in doing so. We must remember that in the final analysis the law of sup-

ply and demand will control the price of those products which are offered to the consumer.

There is no Member of the Senate who is more anxious than am I to advance, in an effective and sound manner, the interests of the farmers, because, if I may say so, I have been in the farming business for 30 years. I have shipped products to every corner of the globe; and I think I can claim for myself some experience in the operation of farming and in the marketing of farm products, because I have given my life to it.

I am opposing this committee amendment because I believe that the attempt on the part of the Department of Agriculture to establish minimum prices at which, first, the product can be purchased by the handler; and, secondly, the handler must resell that product, is an absurdity to the 7th degree.

I cannot conceive of anything more unworkable, or anything that would bring greater confusion to the industry as a whole, than the effort made to fix two prices on a given product, as this bill provides, because section (F) provides that under certain conditions the price at which the handlers buy the product may be fixed, while section (G) provides that the price at the resale by the handlers may be fixed; and by the time all this red tape is unwound here from Washington these perishable foods and vegetables will be consigned to the garbage can. We all know how slowly the great bureaucracies in Washington operate, sometimes two or three thousand miles away from where the product is either produced or sold.

How are these licenses first to be imposed upon the producer? We have been told by the chairman of the committee, and Mr. Chester Davis in the hearings has repeatedly said, that nothing is to be done under this proposed legislation without the approval and consent of the producers; yet the bill provides that these rules and regulations, these marketing agreements, may first be imposed by 50 percent of the handlers. In other words, 50 percent of the dealers in a given commodity can license and tell the growers what they can do, and, as a part of the licensing agreement, at what price they may sell their own products.

I have an amendment which provides that no such action may be taken without the consent of 75 percent of the growers; but the fact remains that this measure, as now presented to us, gives to 50 percent of the handlers the power to license the producers; and no one can deny that, because it is plainly and clearly written in the bill.

Mr. President, for a moment now let us see what these licenses may provide. I call them "licenses" because they are licenses. In order to circumvent, by legalistic language—and that is all it is—the decision of the Supreme Court in the *N. R. A.* case, the proponents of the bill have changed the name from "licenses" to "orders." So far as I am concerned, I should just as soon be "licensed" from Washington as to be "ordered" from Washington to do a given thing, and so far as I can see the effect is just the same.

Let me read section (A) to show what it is proposed to do under the licenses which are to be imposed, not by the producers, but by 50 percent of the handlers of a given product. The bill provides that the orders issued pursuant to the section shall contain terms and conditions—

Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets during any specified period or periods by all handlers thereof.

In other words, although the decision of the Supreme Court clearly defines the power of the Government to control only interstate shipments, by the language found in paragraph (A), at the bottom of page 17, it is proposed to control any product that may be "marketed in or transported to any or all markets during any specified period or periods by all handlers thereof"—a clear effort to circumvent the decision of the Supreme Court.

In paragraph (B) it is provided that these orders shall contain terms and conditions—

Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof,

which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.

In other words, it is proposed to go to a commission merchant in one of the cities and tell that commission merchant how much of a given grade of a given product he may handle throughout the year, which is another absurdity.

Then in paragraph (C) the bill provides that these orders shall contain terms and conditions—

Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

First, we tell the grower how much he may produce, and then how much to market in any and all markets—clearly, as I say, in defiance of the Supreme Court decision.

Second, we propose to allot to dealers how much they may handle of a given commodity.

Third, we propose to say how much of a given product may be shipped to a given market—to say how many beans may be shipped to New York, how many beans may be shipped to Baltimore, how many beans may be shipped to the city of Washington. Mr. President, how can anybody ascertain the consuming power of the different markets of the country with respect to the different products?

Then the bill provides for the determination of the surplus of a product. That is something which those engaged in the agricultural business have been attempting to do from time immemorial—to attempt to ascertain, when a product is harvested, how much of that product will remain after it has been first consumed; in other words, how much of it may be stored.

Then the bill provides for the establishment of reserve pools to sell the surplus of a commodity, which, as I understand, permits the Government to go into business, and to sell the products in these pools, and then distribute the proceeds to the producers of the particular commodities.

Mr. President, marketing agreements have been tried from time to time. They were tried in the case of the citrus fruits in Florida. If there is a single fruit produced in this country which is better subject to governmental control than any other, it is the citrus fruits, because they are produced in a very limited area. A resolution has been sent me by the citrus growers of Florida with respect to the experience they have had with their marketing agreements, which resolution I desire to read to the Senate. It is as follows:

Whereas the Congress of the United States is considering the passage of the Agricultural Adjustment Act amendments, H. R. 8052, modified further by revisions recommended to the House Agricultural Committee by A. A. A. officials;

Whereas these amendments and revisions propose giving the Secretary of Agriculture absolute authority which is far greater than any heretofore granted and contrary to settled American principles in that he is empowered to act both as judge and jury, since his decision is not reviewable by court, providing a license or order issued by the Secretary is deemed in accordance with law;

Whereas paragraph 3 of section 4 gives the Secretary of Agriculture arbitrary right to impose licenses and orders even if the majority of those to be licensed or to be affected by his orders are opposed to a marketing agreement;

Whereas it is proposed that the Secretary be empowered to tax agriculture, which function belongs exclusively to the Congress;

Whereas these amendments propose giving the Secretary unlimited authority, "for providing methods for the limitation of the total quantity of any such commodity or product, or any grade, size, or quality thereof, produced during any specified period which may be marketed in or transported to any markets by all handlers thereof";

Whereas under great pressure, vegetables have been excluded, under the proposed amendments, nevertheless A. A. A. officials have insisted upon including fruits under its proposed expanded

power and provisions, thereby unfairly discriminating against our industry;

Whereas otherwise the bill further contemplates making the Secretary supreme dictator contrary to fundamental American principles: Therefore this body at its annual meeting, officially representing 1,459 grower members and 105 shipper members (such membership representing over 50 percent of the total citrus fruit shipped from Florida) does hereby

Resolve, That unless these amendments are changed to apply only to basic commodities, and unless it can be arranged where our Florida citrus industry will be excluded from the destructive features of regimentation permitted in proposed amendments, does emphatically protest the passage of these amendments and earnestly requests that our representatives at Washington do everything possible to defeat this bill and particularly urges that citrus fruits be exempted from any further authority that the proposed amendments or revisions may contemplate extending to the Secretary of Agriculture.

That resolution was adopted by the Associated Citrus Growers and Shippers of Florida, signed by A. M. Pratt, secretary and manager, and it was sent to me on June 19.

What I particularly wish to discuss with the Members of the Senate is the unwisdom of beginning price-fixing programs for perishable products. In my judgment, a price-fixing policy whereby the consumer is compelled to pay a given price is unworkable as to any agricultural product.

We must remember that different kinds of foods can be substituted for others. If wheat becomes too high, consumers can use something in the place of wheat. If meats become too high, they can use something in the place of meats. If one certain vegetable becomes too high in price, then the consuming public can purchase another vegetable. The same thing applies to fruits, if apples sell too high, the people can eat cherries, they can eat pears, they can eat other fruits.

What I say is that if Congress desires to go on record as establishing a price-fixing policy, then it ought to include all agricultural products; it ought to include wheat; it ought to include corn; it ought to include meats, because there is competition between the different food products whereby a consumer may substitute one product for another and receive just as much sustenance as if he ate the product he perhaps most desired.

I myself think it would be disastrous to have any price fixing, and I should like to ask the proponents of this legislation if any such plan has ever succeeded in the history of the world.

We severely criticized the Hoover administration because by a method of purchasing wheat they attempted to fix the price of wheat; and that is the only way, in the final analysis, by which the Government can fix the price. If there is a surplus of a product in the market, the only way to maintain the price is to have someone purchase the surplus. Yet the Democratic Party in its platform, and every speaker on the Democratic side, in addressing the public, severely abused the Republican administration and criticized Mr. Hoover because he attempted to fix the price of wheat by purchasing the surplus wheat offered on the market. But now, in defiance of what I regard to be the platform of the party, there is an attempt to fix the prices of perishable foods, and my objection is that it will bring chaos and confusion to that industry. I speak, as I have said, with some knowledge of it, because of the long experience I have had. It will bring much more harm than any good that could result.

Of all the proposals that have been presented to this body, conceived in the agile and fertile minds of the "brain trust", I know of nothing more ridiculous and absurd than the attempt to fix the prices of perishable foods, to fix them, first, at the prices at which the handler can purchase them, and then attempt to say at what prices he shall resell them for consumption by the people. It will simply mean that those who attempt such a thing will bring such confusion relating to the industry affected that the losses will be beyond our comprehension.

Then we must consider that under these marketing agreements any dealer who does not carry out a marketing agreement, who does not charge the price he is supposed to charge according to the marketing agreement, is fined \$500 a day so

long as he violates any part of the marketing agreement; and the facts are not reviewable by the courts. The Secretary of Agriculture determines the facts, and all a court can do is to say whether or not the man concerned has violated a marketing agreement, and then it may fine him \$500 a day. He may have good reason for his inability to charge a particular price. The food he has may have deteriorated in value, and therefore he may not have been able to get the price for it that he should get under the marketing agreement; but the courts, under these agreements, cannot go into the facts, and can simply determine a case upon the statement of the Secretary of Agriculture.

Mr. President, as I have said, I do not yield to the Senator from South Carolina, for whom I have the highest respect, or to any other Member of the Senate, in my desire to help the farmers of this country. I know their problem, I know the difficulties they have had, and throughout my public career, as Governor of Virginia and in the Senate, I have done my utmost to promote their interests. But I am not going to stand on the floor of the Senate and advocate something which I think is impractical and absurd, and which will bring disaster instead of benefit to those it is intended to benefit.

I do not question the good intentions of the Department of Agriculture, I do not question the good intentions of those able young men who are advising the Department in connection with this proposed legislation, but I say that it is not based upon practical experience, that they are attempting to do something which cannot be done, and which, I submit to the Senate, has never been done, by attempting to fix the price of an agricultural product or any other product.

Mr. President, I have no defense of the manufacturers of the country. The Senator from South Carolina says that a manufacturer can arbitrarily fix the price of that which he sells. We know that that is not the case, because in the recent depression we know of the low prices at which many manufactured products were sold to the public, and, after all, we must recognize that the law of supply and demand regulates the price at which a given product is sold. Furthermore, many of our products are exported. Take the case of citrus fruit. There is quite an exportable surplus of citrus fruits.

If we attempt to fix prices in this country, and those prices are not in line with the foreign markets, we simply cannot sell the given product in the market, wherever it may be. For instance, if we attempted to fix the price of any product that is exported from this country, let us assume that the price fixed here is higher than the price in the European market, or any other market, wherever it may be sold; then we would simply be excluded from shipping that particular product to that market.

I hope that the Senate will eliminate section (G), which provides for price fixing; and should that section be eliminated, I will later make a motion to eliminate section (F), because under the bill there are two price fixings which are contemplated. In other words, there is the fixing of the price at which the dealer is supposed to purchase the commodity, and then there is the fixing of the price at which the dealer is supposed to resell the commodity. When we consider the perishable nature of the foods which are dealt with in the bill, fruits and vegetables, I think that any man with common, ordinary sense can see that such a proposal is entirely unworkable.

Mr. McGILL. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. McGILL. Does the Senator agree that the amendment with regard to subsections (F) and (G), on page 18, should be voted on at the same time?

Mr. BYRD. I do, and I have asked that, but there has been objection.

Mr. McGILL. Can we not have unanimous consent that if the amendment in subsection (G) be agreed to, the two subsections may be included in the motion to strike out, if the Senator from Virginia desires to make such a motion?

Mr. BYRD. I asked for such unanimous consent, but the Senator from South Carolina refused to agree.

Mr. SMITH. Mr. President, it is obvious that if we are to make any progress at all with the bill we will have to go through the usual procedure of determining whether the Senate will accept or reject the committee amendments.

I suggested to the Senator from Virginia, and it was also suggested to the Senator from Alabama [Mr. BANKHEAD], that action be taken on this committee amendment; and then, when we shall have concluded our consideration of the committee amendments, if the Senate should vote to reject paragraph (F), and if paragraph (G) should be agreed to, I, as chairman, would not resist, and I think the Senate would agree to reconsider that vote, because the two would go together.

However, if we are to begin to amend the text without regard to completing the committee amendment, we shall get into all sorts of confusion. I do not wish to estop the Senator from Virginia, and I could not do so if I wanted to, from making the motion to strike out both paragraphs. At the proper time he will have that privilege and I shall not resist a request for reconsideration of the vote if paragraph (F) shall be voted out of the bill.

Mr. MCGILL. Mr. President, if the Senator from Virginia will yield further, I will say that my object in rising was to have an agreement now that in the event paragraph (G), the committee amendment should be adopted, then when the Senator from Virginia moves to strike out paragraph (F) he may also include in that motion a motion to strike out paragraph (G).

Mr. SMITH. That situation will take care of itself when we take up the bill and return to amendments to the text.

Mr. BYRD. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BYRD. I notice that in paragraph (F), on page 18, line 16, there is a committee amendment; and that being the case, would it not be in order to consider the elimination of paragraph (F) as well as paragraph (G)?

The VICE PRESIDENT. The Chair will state to the Senator from Virginia that there is a unanimous-consent agreement to consider the committee amendments prior to offering any other amendments to the bill. The Chair understands that the pending committee amendment begins on page 18, line 21, and goes to line 4 on page 19. The Senate has the right to agree to it or reject it.

Mr. BYRD. The point I am making is that there is also a committee amendment on page 18, lines 16 and 17 of paragraph (F); and that being the case, would not that section likewise be subject to a motion to eliminate or strike out?

The VICE PRESIDENT. The Chair finds that on page 18, lines 16 and 17, there are committee amendments to strike out the word "first." Those are committee amendments. The Chair understands they have already been adopted.

Mr. SMITH. They have been adopted.

Mr. BYRD. Mr. President, would it be in order to move that paragraph (F) be eliminated, in view of the fact that it has in it two committee amendments?

The VICE PRESIDENT. In paragraph (F), on page 18, there are two committee amendments, in lines 16 and 17, to strike out the word "first." The Chair understands that those two amendments have been agreed to.

Mr. BYRD. Mr. President, a further parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BYRD. I wish to ask, if the vote whereby these particular amendments in paragraph (F) were agreed to should be reconsidered, would it then be in order for me to move to eliminate paragraph (F)?

The VICE PRESIDENT. The Senator from Virginia makes a parliamentary inquiry, which, as the Chair understands it, is, if the Senate should reconsider the vote by which it adopted the amendments on page 18, in lines 16 and 17, striking out the word "first", whether it would be in order, after reconsideration of the vote by which that action was taken, to move to strike out paragraph (F). The Chair understands it would not be in order at the present time. Later on, before the Senate shall have completed its

action on the bill, it will be in order to go back and move to strike out that paragraph.

Mr. BAILEY. Mr. President, I desire to address an inquiry to the distinguished Senator from South Carolina, the chairman of the committee in charge of the bill, with respect to paragraph (G), which has been read a number of times, for the purpose of ascertaining just what its objective is.

As I read the paragraph, it is an inducement to bring about what has heretofore been known as "cooperative marketing." Is that correct?

Mr. SMITH. That is correct.

Mr. BAILEY. And it relates, according to the paragraph numbered "(6)", on page 16, to fruits, tobacco, and its products, vegetables, soybeans, poultry, and other commodities, but certainly to tobacco and its products. Is that correct?

Mr. SMITH. That is correct.

Mr. BAILEY. I wish to remove any misapprehension as to the fact that tobacco and its products are included in paragraph (G), and that it is in contemplation that paragraph (G) offers an inducement to bring about cooperative marketing of tobacco and tobacco products.

Mr. President, I desire to call the attention of the senior Senator from South Carolina and also of the Senate to the exceedingly disastrous experience which the tobacco farmers in the flue-cured belt—Georgia, South Carolina, North Carolina, and Virginia—had in the matter of cooperative marketing about 6 or 7 years ago, the consequence of which experiment may be stated in general terms as being the loss of the crop for one entire year.

I am perfectly satisfied that the tobacco farmers of North Carolina are immensely delighted with the A. A. A. and its consequences in 1933 and 1934; but I am equally satisfied that the producers of bright tobacco in North Carolina would view with the utmost alarm any inducement by law or any movement from any source tending to alter the present system of marketing, and that they would be ready almost to fight a battle rather than to go into the cooperative marketing proposal.

No one in the Senate is better informed on that subject, and there is no one whose heart is more interested in that subject, than my friend, the senior Senator from South Carolina. He has stated very frankly what are the facts. I am not going to ask him to corroborate what I have said about the attitude of the farmers in the flue-cured belt toward cooperative marketing. I do not think that will need any corroboration from any source in the section directly involved. I should be bound from any point of view to oppose this paragraph on the ground that on its face it undertakes to offer a reward by way of minimum prices to induce, in my State, a return to a system which practically ruined the farmers for the period of 3 or 4 years.

That is all I wish to say to the Senator. I believe that upon reconsideration he will agree with me that this paragraph ought to be stricken out; and if striking out the paragraph necessitates the striking out of paragraph (F), then when we come to that again, I take it, we can all agree to strike it out.

The VICE PRESIDENT. The question is on agreeing to the committee amendment, paragraph (G), on pages 18 and 19.

Mr. BAILEY. I ask for a division.

Mr. GERRY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Brown	Coolidge	Gibson
Ashurst	Bulkeley	Copeland	Glass
Austin	Bulow	Costigan	Gore
Bachman	Burke	Davis	Guffey
Bailey	Byrd	Dickinson	Hale
Bankhead	Byrnes	Dieterich	Harrison
Barbour	Capper	Donahay	Hastings
Barkley	Caraway	Duffy	Hatch
Bilbo	Carey	Fletcher	Hayden
Black	Chavez	Frazier	Holt
Bone	Clark	George	Johnson
Borah	Connally	Gerry	Keyes

King	Metcalf	Pittman	Thomas, Okla.
La Follette	Minton	Pope	Townsend
Lewis	Moore	Radcliffe	Trammell
Logan	Murphy	Robinson	Truman
Loneragan	Murray	Russell	Tydings
McAdoo	Neely	Schall	Vandenberg
McCarran	Norbeck	Schwellenbach	Van Nuys
McGill	Norris	Sheppard	Wagner
McKellar	Nye	Shipstead	Walsh
McNary	O'Mahoney	Smith	Wheeler
Maloney	Overton	Steiwer	White

The VICE PRESIDENT. Ninety-two Senators have answered to their names. A quorum is present.

Mr. BANKHEAD. Mr. President, before the vote shall be taken on the adoption of the committee amendment covered by section (G), I wish to address the Senate briefly on that subject.

The argument of the junior Senator from Virginia [Mr. BYRD] goes to the authority contained in paragraph (F). Paragraph (F) was adopted by the other House and has not, so far, been under consideration in the Senate. Paragraph (G) was adopted by the Senate committee as a supplement to paragraph (F).

I think it is generally recognized, and possibly by the Senator from Virginia, though I am not authorized to speak for him, that if paragraph (F) should be retained in the bill paragraph (G) should also be retained.

While I did not hear the entire statement of the Senator from North Carolina [Mr. BAILEY], I feel sure, from what I heard and from information which has come to me, that he has a wrong impression about the construction and purpose of paragraph (G).

Mr. BAILEY. Mr. President, may I interrupt the Senator?

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from North Carolina?

Mr. BANKHEAD. I yield.

Mr. BAILEY. I inquired of the chairman of the committee in charge of the bill—

Mr. BANKHEAD. I so understood.

Mr. BAILEY. If the objective of paragraph (G) was to bring about a system of cooperative marketing. He said it was. Then I asked him if it included tobacco and its products. He said, "Yes", which appears on the face of the bill, of course. Then I was simply content to make the point that the tobacco farmers of North Carolina, having had a most disastrous experience in cooperative marketing—I will not undertake to describe it; I will merely say it was a most disastrous experience, one of the consequences of which was that they lost the value of their entire crop—I was sure they would not desire that I should support or that the Senate should adopt this amendment.

Mr. BANKHEAD. I am not taking issue with the conclusions drawn by the Senator from North Carolina, nor am I, in fact, taking issue with him at all. As I understand and construe paragraph (G)—and I am anxious to clarify the situation in controversy and to have an understanding of the real purpose and effect of this subsection on the part of the Senator from North Carolina and others—that paragraph, instead of being prepared for the purpose of promoting cooperatives, really does not have that effect, and is not intended for that purpose, as the Senator will realize if he will examine it carefully. On the other hand, it is a limitation and restriction upon the sale by cooperatives when such action would come in conflict with the limitations placed upon the handlers of the farm commodities involved.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I do.

Mr. TYDINGS. I should like to ask the Senator from Alabama whether or not the "fixing, or providing methods for fixing, minimum prices" would apply to any commodities not moving in interstate commerce?

Mr. BANKHEAD. This entire bill applies to interstate commerce and to that alone.

Mr. TYDINGS. Mr. President—

Mr. BANKHEAD. First, let me proceed with the point raised by the Senator from North Carolina. We are coming back to the merits of subsection (F).

Mr. TYDINGS. I will not interrupt the Senator further at this time.

Mr. BANKHEAD. I will be glad to yield at the appropriate time, but I wish to point out to the Senator from North Carolina the real purpose of the subsection. I understand the reasons which actuate him; I probably would entertain the same idea with the same facts before me, if the purpose of the subsection were as he understands. I know that he had such information as he has indicated, but doubtless the chairman of the committee misunderstood what was involved.

Mr. BAILEY. Mr. President, let me add that the chairman of the committee now happens to be out of the Chamber, but I do not think he misapprehended the question.

Mr. BANKHEAD. I am not only going upon my own construction of the language but upon the object stated before the committee when this section was adopted by the committee. It provides:

(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

We will assume, for the purpose of the discussion of this subsection, that a price agreement has been established and an order covering it has been issued. That price must be paid, of course, by the handlers who buy from the producers, and thus the first step in the price progress of moving the commodities to market is established.

This paragraph is intended for the protection of the handlers who are under orders and under a marketing agreement fixing the price, so that the cooperatives, associations of producers or the producers themselves, cannot then go into a market and make sales at a less price than that which governs the handlers who are under orders. It is intended to create a uniform price situation, and is one of the provisions of the bill which are intended purely to protect those who are under the orders of the Government and governed by the price which is fixed against competition in prices even though it may come direct from the producers themselves.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. BYRD. I wish to make it clear to the Senate that in the event my motion shall prevail I will also move to strike out paragraph (F). I agree with the Senator from Alabama that if paragraph (F) remains in the bill paragraph (G) should also remain, but the chairman of the committee denied me unanimous consent to have a vote taken on both at the same time.

Mr. BANKHEAD. I understood from the Senator's argument that that was the conclusion he had reached.

Mr. TYDINGS. Mr. President, now may I ask the Senator some questions if he has finished with the point he had in mind?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. As I understand, the Senator from Alabama contends these provisions deal only with commodities which pass in interstate commerce. If that be true of the provisions dealing with the fixing of minimum prices, it occurs to me that the minimum price in interstate commerce and the actual minimum price in intrastate commerce may be at variance; in one case the intrastate minimum price may be higher and in another it may be lower. Does the Senator feel that minimum price fixing will be sound under a provision where only the interstate feature is covered and where the intrastate features are beyond the scope of the law?

Mr. BANKHEAD. I will say to the Senator that is purely an administrative matter as to whether or not, where a State is not cooperating the interstate price for that territory shall be fixed. I think I have authority to say that it will not be fixed. The whole purpose of this program is to give power to the administration in connection with products moving in interstate commerce to cooperate with and work

with State authorities. We well know, as was so well pointed out on the floor the other day by the Senator from Nebraska, that where the intrastate program is liable to be or is being broken down by shipments across State lines, the State is helpless, and the local authorities have no power. On the other hand, if we deal only with interstate shipments, then, of course, we have confusion and conflict and accomplish nothing for the producers or for the stability of the market without State action also. So let me say to the Senator that it is the avowed and declared purpose of the administrators of this program to secure authority for the sole purpose of exercising the same power over a commodity in interstate commerce that is agreed to be exercised in intrastate commerce in cooperation between the State and the Federal Government.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. The Senator has stated that, in his opinion, the paragraph in question, insofar as the Federal Government is concerned, deals only with those commodities which are moving in interstate commerce?

Mr. BANKHEAD. The bill specifically so declares.

Mr. TYDINGS. What authority, if any, has the Federal administration to fix prices for articles in interstate commerce?

Mr. BANKHEAD. Mr. President, that, of course, brings up a fundamental question.

Mr. TYDINGS. I ask the question in good faith.

Mr. BANKHEAD. I know the Senator does. I expected that probably that question would arise. It is a natural question, a legitimate inquiry, and one which the Senate must consider.

Mr. TYDINGS. I should like to say to the Senator from Alabama that I am not only interested in that feature of the case, namely, whether we have the authority to fix prices, aside from whether it would be helpful or harmful to do it, but I am likewise interested in knowing why this rather exceptional language was chosen on page 10, which, of course, was taken from the Supreme Court decision, but from a reading of which there appears to be a desire for an open door where the Federal Government may go into the intrastate feature as well as the interstate feature.

Mr. BANKHEAD. I can only answer one question at a time, and I shall do my best.

The question presented by the Senator from Maryland involves a fundamental question relating to the power of Congress under the commerce clause of the Constitution. It may not be necessary to remind some Members of the Senate, and it may be necessary to remind others, that 2 years ago, when the passage of the original Agricultural Adjustment Act was pending before this body, the Senator from Nebraska [Mr. NORRIS] presented an amendment to the bill which proposed to fix the price of the basic farm commodities at the cost of production with some reasonable additional charges. I mention it only to indicate that the question of the power of Congress to fix prices in matters controlled under the interstate commerce clause of the Constitution has previously been before this body on a similar occasion. It was debated for at least a day or two, and the varying viewpoints of lawyers in the Senate, and also of those who had varying and differing viewpoints upon the economics involved, were threshed out.

At the conclusion of the debate a majority of the Senate voted that Congress had that power because it adopted the amendment to the Agricultural Adjustment Act based upon fixing the price upon cost of production as the fundamental element in the equation.

The bill went to conference and the amendment was rejected. It came back to the Senate for a second vote in the Senate and, probably with the acquiescence of the Senator from Nebraska to avoid tying up the program, the Senate yielded and the amendment went out of the bill.

I mention that circumstance merely to disclose to those who have not followed the history of the subject that price fixing being within the power of Congress in matters regulated and controlled under the interstate-commerce clause

is not a new and not a novel one for consideration by this body.

Mr. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. CLARK in the chair). Does the Senator from Alabama yield to the Senator from Virginia?

Mr. BANKHEAD. I yield.

Mr. BYRD. I should like to ask the Senator if he knows of any bill heretofore presented to the Congress and passed by the Congress which fixed prices?

Mr. BANKHEAD. I am not familiar with the history of any bill where that principle has been adopted. I think it is in large part because this body has for so long a time been controlled by a majority who believed in the doctrine of laissez faire and who are unwilling under any circumstances to move forward in the evolution of social and economic progress in this country.

Mr. BYRD. If this is such a wise thing to do, why is it that never in the history of the world has such a plan been suggested and adopted?

Mr. BANKHEAD. I cannot cover the world, and I doubt if the Senator can.

Mr. BYRD. Why is it that the Senator himself has not proposed price fixing sooner? He has been interested in such legislation for a long time.

Mr. BANKHEAD. I cannot cover all fields, but I cover some, and I think I have covered them pretty well.

Mr. TYDINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Maryland?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. My particular interest in directing my interrogatories to the Senator from Alabama was not to ascertain whether or not Congress had embraced this doctrine and whether it was wise or unwise, but rather whether or not, as a matter of law, the Senator could point out any decision of the courts or any provision of the Constitution or any precedent where it had been upheld in whole or in part, so we might have that as a guide by which we could measure the merit of the proposal from a legal standpoint alone and not as a matter of philosophy at all.

Mr. BANKHEAD. I hope the Senator will be patient and listen as I proceed with the discussion. So far as I know, there is no direct precedent based upon an act passed by Congress, because none has been passed. Therefore, we must look to elementary fundamental principles and to analogy in other fields of legislation and judicial decision, and to construction by implication and analogy of the powers given to Congress and taken from the States under the interstate commerce clause of our Constitution.

Mr. President, there have been declarations even of our highest judicial tribunal which point the way to a judicial determination of this question. Since the Supreme Court decision recently rendered in the New York milk case, we all recognize that within their police power, within their authority to protect the public welfare, within their power to protect the producer and thereby retain a reliable supply of products upon the market, the States possess the power to fix prices upon any commodity as to which the public good may require it. If there is any question about the extent to which that decision went it may be well for me now to read a few of the headnotes from that case as it appears in Two Hundred and Ninety-first United States Reports, page 502.

Mr. TYDINGS. Mr. President, will the Senator yield further?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. I think that the States having created the Government and being the sovereign of all power and retaining all for their own internal commerce except that which they have yielded to the Federal Government, there might be a considerable number of Senators who would not question that the States had the right to fix prices for certain particular reasons.

My particular question was addressed not to the power of the States, but to whether or not the Federal Government,

which had only such power as the States themselves granted to it, would have the power to fix prices in interstate commerce when only the authority to regulate was given.

Mr. BANKHEAD. I think, in view of the concession of the Senator from Maryland, it may not be advisable to take the time of the Senate to bring to its attention the extent to which the Supreme Court of the United States went in the New York milk case in fully sustaining the constitutional power to fix prices.

Mr. TYDINGS. By the States?

Mr. BANKHEAD. Yes; by the States.

Mr. KING. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Utah?

Mr. BANKHEAD. I yield.

Mr. KING. Does not the Senator agree that nearly all the States in the Union, guarding as they have the rights of the people and the public welfare, have enacted statutes against monopolies and conduct in restraint of trade, and that such statutes were in effect a denunciation of price fixing and prohibited price fixing?

Mr. BANKHEAD. What has that to do with the power involved in the question we are here discussing? That would be purely a matter of policy if it were involved at all. It certainly throws no light upon the question of whether the Congress under the Constitution may exercise the same power in matters of interstate commerce that the States are authorized to exercise, whether they exercise it or not, under their own local domination and control.

Mr. KING. Perhaps I have misconceived the attitude of the Senator from Alabama. I thought he was contending that it was for the benefit and welfare of the people to have price-fixing organizations set up in the United States. I wanted him to understand, or, at least, I hoped he would remember, that nearly every State has statutes against price fixing and against monopoly and against any policy involving restraint of trade.

Mr. BANKHEAD. In answer to the Senator from Utah I will say that the Supreme Court laid down this rule:

The legislature is primarily the judge of the necessity of such an enactment; every possible presumption is in favor of its validity, and though the court may think the enactment unwise—

As, of course, the Senator from Utah usually thinks—

it may not be annulled unless palpably in excess of legislative power.

So the doctrine stands without question. The State possesses the power to fix prices when the legislature of the State deems such action best in the interest of the common welfare and the public good.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. Yes; though I should like to follow up this matter.

Mr. TYDINGS. I can well understand that on a matter such as this one may change his views from day to day; and I do not wish to confound the Senator by something he said earlier in the consideration of this matter. On April 12, 1933, however—

Mr. BANKHEAD. I know what the Senator has in mind. Just wait a minute. I want the Senator to look further. I know what he is talking about.

Mr. TYDINGS. Let me read this to the Senator.

Mr. BANKHEAD. All right; go on and read it, and read my remarks about the amendment made to that bill applying it to matters in interstate commerce. Read it all, if the Senator wishes to put it in.

Mr. TYDINGS. I shall try to do so.

Mr. BANKHEAD. I have not read the statement since it was made.

Mr. TYDINGS. The Senator said on April 12, 1933—page 1554, CONGRESSIONAL RECORD:

I prefer merely to make it a matter of record that it does seem to me that there is no grant to Congress to fix prices of commodities, whether we consider the question from the standpoint of those moving in interstate commerce or those which are confined solely within the respective States.

Let me say to the Senator that even if he thought that then and now thinks differently, I do not say he is to be criticized for it.

Mr. BANKHEAD. Then why does the Senator develop it, if he wishes to be frank about it?

Mr. TYDINGS. I am simply showing that necessity sometimes can help to mold a man's opinion. I know the Senator believes in the philosophy of this bill, which was not before the Senate in this form on April 12, 1933; but I submit the proposition that there is no decision of the Supreme Court or of any United States district court or circuit court, and there is no act of Congress heretofore, which approves or upholds the policy of fixing prices on commodities passing in interstate commerce.

Mr. BANKHEAD. I will say to the Senator that I did not vote for the Norris amendment because I did not feel that the basis of the cost of production was a proper basis, and so stated on the floor of the Senate. I will say further that when the Senator offered an amendment confining the program to interstate commerce, I made the comment that I thought it was more nearly in line with the Constitution. The Senator will find that in the RECORD. I will say to him further, if my personal views are of concern, that I had grave doubt about the power of a State to fix prices until the recent decision of the Supreme Court in the *Nebbia* case. That decision, however, has given me, following it as the law of the land, an entirely different viewpoint as to the power of Congress to follow along similar lines.

Mr. TYDINGS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama further yield to the Senator from Maryland?

Mr. BANKHEAD. I do.

Mr. TYDINGS. Whether or not we agree with the Senator from Alabama, I think all of us concede that there is no man on this floor who is more anxious than is the Senator from Alabama to better the lot of the farmer. I am not questioning his intent or his purpose at all, but I am going to make, for whatever it is worth, the observation that, in my humble judgment, not only will the price-fixing provision of this bill—

Mr. BANKHEAD. I hope the Senator will not take me away from the legal question into the philosophy of the bill.

Mr. TYDINGS. I am not going to do that. I am coming right to the legal question. Not only the price-fixing provision of this bill but its rather obscure interstate character, the confusion of intrastate and interstate provisions, are going to involve so many law suits all over the country that it will be known as "the law-suit bill" rather than the "A. A. A. bill"; and thousands of cases will be filed as the result of the manner in which the measure is drawn.

It may be a good piece of legislation. It may be that if nobody would file law suits testing its constitutionality it would work. I am only saying that as a practical proposition the courts of the land are going to be swamped with injunction proceedings against the Federal Administrator, in which proceedings it will be set forth that the Congress has exceeded its authority, and that the Federal Administrator, acting in pursuance of the law, has likewise exceeded his authority; so that there will be a total break-down pending the final outcome of the litigation because even the Congress has not a single decision to which it can point to uphold the philosophy of this bill.

Mr. GORE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Oklahoma?

Mr. BANKHEAD. If the Senator will wait, I have just submitted to an interruption to which I wish to give some consideration.

Mr. GORE. What I wish to say refers to what has been said by the Senator from Maryland.

Mr. BANKHEAD. Very well; I yield.

Mr. GORE. I merely desire to remind both the Senator from Maryland and the Senator from Alabama that the Supreme Court, in discussing the rights of property, declared that the right of an owner of property to part with it for

whatever price he saw fit was one of the inherent rights of property.

Mr. BANKHEAD. The Senator seems to have forgotten the *Nebbia* case, to which I called attention a short time ago, in which the Supreme Court said that price fixing did not violate either the fourteenth or the fifth amendments to the Federal Constitution.

Mr. President, referring to the suggestions of the Senator from Maryland, I submit that I cannot take into consideration mere suggestions and anticipations of obstructions to the passage of a law as affecting its constitutionality. Of course, how great resistance will develop among the people, how they will clog the courts with suits, may be a legitimate argument as to the policy of passing a law here; but it certainly can have no weight with a legal mind in considering what power Congress has of this subject under the Federal Constitution. I must say that, however in former years I may have been deterred by the thoughts presented by the Senator from Maryland, here is something new, something Congress never has done before; and, therefore, the fact that there has been no direct adjudication on the subject by the Supreme Court is no reason why we should not now dare to venture into new legislative fields. That is the doctrine of those whose thoughts and minds are riveted to the days which existed prior to the great world-wide depression; but, Mr. President, I cannot remain with them.

I cannot stand still upon the Senate floor, in my representative capacity, and accept the doctrine that what was brought upon us by the laws and by inaction prior to the great depression stand out as a monumental and perfect test of the order of things that should continue to exist merely because they formerly existed.

Mr. TYDINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Alabama further yield to the Senator from Maryland?

Mr. BANKHEAD. I do.

Mr. TYDINGS. Of course, I did not mean to reflect on the Senator, or to say that he is not actuated by the highest motives, or even to say that he may not be right. What I did mean to say is that, as I see it, instead of moving forward, his bill is taking us backward at a very rapid rate.

Mr. BANKHEAD. I do not know to what the Senator refers, and it is a matter of total indifference in the discussion of this issue.

Mr. TYDINGS. If the Senator will yield further, as an underlying philosophy, it is my claim that all mass taxes are a burden on commerce; that all mass taxes are a burden on industry; that the less taxes there are on the farmers or the consumers of the country, the greater ability they have to produce and to consume; and the "blessings" which come under the guise of taxes which ultimately are passed on to the consumer as a matter of actual observation quite often do more harm than good to those whom all of us desire to serve.

May I illustrate?

Mr. BANKHEAD. Mr. President—

Mr. TYDINGS. May I illustrate just a moment?

Mr. BANKHEAD. No, Mr. President; I decline to yield for a speech, and I do not think the Senator ought to insist on it.

Mr. TYDINGS. I am not making a speech.

Mr. BANKHEAD. If the Senator does not call his statement a speech, what does he call it?

Mr. TYDINGS. I wish to ask the Senator if he is familiar with this situation—

Mr. BANKHEAD. I would rather the Senator would not interrupt me further. The Senator from Maryland provoked me into a discussion of the legal and constitutional aspects of this subject; and when I am bearing down on him, and creating an impression upon the judgment of impartial minds, the Senator from Maryland wishes to digress and move out upon the economic and philosophical questions involved in this program. Later, I may be willing to enter that field with him; but I certainly hope he will let me, while dealing with the legal question, proceed to the

conclusion which I, at least, have reached, and to submit it to the legal minds of the Senate.

Mr. TYDINGS. Mr. President, will the Senator yield for a legal question?

The PRESIDING OFFICER. Does the Senator from Alabama further yield to the Senator from Maryland?

Mr. BANKHEAD. I yield if it relates to the question the Senator asked me in the beginning.

Mr. TYDINGS. I desire to ask the Senator whether, from a legal standpoint, the underlying philosophy of this bill does not run counter to the underlying philosophy enunciated by the Supreme Court in the *N. R. A.* decision.

Mr. BANKHEAD. I do not think the *N. R. A.* decision has a thing on earth to do with the philosophy of this measure. There was no philosophy in the *N. R. A.* decision. [Laughter.] It was a declaration of law.

Mr. TYDINGS. If the Senator will bear with me, he will recall that the court questioned the authority of Congress to fix hours of work and rates of pay in the respective States. Now the Senator is arguing the legality of a bill which, in my judgment, attempts to fix prices in the States.

Mr. BANKHEAD. The *N. R. A.* decision, as the Senator from Maryland knows, dealt with only two legal questions. It dealt with no economic philosophy, it dealt with no question of policy; it dealt simply with the constitutional authority to delegate power, and then with the question of what, under particular facts, constituted interstate as distinguished from intrastate commerce. So, of course, that decision has nothing to do with the legality of the authority of Congress to fix prices upon commodities moving in interstate commerce.

Having established that the States have the power, as recently so thoroughly confirmed by the Supreme Court, let us see what has become of that power over commodities over which the States have no power left by reason of granting certain power to the Federal Government. In other words, here are commodities, the prices of which, if they are moving in interstate commerce, the States have no power to regulate. If they are then put into the flow of interstate commerce, does the power everywhere, under the State or the Nation, vanish and disappear? When it was surrendered by the States to the Federal Government, I ask the judgment and reason of Senators, did not the power which the State possessed while the articles remained within the confines of the State move with the delegation of power into the Federal Government?

The Supreme Court, in the case of *Addyston Pipe & Steel Co.* (175 U. S. 211), at page 213, laid down this proposition:

If neither Congress nor the State legislature have such power then we are brought to the somewhat extraordinary position that there is no authority, State or National, which can legislate upon the subject of or prohibit such contracts. This cannot be the case.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. Let me ask the Senator if this thought is not worthy of consideration in connection with the legal argument he is now making? The States themselves, of course, have only such power as the people have given them in their various constitutions. The Federal Government had only such power as the States have conferred upon it. Therefore the people are the natural reservoir wherein resides all the power not delegated to either one of the two agencies. It may be that the people do not wish either the National Government or the State governments to have the power to fix prices. It may be that there are many fields of governmental activity where the people, the sovereigns, do not care to have unlimited delegation of power given to either agency, National or State. I rather think that that is the philosophy which has prevailed heretofore, and that the National Government has no more power to fix prices than the States have to regulate interstate commerce.

Mr. BANKHEAD. I think, on the other hand, that the power of Congress is exactly the same as that of the States, one with intrastate, the other with interstate.

Let me read a declaration by John Marshall in the case of *Crutcher against Commonwealth of Kentucky*:

The power to regulate commerce, like all others vested in Congress, is complete in itself, and may be exercised to the utmost extent, and acknowledges no limitations other than are prescribed in the Constitution.

The power to fix prices is not prescribed, as the Supreme Court held in the milk case, by any section of the Constitution. I read further from the *Crutcher* case:

If, as has always been understood, the sovereignty, the Congress, though limited to specific objects, is plenary—

Listen, lawyers—

is plenary as to those objects, the power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of power as are found in the Constitution of the United States.

In short, Mr. President, when the States delegated to Congress the power to regulate interstate commerce, that power was without restriction, without limitation; the power is plenary, and is as extensive as if all the States were one government, one State, under that specific grant of power to Congress.

Let me read another extract or two. In the case of *Gibbons against Ogden* the Court laid down the rule that—

The power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government—

The same principle—

having in its constitution the same restrictions on the exercise of power as are found in the Constitution of the United States.

In the *Northern Securities* case (193 U. S. 342) the Court said:

Subject to the limitations imposed by the Constitution the power of Congress over interstate and international commerce is as full and complete as is the power of any State over its domestic commerce.

Can any lawyer in the Senate who is dealing with this question as a lawyer, not as one with fixed views from an economic or policy standpoint, insist that, after that specific declaration by the Supreme Court of the United States, Congress is without the power sought to be exercised here? The Court says "is as full and complete as is the power of any State over its domestic commerce." We recently have had the statement of the Supreme Court that the State has this specific power over its domestic commerce.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. Let me point out to the Senator that I do not think there is a man on the floor of the Senate, regardless of his thought on the pending bill, who will say that the power of the Federal Government to regulate interstate commerce has any restrictions put upon it insofar as the word "regulation" is concerned. However, I think that the Supreme Court is not unlikely to hold that things cannot be done under the guise of regulation which have not regulation for their purpose, and one of those is price fixing.

I might say that that legal philosophy is carried out very well in the child-labor case, where the Court said that the power given Congress to do one thing could not be used to do another thing whose manifest object was not the carrying out of a power which Congress would have a perfect right to exercise.

No one here is contending, may I say to the Senator from Alabama, that there is any restriction on the word "regulation", but regulation itself is restricted within the terms of the meaning of the word "regulation" and new meanings cannot be read into it. The dictionary will not show that regulation can be defined as price fixing.

Mr. BANKHEAD. Mr. President, I call the attention of the Senator to the oft-repeated declaration of our Supreme Court that the fourteenth amendment as applied to the States and the fifth amendment as applied to Congress are the same in their restrictions and limitations upon the exercise of the respective powers. In the *Nebbia* case the Su-

preme Court held not only that the fourteenth amendment did not prohibit the State of New York from price fixing under the conditions specified there, but held also that it did not violate the fifth amendment to the Federal Constitution.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. Let me suggest to the Senator that it seems to me the bill before us is not one of abstract principles. It relates to the applicability of the Federal power and the State power to transactions with which we are dealing. The Senator has very clearly demonstrated that within the field of interstate commerce the Federal Government is supreme; but the Supreme Court decisions have also laid down the principle that within the State its power over intrastate matters is supreme.

Let us suppose that a State undertook, in the exercise of its power, to fix prices, and that the Federal Government undertook to fix prices also. We would probably run into a very difficult situation. Is not the difficulty, however, the necessity of determining just where a transaction of that kind becomes an interstate transaction?

The Senator will recall that in the *N. R. A.* case about the chickens the Court denounced the code provision with respect to the resale of chickens, and said the purchaser had the right to select the one particular chicken he wanted instead of selecting the "mill run" of the chickens, if that is a proper term. The Court further held that while the chicken had been in interstate commerce since it originated over in New Jersey somewhere, and until the end of its journey was reached, what happened to it from there on was not in interstate commerce but in intrastate commerce.

Mr. BANKHEAD. I recognize that situation.

Mr. CONNALLY. It is the question of the applicability to the facts in each case which determines whether it is the Federal power we are asserting or the State power.

Mr. BANKHEAD. I agree entirely with the Senator from Texas, and I made a statement about it before the Senator came on the floor.

Mr. CONNALLY. I beg the Senator's pardon.

Mr. BANKHEAD. I made a statement to the effect that it is fully recognized by the sponsors of this bill that it does not go to the extent, and could not under the *N. R. A.* decision go to the extent, of controlling intrastate commerce in any way. I made the further statement, which I think should be given consideration by the friends of this agricultural program, that the administrators of this program had stated from time to time, before our committee and elsewhere, that it was not their purpose to invoke the power under this bill with respect to the specialty crops included in it, except on the request and application of State authorities to cooperate with them. In other words, where the State of Maryland, as was pointed out by the Senator from Nebraska [Mr. NORRIS] in the Baltimore case, was unable to control a milk situation by virtue of milk being shipped across the State line—a case with which the Senator from Maryland [Mr. TYDINGS] is familiar—they needed and requested the cooperation of the Federal Government in adjusting interstate shipments and sales upon the same basis as they had been handled in the State of Maryland. It is in such situations that the administration would go to the relief of the States and help them protect their local situations by exercising the power given it in interstate commerce.

So, of course, the legality of the program is not affected. I recognize, as the Senator from Texas—he is a practical man—well says, that there are cases, and illustrations may be pointed out, where there would be a conflict and a destructive conflict in this program between the State and the Federal Government, if there did not exist a spirit and purpose and determination upon the part of the administrators of the Federal program to do nothing except in cooperation with the authorities of the various States.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. TYDINGS. Does not the Senator think our difference in looking at the legal side of this question arises pri-

marily out of the fact that he presents the argument that all power resides either in the State or in the Nation with regard to commerce, whereas I am contending that all power resides either in the State or in the Nation or in the people? There are some powers which the people have never given to either the State or the Federal Government.

In conclusion, I invite the Senator's attention to the fact that under the N. R. A. decision, to which the Senator from Texas [Mr. CONNALLY] has referred, where it was an intrastate occurrence upon which the Court passed in its ruling, the State of New York did have the power to do many of the things which were criticized as being done by the Federal Government, but the State of New York had not cared to exercise them; and the fact that it had not cared to exercise them did not give the power to the Federal Government, because the people were the ultimate repository of all power which the Federal Government did not have up to that time. So, in my humble judgment, it is not a sound premise to say that all power which the State governments do not have must reside in the Federal Government, because the people still retain powers that they have never reposed in either government, and, in my judgment, they have wisely retained such powers.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. BARKLEY. How are the powers which are supposed to have been reserved to the people—by which is meant that they are neither in any State constitution or in the Constitution of the United States, and have not been exercised—to be placed in the Constitution? What is the process by which it can be done?

Mr. TYDINGS. By means of a constitutional amendment, either by the State governments or the Federal Government, in just the way it has always been done. If the governments, State or National, desire powers which the people never have conferred upon them, the proper way to obtain such powers is by constitutional amendment; and, in the absence of constitutional amendment, all the laws in the world will not confer them on either State governments or the Federal Government.

Mr. BARKLEY. But the States cannot amend the Constitution unless Congress submits such an amendment to them.

Mr. TYDINGS. Yes; they can.

Mr. BARKLEY. How?

Mr. TYDINGS. They can do it by the action of the States under the provision set up in the Constitution, if a sufficient number of people wish it to be done.

Mr. BARKLEY. They cannot do it except through the initiative of the Congress.

Mr. TYDINGS. Who elects the legislators? Who elects the Senators and the Representatives?

Mr. BARKLEY. The people elect them.

Mr. TYDINGS. Why cannot they take the initiative?

Mr. BARKLEY. They have not done it.

Mr. TYDINGS. If they have not done it, how would the Senator have it done? Would he have it done without any reference at all to them?

Mr. ADAMS. Mr. President, will the Senator yield for an inquiry?

Mr. BANKHEAD. I yield.

Mr. ADAMS. My understanding of the Senator's argument on the question of price fixing is that the Constitution gives to the Federal Government full, unrestricted power to regulate interstate commerce; that in the decision quoted from Mr. Chief Justice Marshall it was stated that the power of the States to regulate intrastate commerce was equal to the power of the Federal Government to regulate interstate commerce; and then that the United States Supreme Court having held that the State of New York had the right to fix milk prices, he reaches the conclusion that the Federal Government has the same right. I was going to ask, if that is a correct statement of the argument—I ought to know, but I do not know—whether or not the Supreme Court, in

the New York milk case, specifically based its decision upon the exercise of the powers over commerce by the State?

Mr. BANKHEAD. No; it did not.

Mr. ADAMS. Or did it base it upon inherent powers?

Mr. BANKHEAD. It based it upon inherent powers to protect the public welfare and the public interest.

Mr. ADAMS. Then it was not based on the internal commerce power of the State?

Mr. BANKHEAD. It applied solely to intrastate commerce; and my position is that the Federal Government has the identical power as to interstate commerce that the State has as to intrastate commerce in any particular commodity.

Mr. ADAMS. The Senator's contention is that the Federal Government has, in addition to the powers granted to it, police powers such as are conceded to the States?

Mr. BANKHEAD. That is correct.

Mr. ADAMS. That is a point upon which I am not clear.

Mr. BANKHEAD. It has the same police powers as have the States upon subjects not specifically and exclusively turned over to them.

Mr. TYDINGS. Mr. President, will the Senator from Alabama yield to me to close the argument on my case? Then I shall not interrupt him again.

Mr. BANKHEAD. The Senator has closed his argument several times, but I will yield to him.

Mr. TYDINGS. In answer to the Senator from Kentucky [Mr. BARKLEY] and other Senators who argue that either the Federal Government or the State governments have all powers, and the people none, I read amendment X of the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

There it is in black and white.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. BLACK. Of course it is clear that there are certain powers which are given to the Government and certain powers which are reserved to the people. That is true with reference to the State and the Federal Government. As I understand the argument of my colleague, however, it amounts to this: The Supreme Court has held in the New York case that under the police power of the State, the State has a right to fix prices.

Mr. BANKHEAD. That is correct.

Mr. BLACK. And my colleague says further that the Congress alone has the power to regulate interstate commerce.

Mr. BANKHEAD. That is correct.

Mr. BLACK. And, therefore, that the Congress has the right to fix prices in interstate commerce. I call his attention to the fact that in line with that argument, the Supreme Court of the United States has expressly held that the Congress does have the right to exercise the police power with reference to transactions in interstate commerce.

It was held in the white-slave case, and it was also held in two other cases, that since the Congress had the complete power to regulate interstate commerce it carried with it the right to exercise a police power with reference to the regulation of interstate commerce.

That has been held in three separate cases by the Supreme Court of the United States. So it is not an argument, as has been insisted, and which has been made, as I understand, that a power which is left with the people can be taken away from the people without a constitutional amendment; but the Constitution itself gave to Congress the right to regulate interstate commerce, which carries with it the right to exercise police power to regulate interstate commerce, as is done with reference to liquor, as is done with reference to the white-slave traffic. It follows necessarily that if the States, in the regulation of commerce, can fix prices under the police power, the United States Government can in the same way fix prices under the police power, under the constitutional provision as to the regulation of commerce.

Mr. BANKHEAD. I think my colleague has very clearly stated the proposition.

I had just announced the doctrine, in answer to a question by the Senator from Oklahoma [Mr. GORE], that Congress has the police power, just as the States have it, on those subjects specifically and exclusively granted under the Constitution to Congress. I did not have time to obtain the decisions at the moment; but I know, as my colleague has pointed out, that the Supreme Court has expressly stated that on certain subjects Congress has the police power.

Mr. TYDINGS. Will the Senator give us a brief definition of some of the police powers of Congress? The power to regulate commerce is not a police power, as every Member of this body knows. It is a delegated power. The police powers in any given instrument are necessary powers to enforce the granted powers. The power to regulate commerce is no more a police power than I am a policeman.

Mr. BANKHEAD. I shall answer the Senator's question by reading a definition from Twenty-fifth Encyclopedia, page 863, which I formerly used in a legal argument from the floor of the Senate. It reads:

Police power is the name given to that inherent sovereignty which is the right and duty of the government or its agents to exercise whenever public policy in a broad sense demands, for the benefit of society at large, regulations to guard its morals, safety, health, order, or to insure in any respect—

Listen now—

or to insure in any respect such economic conditions as an advancing civilization of a highly complex character requires.

There is the definition of police power, such police power as the State of New York exercises, such police power as the Congress has the right to exercise where the power of the States has been specifically transferred to Congress in all its aspects, not only, as the Senator doubtless knows, to regulate, but to prohibit. In every way where the complex moving economic conditions of the people require action, then Congress has the power under the police power.

Mr. TYDINGS. Is the Senator contending that Congress derives its power to fix prices under the police power of the Constitution or the interstate commerce clause of the Constitution, or both?

Mr. BANKHEAD. Both. I have specifically stated that the police power followed the grant of the interstate commerce power and went with it as an incident, as a necessary attribute included in it. Of course, the Federal Government would not have that power except for the interstate-commerce clause granting the power.

Mr. President, I have submitted my views upon the subject. I recognize that they are but my views. However, I hope the authorities and suggestions submitted may be helpful.

As the chairman of the committee on numerous occasions has tried to impress upon the Senate, this is a program intended for the benefit of the agricultural producers of the country. Let me say to Senators who are not entirely sympathetic that this program is not needed by the cotton growers and it is not needed by the wheat and hog and corn producers except from the standpoint that the bill straightens out and conforms the law from a legalistic standpoint to the decision of the Supreme Court in the *N. R. A.* case. It is necessary from that standpoint absolutely because here we have disposed of the question of the delegation of power.

This bill ratifies and confirms the act of the agent of Congress, whether that act has been wrong, whether it has been purposely and from a legalistic standpoint properly delegated or not. It was an act under color of law by an agent of the Congress of the United States. No one doubts the power of a principal to ratify and confirm the acts of an agent. I have never had much doubt about the necessity for doing it.

I have believed from the beginning that the delegation of power in the original act providing the difference between the cost of production and the present price, the parity price, was a sufficient standard, certainly as definite as, if not more definite than, the power given to the President under the flexible tariff law. There the only standard was

the cost of production abroad and in this country. It was a subject of investigation, a matter of fact finding, but a standard fixed, and when fixed it authorized the President to levy the tax. The Supreme Court has sustained that power, as we know.

But now we have lawsuits by grasping and greedy producers and handlers in different sections of the country, some of whom came before the Committee on Agriculture and Forestry and told the committee that they had taken the processing tax on hogs out of the producer. Still we find these handlers, who have insisted the power was directly in the interest of the producers, organizing through the courts a raid upon the taxpayers.

Why take any chances about the program? From the standpoint of the basic commodities it is important. From the standpoint of the Government it is valuable. From the standpoint of the taxpayers it is helpful. From the standpoint of the removing of uncertainties in the situation, as reflected in the flour trade, the textile trade, the meat trade, it is well for Congress by specific declaration now to ratify what it authorized and thought it was legally authorizing its agent, the Secretary of Agriculture, to do.

Except from the standpoint of clarifying and strengthening, if necessary, the authority under the act from a legal standpoint, the producers of the basic agricultural commodities have no vital concern. However, there are 2,000,000 farmers who are not engaged in the production of basic agricultural commodities, but who produce fruits and vegetables of all kinds. They, together with the dairymen and others, have been appealing for help. They have pointed out that this program has rescued agriculture from bankruptcy in the great basic commodity areas. They have been appealing to the Department of Agriculture to give them some benefit from marketing agreements.

I am standing here today pleading with Senators, as did our chairman, to look favorably upon this program for the 2,000,000 unorganized and scattered farmers producing special crops all over America, not to put anything upon them that they do not want, but to give them the opportunity, if they want these marketing agreements, to help adjust supply to demand, to help them market their crops in orderly fashion, and to feed into the markets, in appropriate ways and under proper circumstances, the fruits of their year's labor in a manner that will give them something at least approaching parity prices.

No exorbitant prices are expected. No unreasonable or unfair requests were made by the representatives of the farmers, either through their cooperative organizations or through their Representatives in the Congress of the United States. Men who stand upon the floors of these two Houses when a protective tariff bill is up appeal with eloquence and persuasion for a tax which will enable industry to pay a good wage to the industrial workers, which will enable the producers of manufactured articles to charge the consumers a higher price. They plead for those things. As a rule, they have been in the majority. I do not mention that subject now to start a tariff debate. I mention it simply to ask Senators from the Eastern States, who are generally, though not uniformly, opposed to every program in the interest of the agricultural producers which has come to Congress, to bear in mind that the industries of their States cannot operate, cannot maintain their profits, cannot pay their industrial laborers what they ought to have, if the Senators and Representatives from those States continue a program of holding back the farmer, of holding down his returns, of almost destroying the market for industrial commodities among 30,000,000 consumers upon the farms of the country.

I have not stood here, nor have other Senators from the agricultural States, and fought any program which tended to increase the wages of industrial workers.

We recognize that there is a relation of interdependence between these two great groups of workers. So here is a program designed to bring up to a little better level, to give a little fairer proportion of the national income to 2,000,000 farmers engaged in the production of specialty crops. There they are, unorganized, not vocal. For more

than a year they have urged the Department of Agriculture to bring them under the provisions of the Agricultural Adjustment Act. Some who were under it were taken out by actions in the courts brought by processors and handlers and shippers. They do not want this program.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I am glad to yield.

Mr. CONNALLY. I desire to suggest to the Senator that the difficulty which confronts me is not so much the legal aspects as the economic aspects of the matter, the wisdom of fixing price below which a commodity may not be sold. Purchasers might not wish to pay the minimum price, and as a result of that the market might become glutted; and in the case of perishable fruits and vegetables, for instance, they might deteriorate, and the result would be a loss rather than a gain.

Mr. BANKHEAD. I will say to the Senator from Texas, as I have said to the Senator from Virginia [Mr. BYRD] since he spoke, that it is not the purpose of the Department to administer this bill as to perishable vegetables or fruits.

Mr. CONNALLY. There is no exception in the bill.

Mr. BANKHEAD. If the Senator will draw an amendment along proper lines, distinguishing between perishable and nonperishable fruits and vegetables, so far as I am concerned I shall be glad to accept the amendment, because Mr. Davis has reconfirmed that statement since the Senator from Virginia spoke. It is not their purpose to administer the bill in any harmful way. Of course injurious circumstances may be visualized, may be conjured up, for which neither the Senator from Texas nor I would stand for a moment. Here, however, is a department working with the producers, not forcing prices upon the producers, not forcing any program upon the producers, but yielding to the request of the producers themselves in regard to these programs; and if any abuse should arise within 3 days, the measures taken under the bill could be changed to fit changing conditions.

Mr. CONNALLY. Mr. President, will the Senator yield further?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. I desire to suggest to the Senator that giving a power which we concede ought not to be exercised is the very thing to which the Senator from Texas is opposed; and yet we are giving some bureau chief, or somebody in a department of the Government, authority to exercise a power which we say should not be exercised, and salving our consciences with the statement that "Well, he has told us privately and in the committee that he is not going to do it." If he is not going to do it, why should we give him the power to do it?

Much of the reaction which is taking place over the country as to acts of Congress arises from the fact that the people are complaining that the Congress seemingly has divested itself of its own judgment and its own discretion and its own legislative wisdom, if it has any, and is placing these transcendent powers in some little bureau chief who is appointed by somebody else, and who has no responsibility directly to the people, and to whom, when we give him the power, we have to go, I will not say on our bended knees, but on some other portion of our anatomy, and sit in the outer door for a day or two in order to approach the throne of this two-thousand-dollar or three-thousand-dollar autocrat, and beseech and beg and plead with him for a day or two to get him not to do something which we did not intend to have him do when we passed the law.

Mr. BANKHEAD. My difficulty has been in getting him to do something. I have had no trouble about getting him not to do things. I think the whole trouble in this particular department has been failure to move far enough under the Agricultural Adjustment Act.

Mr. CONNALLY. If it is hard to move them forward, it is just as hard to move them backward. It ought to be more so, because their nature is to go forward rather than backward.

I am willing to go as far as the Senator will go to advance the interests of agriculture. I come from a great agricultural State, and I am in sympathy with the agri-

cultural program; but I think that when we write an act of Congress we ought to say what we mean, and not give a great power to somebody to exercise at his will.

The Senator illustrates the wisdom of that view. He says he cannot get the authorities to do certain things. It is just as bad if they will not do what they should do as if they do something they should not do. So I hope the Senator will amend this measure in such a fashion as to remove that particular thing from the bill.

Mr. BANKHEAD. Mr. President, the Senator from Texas states that he is a friend of this measure, and I believe him; I am sure of that. All his actions here show that his disposition is to aid the farmer in every possible way; but, as a friend of measures of this sort, I wish to submit calmly to the Senator's judgment that with a program involving 2,000,000 people, scattered from Maine to California and from Canada to the Rio Grande, with all sorts of crops, with all sorts of differing marginal conditions, it is almost humanly impossible to write into the letter of the law every authority which should be granted, and every limitation on authority which somebody may imagine might be improperly exercised. It is a very difficult thing to do.

The House committee worked for several weeks on this bill. All of its members are friends of the farmer. When the bill came over here, the Senate Committee on Agriculture and Forestry worked on it for days and days, and did as faithful and conscientious work as any committee upon which I have ever served.

I wish to say before I conclude that the suggestion made by the junior Senator from Virginia [Mr. BYRD] about "brain trusters"—one which I have heard come from many sources—is entirely inappropriate when applied to this program.

Our committee took no advice from any "brain truster." The truth is, I regard the term "brain truster" as a compliment, because I believe it means they have a trust on the brains of this country.

The committee took the bill as it passed the House and tried to correct whatever defects in it we thought needed correction. We had Mr. Chester Davis before us, but he gave no advice. The Senator from South Carolina [Mr. SMITH] stated that on the floor of the Senate the other day. There was an attorney present, purely from a legalistic standpoint, to help straighten out the provisions of the bill, and to give his advice and to furnish us authorities, which I will say to the Senator I consulted with an open mind, and other lawyers on the committee acted with open minds.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BANKHEAD. When I finish this statement I will yield. We made changes as a result of our own legal investigations. When we sought information, we got the information, the best that Mr. Davis and his department could give us.

They propose no program and urge nothing upon us. Mr. Davis frequently stated, with that fine frankness and manhood which characterize him, that they wanted no added authority. In my judgment, every Member of the Congress who has come in personal contact with Mr. Davis has respect for him and confidence in him. He stated there time and again, as members of the committee know, "We are simply here ready and willing to carry out any program Congress may order us to carry out. We are not seeking new responsibilities and new work. We are simply here to serve the committee." And in that spirit, I will say to the friends of this measure, such amendments as were made were worked out by that sort of united effort.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I promised first to yield to the Senator from New Mexico.

Mr. HATCH. I merely wanted to say, in reply to what the Senator from Texas stated a moment ago, that while I perhaps shall vote with the Senator from Virginia on some of his amendments from a purely legal standpoint, if the proposition were as stated by the Senator from Texas, I should not vote for any portion or part of the bill. But in fact the bill does not confer upon the Department of Agriculture or

upon any official such powers as were described by the Senator from Texas. The only way the powers which this bill confers can be brought into play, if the amendment which will be proposed by the Senator from Virginia shall be adopted, is by the action of the producers themselves through their marketing agreements and by their votes. With that amendment in the law, no arbitrary power will be conferred upon the Secretary of Agriculture by the proposed statute at all, and it will leave almost entirely with the producers themselves the power to outline and carry on the program which they believe to be best suited to their particular needs in their own particular localities and areas.

Mr. CONNALLY. Mr. President, will the Senator from Alabama yield to me?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. Allow me to say to the Senator from New Mexico that what the Senator from Texas expressed was provoked by the Senator from Alabama saying that the Department did not intend to exercise these powers.

Mr. BANKHEAD. Not all of them; I said as to perishable fruits.

Mr. HATCH. They cannot exercise the power until the producers ask them to.

Mr. CONNALLY. If the Senator from Texas has erred, it has been through the information he received from the able and charming Senator from Alabama.

Mr. BANKHEAD. Mr. President, what I stated was in answer to the argument the Senator from Virginia had made before I took the floor.

Mr. CONNALLY. I wish to say one other thing, and this is also provoked by the Senator from Alabama.

Mr. BANKHEAD. The Senator from Texas seems to be in a state of mind easily provoked.

Mr. CONNALLY. I use the word in no offensive sense. What the Senator from Texas said was not said as any reflection on the Committee on Agriculture.

Mr. BANKHEAD. I recognize that. If the Senator will permit me, I was answering the Senator from Virginia, as he understood.

Mr. CONNALLY. I regard the Committee on Agriculture as having performed a very laborious piece of work in considering the pending bill. It is a bill which is so complicated, if I may use the term, so diverse in its provisions, that I know it entailed much study and a great deal of thought on the part of the committee, and I congratulate the committee. But after all, the Senate has to confirm what the committee does, and while we are all disposed to follow the recommendations of the committee that does not mean that the Senate is blindly to follow just what the committee did.

Mr. BANKHEAD. I have never asked that.

Mr. CONNALLY. If that were to be the rule, there would be no occasion for the Senate meeting. We could just pass our bills and resolutions in the committees. The Senator knows that frequently the Senate reverses a committee. What I had particularly in mind was the case of perishable fruits and vegetables upon which someone might fix a minimum price, and thereby harm, rather than benefit, might be brought about to the producer because if he could not sell them except at a minimum price he might not be able to sell them at all. That is what I had in mind in bringing to the attention of the Senator from Alabama the particular point in which I was interested.

Mr. BANKHEAD. I assure the Senator that nothing he said left an impression on my mind that he was criticising the committee, and my statements on that subject were in answer to statements of the junior Senator from Virginia [Mr. BYRD] earlier in the afternoon, about the "brain trusters" promoting the program.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. BANKHEAD. I yield.

Mr. BYRD. The Senator from Alabama has conveyed to the Senator from Virginia the information that the Department does not intend to control perishable fruits and vegetables. In view of that statement, I think it would be

well if we could adjourn this afternoon and see if suitable amendments could not be framed to prevent them doing what he says they are not going to do, but what the bill gives them the power to do.

Mr. BANKHEAD. I stated to the Senator that I thought we could agree on an amendment. The only difficulty is in getting an amendment which will clearly differentiate between perishable and nonperishable products.

Mr. BYRD. I will say to the Senator that every fruit is perishable and every vegetable is perishable.

Mr. BANKHEAD. Certainly, in the course of years.

Mr. BYRD. No; not in the course of years. In the course of a very short time fruits and vegetables are perishable.

Mr. BANKHEAD. Of course, if the Senator has in mind an amendment tending to destroy the bill, we cannot reach an agreement. I thought the Senator was trying to protect some very perishable products.

Mr. BYRD. The Senator from Alabama volunteered the information to me that he was willing to agree to such an amendment, and in accordance with that suggestion I am asking him to pass over the pending amendment and see if we cannot agree on an amendment. I am not asking the Senator to agree to it. I am willing to leave it to a vote of the Senate.

With respect to the "brain trusters", what I said was that nothing more absurd had ever originated in the fertile mind of any member of the so-called "brain trust" than the idea of fixing minimum prices for perishable fruits and vegetables.

Mr. BLACK. Mr. President, will my colleague yield?

Mr. BANKHEAD. I yield.

Mr. BLACK. I think it would be proper, before the Senator completes his remarks, to insert in the RECORD a quotation from the Supreme Court of the United States in the case of *Champion against Ames*. The Senator has very ably presented the legal aspects of this matter, and has asserted that Congress has the right to exercise police power in relation to interstate commerce. In the case of *Champion v. Ames* (188 U. S., p. 321) the Supreme Court said what I shall read in a short extract from their opinion:

Congress, in exercising its constitutional power over interstate commerce, may adopt police regulation, as well as the States, and it has power to adopt not only means necessary but convenient to its exercise.

Mr. BANKHEAD. I thank the Senator.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. GEORGE. Is it the Senator's view that the Congress has general police powers, or mere power to protect the commerce itself?

Mr. BLACK. I can state that better by reading from another Supreme Court opinion.

Mr. GEORGE. I should like to know the Senator's view.

Mr. BLACK. I am going to give the Senator my view by reading from Mr. Justice Harlan as to just what power they have in that regard:

That the power to regulate commerce is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions on the exercise of the power as are found in the Constitution of the United States; that such power is plenary, complete in itself, and may be exerted by Congress to its utmost extent, subject only to such limitations as the Constitution imposes upon the exercise of the powers granted by it; and that in determining the character of the regulations to be adopted Congress has a large discretion which is not to be controlled by the courts simply because, in their opinion, such regulations may not be the best or most effective that could be employed.

It is my view, in line with those two opinions, that the Congress has the same right to regulate interstate commerce that the State has to regulate intrastate commerce, and that within the field necessary to exercise that power the Congress has the right to exercise a police power exactly as the State has the right to exercise a police power on commerce purely within the State.

Mr. GEORGE. I take it the Senator means that the Congress has general police power?

Mr. BLACK. No; I do not mean that.

Mr. GEORGE. That is what I thought.

Mr. BLACK. I mean that it has general police power with reference to the exercise of its constitutional power to regulate commerce between the States.

Mr. GEORGE. I take it the Senator means that the interstate-commerce clause, as we refer to it, gives to the Congress general police powers over interstate commerce.

Mr. BLACK. Over regulating interstate commerce among the States.

Mr. GEORGE. Mr. President, I merely wished to ascertain the Senator's view; and I take it that his colleague from Alabama takes the same general, broad position. I do not think there can be any question of doubt that the grant of a specific power gives to the Congress a special police power with respect to that thing, or a police power, if one wishes to put it in general terms.

Take the case of milk: If the commerce clause, applied to milk, carries with it generally the police power that we find in the States, or in an absolute sovereignty, then the power necessarily resides in Congress to make a criminal offense certain methods of feeding the cow or caring for the cow which produces the milk which goes into interstate commerce. That is not my idea at all. That is a general police power which resides in the State—there is no doubt of that—but that is not my idea at all of any true or proper interpretation of the police power which necessarily goes with the grant of the power to control and to prohibit interstate commerce.

The full power, whether we call it police power or not—it is rather an implied power—the full power goes with the grant to the Congress to protect interstate commerce. It may arrest people and strike down people in order to control it, but in no direct or definite or material way can it be said, in my judgment, that the price at which the article is sold really has anything to do with interstate commerce within the meaning of the implied power or the police power to regulate interstate commerce.

If, however, it be the theory of those who have drawn this proposed legislation that the grant of power—for instance, the power of Congress to regulate interstate commerce—carries with it the grant of police power in an unrestrained sense, then we can enter the backyard of every farmer in the United States who ships a pound of butter or a quart of milk, and we can say what he shall feed to his cow, because that can be done under the State law; we can say what care he shall give to the cow, for that can be done under the State law; we can regulate every miserable step up to the time the article goes into commerce, and until finally somebody consumes it in the State into which it has been sent.

I do not subscribe to that doctrine; but, if I did subscribe to it, I should rather go out of that door feet first than to vest the exercise of such power in any bureau or any division of Government in Washington.

Mr. BANKHEAD. Mr. President, I do not care to discuss the personal feelings of the Senator from Georgia. I ask unanimous consent to have published, in connection with my remarks at this point, the headnotes in the case of *Nebbia v. New York* (291 U. S.), at page 502.

The PRESIDING OFFICER (Mr. McGILL in the chair). Without objection, it is so ordered.

The headnotes are as follows:

SYLLABUS

[*Nebbia v. New York* (291 U. S. 502). Appeal from the county court of Monroe County, N. Y. No. 531. Argued Dec. 4, 5, 1933. Decided Mar. 5, 1934.]

1. As a basis for attacking a discriminatory regulation of prices, under the equal-protection clause of the fourteenth amendment the party complaining must show that he himself is adversely affected by it (p. 520).

2. A regulation fixing the price at which storekeepers may buy milk from milk dealers, at a higher figure than that allowed dealers in buying from producers, and allowing dealers a higher price than it allows storekeepers in sales to consumers, held consistent with the equal-protection clause of the fourteenth amendment because of the distinctions between the two classes of merchants (p. 521).

3. As part of a plan to remedy evils in the milk industry which reduced the income of the producer below cost of production and

threatened to deprive the community of an assured supply of milk, a New York statute sought to prevent destructive price cutting by stores which, under the peculiar circumstances, were able to buy at much lower prices than the larger distributors and to sell without incurring delivery costs; and to that end an order of a State board acting under the statute fixed a minimum price of 10 cents per quart for sales by distributors to consumers and of 9 cents per quart for sales by stores to consumers. Held that, as applied to a storekeeper, the regulation could not be adjudged in conflict with the due-process clause of the fourteenth amendment, since, in view of the facts set forth in the opinion, it appeared not to be unreasonable or arbitrary or without relation to the purpose of the legislation (pp. 530 et seq.).

4. The use of private property and the making of private contracts are, as a general rule, free from governmental interference; but they are subject to public regulation when the public need requires (p. 523).

5. The due-process clause of the fourteenth amendment conditions the exertion of regulatory power by requiring that the end shall be accomplished by methods consistent with due process; that the regulation shall not be unreasonable, arbitrary, or capricious; and that the means selected shall have a real and substantial relation to the object sought to be attained (p. 525).

6. It results that a regulation valid for one sort of business, or in given circumstances, may be invalid for another sort, or for the same business under other circumstances, because the reasonableness of each regulation depends upon the relevant facts (p. 525).

7. The power of a State to regulate business in the public interest extends to the control and regulation of prices for which commodities may be sold, where price regulation is a reasonable and appropriate means of rectifying the evil calling for the regulation (pp. 531 et seq.).

8. There is no principle limiting price regulation to businesses which are public utilities, or which have a monopoly or enjoy a public grant or franchise (*Munn v. Illinois*, 94 U. S. 113; p. 531).

9. To say that property is "clothed with a public interest", or an industry is "affected with a public interest", means that the property or the industry, for adequate reason, is subject to control for the public good (pp. 531-536).

10. There is no closed class or category of businesses affected with a public interest; and the function of courts in the application of the fifth and fourteenth amendments is to determine in each case whether circumstances vindicate the challenged regulation as a reasonable exertion of governmental authority or condemn it as arbitrary or discriminatory (p. 536).

11. Decisions denying the power to control prices in businesses found not to be "affected with a public interest" or "clothed with a public use" must rest finally upon the basis that the requirements of due process were not met because the laws were found arbitrary in their operation and effect (p. 536).

12. So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a State is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose. The courts are without authority either to declare such policy or when it is declared by the legislature to override it. If the laws passed are seen to have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of due process are satisfied, and judicial determination to that effect renders a court functus officio (p. 537).

13. The legislature is primarily the judge of the necessity of such an enactment; every possible presumption is in favor of its validity, and though the court may think the enactment unwise, it may not be annulled unless palpably in excess of legislative power (p. 537).

14. If the law-making body within its sphere of government concludes that the conditions or practices in an industry make unrestricted competition an inadequate safeguard of the consumer's interests, produce waste harmful to the public, threaten ultimately to cut off the supply of a commodity needed by the public, or portend the destruction of the industry itself, appropriate statutes passed in an honest effort to correct the threatened consequences may not be set aside because the regulation adopted fixes prices—reasonably deemed by the legislature to be fair to those engaged in the industry and to the consuming public (p. 538).

15. This is especially clear where the economic maladjustment is one of price, which threatens harm to the producer at one end of the series and the consumer at the other (p. 538).

16. The Constitution does not secure to anyone liberty to conduct his business in such fashion as to inflict injury upon the public at large or upon any substantial group of people (p. 539).

17. Price control, like any other form of regulation, is unconstitutional only if arbitrary, discriminatory, or demonstrably irrelevant to the policy the legislature is free to adopt, and hence an unnecessary and unwarranted interference with individual liberty (p. 539; 262 N. Y. 259; 186 N. E. 694, affirmed).

Mr. McCARRAN. Mr. President, I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, the proposed amendment will be received, printed, and lie on the table.

Mr. BLACK. Mr. President, it was not my intention to enter this discussion at all, except to read an extract from a Supreme Court decision.

I do not gather that the Senator from Georgia [Mr. GEORGE] has attacked the Supreme Court opinion. I see no reason for the emphatic and enthusiastic argument on matters which I did not at all suggest. I simply read a statement from the Supreme Court of the United States, which is the law of America. I recognize it as the law, and I think the Senate will recognize it as the law—a direct, unequivocal statement from a Supreme Court opinion. That opinion simply says, in substance, that there are certain powers given to the United States Congress. One of those powers is the power to regulate interstate commerce.

The States have the power to regulate intrastate commerce. Where that line is to be drawn, I am convinced largely depends upon the decision in each separate Supreme Court case. It is practically a question of fact. At least, one who studies the opinions of the Supreme Court on this highly controversial subject must reach that conclusion.

I do not withdraw my opinion that the Supreme Court of the United States was right when it said, in the case from which I read and in five other opinions rendered by that Court, that the Congress of the United States, in exercising its power under the interstate commerce clause, has the right in that connection to exercise a police power. I do not state exactly every transaction that is interstate and intrastate. I have my own ideas about what the Constitution meant when it gave to the Congress the right to regulate interstate commerce. I believe it meant what the early opinions said—that the Congress of the United States had the right to regulate interstate commerce as fully and completely as though it were one Nation and there were no State lines. I am not now referring to intrastate commerce, but to interstate commerce; and certainly no one can state that that would mean that the Congress had a right to go into the back door of every farmer in America and determine exactly when the farmer's wife should milk her cow and when she should churn her butter.

It is my opinion that the Supreme Court will eventually return to the early opinions written by the courts of the country and hold that with reference to the regulation of interstate commerce—not intrastate, not butter that is churned and sold to the next-door neighbor, but with reference to interstate commerce—Congress has the right, just as was said in the case to which I referred, in carrying out its authority under the commerce clause, to regulate that commerce the same as though it were one nation, as it is. If not, who has the right to regulate it?

No power within the boundaries of this Government except the Congress of the United States has the right to regulate a single thing that moves in interstate commerce. If it be not true that the Congress has that unrestricted right to regulate interstate commerce, then it is true that the power is left suspended in mid-air and nobody has the right to exercise it. It was intended to give that full and complete power.

I simply read the opinion because my colleague had made what I conceived to be a very logical argument. I did not argue the policy of the situation for which my colleague has spoken. I did not even intimate I was for or against the policy. I did say, as he had argued, that the Supreme Court of the United States has held that in the regulation of intrastate commerce the State had a police power which authorized it to fix prices.

Who has the power to regulate interstate commerce? The Congress. Who has the power to carry out the police power under that constitutional provision? The Congress. If the State has a right under the police power to fix the prices within the State on purely intrastate transactions, and if the Congress has the same right to exercise the police power with reference to interstate commerce that the State has with reference to intrastate commerce, there is no one who has logic enough or force enough or power enough to convince me that the Congress has not the right to enact

price-fixing legislation under the constitutional provision. Whether that is a good policy or not, I make no statement at all.

Mr. SMITH. Mr. President, I want to make a statement with reference to the two paragraphs which have consumed the afternoon in the way of legal argument which I hope will be or has been settled to the satisfaction of all Senators. I think we all now understand just exactly what we understood before the argument began.

These two paragraphs have reference more to the cooperatives than to anything else. The Senator from North Carolina [Mr. BAILEY] asked me if these paragraphs do not pertain to the fostering of cooperative marketing. They do, but with this distinction: Heretofore every attempt at cooperative marketing has been a failure because the quantity handled by the cooperatives was so small and insignificant that they were bound to fail.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. SMITH. Not until I get through with this explanation.

It is proposed in both paragraphs with reference to the handling that when the producers handle 50 percent with the assistance of the Government, then they may fix a minimum price in favor of the producer. That is all both sections mean.

Mr. BAILEY. The second section provides for organization of cooperatives of the producers.

Mr. SMITH. Yes; if the organization or association, or whatever is set up, has 50 percent or more of any given product.

Mr. BYRD. Mr. President, will the Senator yield now?

Mr. SMITH. I yield.

Mr. BYRD. The first section has nothing whatever to do with cooperatives. It does not mention cooperatives. It refers to where purchases are made by handlers to the extent of 50 percent. It is only the second section that refers to cooperatives.

Mr. SMITH. But the first section has to do with the handlers of 50 percent of any given commodity—that is, those who will distribute it.

Mr. BAILEY. The handlers as a group.

Mr. SMITH. Exactly. That means the handlers of 50 percent of the commodity may fix a minimum price, but not otherwise. That is to guarantee success. They must have 50 percent because otherwise, without doubt, all efforts would prove a failure, as they have in the past.

As to all the discussion this afternoon as to constitutionality, and so forth, the two paragraphs are predicated upon a voluntary agreement among the producers—

Mr. BYRD. After my amendment shall have been adopted. The bill provides at present that 50 percent of the handlers may impose licenses upon the producers.

Mr. SMITH. Oh, no; not at all. If it will relieve the Senator's mind, I think his amendment is a pretty good one, because I thought the paragraph was drawn in a rather slovenly way, but still I thought the context was sufficient to care for it. The words "and a certain percent of the producers" have nothing to do with the object of the two paragraphs, and especially paragraph (G), which recognizes that all cooperation heretofore has failed because there was not at least a majority of the products in the control of the producers.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BAILEY. Am I perfectly safe in assuming that the benefits of the minimum price-fixing for producers will not be available except upon the sale of 50 percent of the volume of the commodity—in this case tobacco?

Mr. SMITH. Yes.

Mr. BAILEY. "By an association or associations of producers"? That is the language of the bill.

Mr. SMITH. Yes; and that is its object.

Mr. BAILEY. "Or otherwise for the account of producers"?

Mr. SMITH. Yes.

Mr. BAILEY. I confess I do not quite understand that phrase "or otherwise for the account of producers."

Mr. SMITH. I take it that it means that wherever the producers select even a commission merchant, he may act in lieu of the cooperative.

Mr. BAILEY. That would mean they would get together in a group to sell 50 percent?

Mr. SMITH. The Senator is right.

Mr. BAILEY. Or all producers who are also handlers could get together and become handlers to do it, but it would have to be 50 percent?

Mr. SMITH. Yes; and all of it to the benefit of the producer, recognizing that the small amount handled heretofore has been the cause of the disaster to which the Senator from North Carolina referred and of which perhaps he was a victim, as I was personally, but I was doing the best I could to try to get enough of them together to control a majority of the products for the benefit of the producers.

We have a proposition here that, if a majority do come in, they may mutually agree and fix a minimum price with the Government's aid. That is all there is to it. The discussion this afternoon has been very enlightening, but very annoying to the chairman of the committee.

Mr. FLETCHER. Mr. President, may I ask the Senator a question at that point?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Florida?

Mr. SMITH. I do.

Mr. FLETCHER. I should like to ask the Senator just how this provision would operate; just what would be the procedure? If a minimum price should be fixed, how would it be enforced? How would it affect the producer to tell him that the minimum price for his product is so-and-so?

Mr. SMITH. They would get together, and a majority of those handling more than 50 percent of any given product would determine that in the movement of interstate commerce a certain price was the price upon which they had agreed. Then an order would be issued that not less than that should be paid the producer.

Mr. FLETCHER. Suppose there should not be any buyers at that figure?

Mr. SMITH. Well, suppose we had not anything to sell. We can suppose anything.

Mr. FLETCHER. But that is a very practical question. Suppose the price of grapefruit, say, were fixed at such and such a figure, and suppose nobody should be willing to pay that price.

Mr. SMITH. Let me ask the Senator, Who now fixes the price of the grapefruit of Florida?

Mr. FLETCHER. It is fixed by competition in the markets.

Mr. SMITH. Yes. Well, we have seen the results of competition in the markets. Do the Florida growers have anything to say about it? Does the Senator state before the Senate that the growers in Florida personally have any voice in fixing the price of their grapefruit?

Mr. FLETCHER. I am afraid they do not. It is a question of demand.

Mr. SMITH. Exactly; but if one of us goes downtown in Washington and undertakes to buy some grapefruit, certainly there is a fixed price there. Why not give the producers an opportunity to come in and at least fix a price which will insure a reasonable return for their fruit in the first hand, and have the Government cooperate with them in obtaining it?

Mr. FLETCHER. What I am trying to ascertain is, in case a minimum price should be fixed, and the product would not bring that price on the market, would the Government pay for it?

Mr. BANKHEAD. Mr. President, let me say to the Senator that those fixing the price doubtless would not fix a price at which the product would not move; but, if they should do so, they could change it in 3 days.

Mr. SMITH. Let me ask the Senator from Florida a question. If a majority of the producers of the citrus fruit of Florida, which the public needs—and, God knows, they pay

the price for it when it reaches here!—if 50 percent or more, by the consent of the growers, could get together and agree under the terms of this bill, on a price, and if then the Government would undertake, in the movement in interstate commerce, to say to the handlers in the course of interstate commerce, "You must give not less than that", does not the Senator believe that would be beneficial to his growers?

Mr. FLETCHER. I think very likely it would be; but does that involve the Government's controlling the amount of fruit that each shipper may ship?

Mr. SMITH. That will be done only by consent of the growers. If the Senator will read the bill he will find that the endeavor is to make all these provisions, wherever practicable, subject to the consent of the majority of the growers. The Government is trying to stand in lieu of organizations for the benefit of the growers.

Mr. FLETCHER. I realize the difficulties with which a grower now has to contend. I happen to be a small grower of grapefruit, and I sold my crop for 14 cents a box on the tree.

Mr. SMITH. And I give 5 and 10 cents a grapefruit here.

Mr. FLETCHER. Otherwise, if I should ship it, I should have to pay the cost of picking, the cost of packing, the cost of hauling, the cost of freight, the selling agent's charges, and then take what was left. In other words, the grower is working for everybody but himself.

Mr. SMITH. Exactly.

Mr. FLETCHER. I should like to see that situation changed, if possible.

Mr. SMITH. Let me ask the Senator a question. Suppose a majority of the grapefruit growers should get together and agree that a certain minimum price would give them a reasonable return for growing, and the Federal Government should say, "As far as we have the constitutional power to enforce that agreement in the channels of interstate commerce, we will do it." Would not the growers agree to it?

Mr. FLETCHER. I should think that would be very fair, very reasonable.

Mr. SMITH. That is all this bill does.

Mr. FLETCHER. But I am still puzzled about how the Government is going to enforce such a minimum price. If the demand is not there, the Government is not going to make good the minimum price; and in order to create the demand the supply must be regulated in some way. The Government would have to say how much fruit the market would take.

Mr. SMITH. Either the Government or the growers. I think the growers would be the ones to do it, and under the terms of the bill they might do it.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 239. An act for the relief of the Barlow-Moore Tobacco Co.;

S. 312. An act for the relief of Lillian G. Frost;

S. 377. An act to grant to the Utah Gilsonite Co. the right to use a water well on certain public lands in Utah;

S. 428. An act authorizing adjustment of the claim of Korber Realty, Inc.;

S. 475. An act for the relief of Mrs. George F. Freeman;

S. 780. An act for the relief of the Standard Dredging Co.;

S. 1036. An act authorizing adjustment of the claim of Dr. George W. Ritchey;

S. 1054. An act authorizing adjustment of the claim of White Bros. & Co.;

S. 1099. An act for the relief of Ethel G. Remington;

S. 1290. An act for the relief of Walter Motor Truck Co., Inc.;

S. 1446. An act for the relief of Knud O. Flakne;

S. 1447. An act for the relief of Mary C. Moran;

S. 1493. An act for the relief of Robert D. Baldwin;

S. 1499. An act for the relief of Robert J. Enochs;

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 15), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. McCARRAN to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the end of the bill insert the following new section:

1 SEC. . Section 350 of the Tariff Act of 1930 (relating
2 to reciprocal foreign trade agreements) is hereby repealed;
3 and no foreign trade agreement heretofore entered into
4 under such section 350 shall have any force or effect after
5 the date of enactment of this Act.

74TH CONGRESS
1ST SESSION

only saved *a*

H. R. 8492 ✓

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 15), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BAILEY to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the proper place insert the following:

1 SEC. 30. (a) Whenever the President has reason to
2 believe that any one or more articles are being imported
3 or are likely to be imported into the United States under
4 such conditions and in sufficient quantities to render in-
5 effective or materially interfere with any program or opera-
6 tion undertaken under this title, or to reduce or tend to
7 reduce the amount of any commodity processed in the
8 United States subject to this title, he shall cause an imme-
9 diate investigation to be made by the United States Tariff
10 Commission, which shall give precedence to investigations

1 under this subsection, to determine such facts. Such investi-
2 gation shall be made after such notice and hearing and
3 subject to such regulations as the President shall specify.

4 (b) If, after such investigation and report to him of
5 findings and recommendations made in connection there-
6 with, the President finds the existence of such facts, he
7 shall by order direct that the entry into the United States
8 of such article or articles shall, for such time as may be
9 specified by him, be permitted subject to (1) such terms
10 and conditions, (2) such limitations on the total quantities
11 thereof which may be imported, or (3) the payment of
12 such compensating taxes as he finds necessary to prescribe
13 in order that the entry of such article or articles will not
14 render or tend to render ineffective or materially interfere
15 with such program or operation undertaken under this title,
16 or to reduce or tend to reduce the amount of any com-
17 modity processed in the United States subject to this title.

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 15), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BAILEY to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz:

- 1 On page 40, line 15, after " the " where it appears
- 2 the second time insert " twelve months' period consisting
- 3 of ".

the capitalist is entitled to the excess of what labor produces over what is paid to labor. They hope for the development in America of a democratic, cooperative industrial regime as a world substitute for a materialistic, irreligious communism. Catholics and Protestants, Jew and Gentile—all denominations and races—are as one in their efforts to revolutionize our old economic order and bring about the democratization of industry.

In the practical arena of social and political agitation and controversy the active reform movements, as thus sanctioned and supported by the academic and the church groups, center in this country, as is well known, around the farms, mines, mills, and factories.

SIGNIFICANT IMPLICATIONS OF THE MOVEMENT TODAY

The practical implications of this movement today are most significant.

The United Mine Workers of America, by way of illustration, and a majority of the operators in the bituminous mining industry have united in support of the Guffey bill for placing the industry upon a public-utility basis under Federal control. All the other natural-resource industries—anthracite coal, oil, gas, lumber, copper, and electric power—must soon follow this precedent. If experience under a public-utility status should be ineffective, or should the Supreme Court declare the Guffey bill unconstitutional, recourse must at once be had to a constitutional amendment or to Government ownership and operation.

The railroad labor executives, whose policies have always been based on sound, conservative judgment, as a unit have recently declared for Government ownership and operation of the railroads. They state that they have been forced to this decision by a bitter experience of many years, which has conclusively shown that the same financial autocracy which dominates other basic industries cannot longer be endured by railway employees. They have concluded that the only effective method for its eradication is through Government ownership and control.

Present-day tendencies in labor organization also places main emphasis upon industrial unionism. This has been found necessary in order to develop sufficient economic and political power to bargain collectively on a basis of equality with those in financial control of industry and to secure the proper degree of political control over this financial dictatorship.

It is also particularly significant that all groups interested in real, constructive reform in America no longer limit the labor movement to a narrow, technical scope and definition. Labor no longer signifies the man with the hoe but is the voice of the peoples of the world. The range of its influence extends from the unskilled industrial and agricultural workers throughout the so-called "white collar" groups, including industrial technicians, school teachers, newspaper employees, and even those special writers and commentators who stand out as preeminent in the newspaper field. The liberal and constructive groups in the churches, colleges, and universities, as has already been stated, have also practically made themselves a part of the labor movement.

THE SITUATION ABROAD

As to the situation abroad, the stage has already been set for the effective cooperation of the labor movements in other leading industrial nations with American labor. In the year 1931, due to world-wide depression, the international labor organization departed from its established procedure of considering only protective labor standards by making an appeal for an international economic congress to consider uniform methods and policies for meeting prevailing conditions and for promoting economic recovery in all nations. Because of the favorable reaction of its members it also authorized constructive research and investigation along these lines. Conditions are, therefore, most favorable for cooperative action between organized labor in Europe and America.

In this connection it should also be recalled that during the post-war period the old forms of political and industrial democracy have to a great extent been modified or temporarily obliterated in Europe. In the year 1917, before the close of the World War, due to the peculiar conditions prevailing in Russia, an attempted constitutional form of government was violently overturned by a so-called "dictatorship of the proletariat." Early in the post-war period unsettled economic conditions and the threat of radicalism in Italy also finally led to the establishment of a Fascist dictatorship. Like tendencies later resulted in similar dictatorships in Austria, Hungary, Poland, Spain, Germany, and in southern and eastern European countries.

This condition of affairs constitutes a challenge to action to the American labor movement if political and industrial democracy are to be preserved.

When we look backward it will be recalled that the reasons for, and the principles of, our Revolution against Great Britain of the years 1775-83—as embodied in our Declaration of Independence of 1776 and our Constitution of 1787—set the world on fire for political democracy. During the ensuing century and a half the principles of political democracy, as proclaimed by the founders of self-governing Republic, were gradually accepted and practically applied by all the peoples of the civilized world. Self-government superseded the absolute rule or limited powers of princes, kings, emperors, kaisers, and czars.

The American organized-labor movement will never accept fascism or communism. There is no reason, however, why European dictatorships of the present day should not fall before the ideals of industrial democracy which the American labor movement represents. It is the belief of organized labor that America will again give to the world a system of industrial democracy which will supersede existing dictatorships and constitute an

acceptable supplement to our proclamation of political democracy in 1776. The forces in our country today which are behind such a movement, are fundamental and inexorable.

CONCLUSION

The real significance of our entrance into the International Labor Organization may, therefore, be said to be, that the American labor movement has taken up again the torch of international labor leadership which was temporarily wrenched from the hands of Samuel Gompers by extraordinary and unexpected political developments in America in 1920; that a political and social revolution is now in progress in America, sponsored by the churches, colleges, and universities, which finds its practical leadership in the organized-labor movement; that its ultimate success depends upon world cooperation and that in the International Labor Organization the organized-labor movement of America finds its opportunity for establishing world cooperation.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the amendment of the committee, on page 18, beginning in line 21, to insert paragraph (G).

Mr. BORAH. Mr. President, I wish to withdraw the notice which I gave yesterday for reconsideration of the vote by which the word "soybeans" was inserted in the bill. I have no objection to the inclusion of soybeans.

Mr. FLETCHER. Mr. President, I send to the desk and ask to have printed in the RECORD a letter from John H. Swisher & Son, Inc., cigar manufacturers of Jacksonville, Fla., relative to the effect of the pending bill on the cigar-manufacturing industry.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JACKSONVILLE, FLA., July 10, 1935.

The Honorable DUNCAN U. FLETCHER,

Senate Office Building, Washington, D. C.

DEAR SIR: We have your favor of July 6 relative to H. R. 8492, and note your comments in that the committee has taken the position that as representatives of no other industry had been heard it would not be fair to hear representatives of the cigar industry.

When it comes to any legislation as regards tobacco, we believe the industry as a whole should have an opportunity to be heard and especially on as vital a legislation as H. R. 8492 which is apparently the most drastic legislation that has been proposed. If this bill is passed in its original form there is no doubt whatsoever but what it would prove ruinous to the cigar-manufacturing industry.

Without referring to any statistics, we feel that you know that this industry has been decreasing from year to year, and just at the present time farmers are all receiving parity prices, and all surpluses have been absorbed and a definite shortage is ahead and now with this legislation whereby benefits are going to be continued to be paid long after parity prices have been reached, then absolutely the industry cannot exist and the farmers will again be faced with a surplus of tobacco which they will not be able to dispose of.

Furthermore, as part of this A. A. A. amendment, it provides that the Government should not reimburse any taxpayer for the reason that this tax, or as we may term it, so-called "tax", has been passed on to the consumer.

This reason as given we challenge, for absolutely this processing tax has not been passed on to the consumer in one single instance, and may we suggest that an amendment be offered to this portion of the bill whereby this provision shall not apply to any single corporation, firm, or individual who has not passed this processing tax on to the consumer.

We still remain of the firm opinion that this bill should be referred back to the Senate subcommittee for a fair discussion at public hearing, and we know of no legitimate excuse that can be offered for denying this request.

Yours very truly,

JNO. H. SWISHER & SON., INC.,
H. B. COULTER, Secretary.

Mr. SCHALL. Mr. President, I ask unanimous consent to have published in the RECORD a speech made by Editor Stephen Bolles, at Janesville, Wis., at a pioneer gathering, and an editorial from a Dallas, Tex., newspaper. I also ask permission to use the eyes of the clerk to make some observations on the pending bill.

The VICE PRESIDENT. Will the Senator permit the Chair to submit the first request, so that the two may be taken separately?

The Senator from Minnesota asks unanimous consent to insert in the RECORD a speech made by someone in Wisconsin

and an editorial from a Dallas newspaper. Is there objection?

Mr. ROBINSON. Mr. President, I object for the present.

The VICE PRESIDENT. The request is to insert in the RECORD a speech made by someone else and an editorial. The Senator has made a further request to have read a speech of his own.

Mr. ROBINSON. For the present, I object.

The VICE PRESIDENT. The Senator from Arkansas objects.

Mr. McNARY. I inquire if the objection goes to the printing of proper matter in the RECORD or to the speech of the Senator from Minnesota which he asks the clerk to read?

The VICE PRESIDENT. The request was made that a speech delivered by someone in Wisconsin be printed in the RECORD. Will the Senator from Minnesota state again just who it was from Wisconsin who made the speech?

Mr. SCHALL. Stephen Bolles, who is the editor of a Janesville, Wis., newspaper, and his speech was delivered at a pioneer celebration.

The VICE PRESIDENT. The Senator from Minnesota also requested that there be printed in the RECORD an editorial from a Dallas, Tex., newspaper.

Mr. SCHALL. I also make the request that I be permitted to use the sight of the clerk to make some observations on the pending bill.

Mr. ROBINSON. For the present I object.

I should like to state that from time to time the Senator from Minnesota has had the unanimous consent of the Senate to insert articles in the RECORD and also to have articles read from the desk, and on numerous occasions, under such unanimous consent, he has inserted matter in the RECORD which I think should not be properly admitted to the RECORD by the Senate. I call the attention of the Senator from Minnesota to this fact. I should like to see the editorial and the article before they shall be inserted in the RECORD.

The VICE PRESIDENT. Objection is made.

Mr. McNARY. Mr. President, just a moment. The inquiry I made has been answered by the objection going to the editorial which the Senator from Minnesota seeks to put in the RECORD. He coupled that request with the further request that the clerk be permitted to read a speech or statement on the pending motion to strike out paragraph (G). Is there objection to that request?

Mr. ROBINSON. I shall not object to a speech by the Senator being read, provided I may reserve the right to object if it shall appear that in the speech there is matter which should not, in my opinion, go into the RECORD.

Mr. SCHALL. The Senator has that right at any time, as I understand.

The VICE PRESIDENT. The Senator from Minnesota asks unanimous consent to insert in the RECORD a speech made by an editor and an editorial from a Dallas newspaper, and further that remarks of his may be read by the clerk.

Mr. ROBINSON. Mr. President, this is a wholesale request for putting matter into the RECORD. I shall object to putting into the RECORD the editorial and the article until an opportunity shall have been afforded to ascertain that they do not contain matter which, in my opinion, is obnoxious to the rule. I do not object to the reading of the speech of the Senator from Minnesota, but reserve the right to object.

Mr. McNARY. That is the understanding I have of the matter. The Senator from Minnesota informed me, in view of the discussion a few days ago, that he desired, of course, to conform to the strict rule of the Senate with respect to making references to Members of the Senate and House. Under the understanding, the request is that the clerk may read and if anything should appear in the speech that is obnoxious to the rule of the Senate, of course, objection could then be made.

The VICE PRESIDENT. Is there objection to the reading of the speech? The Chair hears none. The clerk will read.

Mr. SCHALL. Mr. President, I understand that the Senator from Wisconsin [Mr. DUFFY] had the article from the

Janesville newspaper inserted in the RECORD, so I withdraw the request for the insertion of that article.

Before the clerk reads I desire to state that if I had my sight I no doubt could stand here and read the speech, and I should not be subject to the censorship of the Senator from Arkansas unless I said something to which he might object. It seems to me the rule of the Senate ought to be changed so that no one person could ride censorship on what another Senator has to say, even though it may of necessity have to come through the eyes of the clerk.

Mr. ROBINSON. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Arkansas?

Mr. SCHALL. I yield.

Mr. ROBINSON. I have explained many times, and I think the Senator from Minnesota must understand, that there is no objection from anyone to his incorporation in the RECORD of any matter which does not infringe the rule of the Senate. But on numerous occasions the Senator from Minnesota has taken advantage of the fact that he cannot read his own articles and his own speeches, speeches which he was proposing to make, to incorporate in the RECORD matter which was objectionable under the rule. Therefore, while I do not object to the reading of his speech, I reserve the right to object. With that understanding, which I think the Senator from Oregon [Mr. McNARY] fully apprehends, and which I think the Senator from Minnesota should apprehend, I make no objection to the reading of his speech, but I reserve the right to object.

Mr. SCHALL. Mr. President, I have made no statement that I have not a right to make under the rules. If I did so, it was unintentional. I have only done what I thought the position of a Senator representing a State entitled him to do, that which he had the privilege and the right to do in the Senate, of stating his thoughts and putting his construction upon the present administration and its policies. I know it hurts, but it still is my right to say what I have to say, even if it must be through the eyes of the clerk.

I resent the fact that the Senator from Arkansas rises on the floor of the Senate and constantly says I am breaking the rules of the Senate. If he will point out wherein I have broken the rules, I certainly shall not do it again. As my speeches are read, they are subject to objection. If they are wrong, let the Senator move to strike them out.

Mr. ROBINSON. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from Arkansas?

Mr. SCHALL. I yield gladly.

Mr. ROBINSON. On the last occasion when the Senator from Minnesota addressed the Senate, under unanimous consent, he obtained an order to incorporate in the RECORD a statement declaring a very high officer of this Government a maniac.

Mr. SCHALL. No; a megalomaniac, which means a million times an egotist. "Mega" is Greek for a million.

Mr. ROBINSON. A megalomaniac.

Mr. SCHALL. Yes; a million times an egotist.

Mr. ROBINSON. The Senator from Minnesota has the audacity to rise on the floor of the Senate and assert that he conforms to the rule of the Senate. In the case of one whose moral obliquities are such as the Senator has repeatedly demonstrated here, it becomes the duty of someone to see that the rules are observed in connection with the CONGRESSIONAL RECORD. If the Senator from Minnesota insists upon the right to have his speeches read without regard to the rules of the Senate, he cannot shield himself behind an unfortunate affliction to make statements here which are offensive to the President of the United States and which are offensive to Members of the Senate. If he were rightly constituted he would not insist upon such procedure. He has done it repeatedly.

He has violated the rules of the Senate repeatedly, and every Senator who has listened to his remarks knows my statement to be true. Now he states that he resents the action of the Senator from Arkansas in insisting upon his right to object to the speech of the Senator from Minnesota

if he feels it violates the rule. I do not care how much he resents. I myself have some resentment. The Senate ought to be a body of decency. It ought to conduct its debate in conformity with parliamentary rules, and no Senator has a right to insist upon any other course.

Mr. President, I object to the reading of the editorial referred to and I object to the reading of the articles referred to. I reserve the right to object to the remarks of the Senator from Minnesota if, in my opinion, they transgress the rule.

The VICE PRESIDENT. The clerk will read, as requested.

The legislative clerk read as follows:

ARE WE A "COHEN-IZED" CONGRESS?

Mr. SCHALL. Mr. President, the United States district court of three judges assembled in Minneapolis, my home city, July 11, for the hearings of 16 milling companies which had asked injunctions against collection of processing taxes by the A. A. A. Administration for the months of May and June.

The court denied the Government's motion for dismissal of the injunction suit, and granted a temporary injunction to hold until the decision upon a permanent injunction in September term.

Without passing upon the constitutionality of the A. A. A., the court declared:

We do not determine at this time that any provisions of the act in question are unconstitutional. A reading of the cases offered by counsel, however, amply supports the view that the constitutionality of the act is subject to serious doubt. It is sufficient to justify relief by temporary injunction.

These 16 cases before the United States district court at Minneapolis are samples of hundreds of like appeals from industry against the constitutionality of the A. A. A. processing taxes in substantially all the district courts of the United States. Many hundreds of these cases are now headed for the final decision of the United States Supreme Court. Many cases have resulted in permanent restraining orders.

Even were this amended A. A. A. bill—the "Cohen-ized" and aggravated extension of autocratic powers—to pass Congress at this session, there is every fair indication that it will never become the law of the land.

All that we here vote to do is, in effect, this: To register our individual votes for or against this proposition—"Yes" or "No" on the question, "Is this a Cohen-ized Congress?"

The substantial question on the constitutionality of the processing taxes of the A. A. A. was decided in the recent N. R. A. case of May 27. That case was decided on two points: (1) the unconstitutional delegation of the legislative power of Congress to the President and his bureaus; (2) an invasion by the Federal Government upon the intrastate powers of the respective States.

The processing taxes of the A. A. A. violate article I, which grants all powers of taxation to Congress. The levy and collection of these taxes by the A. A. A. Administration is an unconstitutional delegation or usurpation of the legislative power to tax, as decided by the Supreme Court in the N. R. A. case, as in hundreds of cases from the time of John Marshall.

These processing taxes and the dictatorship of the A. A. A., second, invade the intrastate business of the State, and violate the rights of the States and the guaranties of articles 5 and 10 of the Bill of Rights, also set forth by the Supreme Court in the N. R. A. case of May 27.

So the final decision of the Court when these hundreds of A. A. A. cases finally reach the court of last resort is already forecast in the decision on N. R. A. We are voting for another "sick chicken" if we vote for this expansion of the A. A. A. We are voting, moreover, for a diseased hen afflicted by new malignant ills. We are voting for an extension of the temporary acute attack into a chronic and permanent disease, an epidemic of legislative ills affecting the major bills now before this session; namely, the seven must bills drafted by Cohen, who assumes the legislative function usurped by the Executive.

This bill in itself is an admission of unconstitutionality when it seeks to invade the judicial power of government

by denying the rights of citizens to appeal to the courts against the unconstitutional tax levies of the A. A. A. We are, therefore, voting on one question: "Is Congress, Cohen-ized? Shall we vote to change the spelling of the word 'C-o-n-g-r-e-s-s' and make it read 'C-o-h-e-n-g-r-e-s-s'?"

The Constitution, beginning with the preamble, "We, the people of the United States", starts with the provision of article I:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

That provision has been effective in this country for 146 years up to March 4, 1933.

Under the new-deal version, beginning its Fabian progress under the emergency powers of 1933 and now consummated by this White House order of must bills in July 1935, article I of the Constitution is, in effect, amended to read thus:

All legislative powers herein granted shall be vested in the Executive by the medium of Cohengress of the new deal, and the Senate and House of Representatives are permitted to affix their rubber stamps to the acts of our Cohengress.

Shall we abdicate and be a "go-and-get-it" group for this new-deal Cohengress?

Mr. President, in my remarks of July 11 I quoted section 21 of this bill as originally printed and obtained from the Senate document room.

I note that section 21 of the bill now before us has a new wording of the provision quoted, and now reads as follows (see p. 58), which I here desire to have read into my amended remarks:

SEC. 21. (a) No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recovery, recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed—

And so forth. This revised version brings out even more specifically the purpose of the executive branch of government to invade the judicial powers of government, both Federal and State.

Note this sinister language:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue * * * (nor shall any * * * judgment or decree be entered by any such court) (1) for the recoupment, set-off, recovery, refund * * * of any tax * * * (2) for damages—

And so forth. In other words, the king can do no wrong when he is engaged in collecting unconstitutional processing taxes under the usurped legislative powers of the A. A. A.

Neither Hitler nor Mussolini has assumed greater autocratic powers than this in submerging both the legislative and judicial branches of government. Both Mussolini and Hitler frankly and brutally abolished the constitutions and bills of rights of their countries before they took over all the powers of government. What they did by force of arms their imitator here is attempting to do by force of subsidy and a \$5,000,000,000 war club. That is a mere detail of method. The deal is the same in the final catastrophe to government by and for the people.

NEW DEAL GAME OF POKER

Mr. President, I have just had read to me an editorial leader of the Saturday Evening Post of the current issue of July 13, entitled "Poker Politics", and it has stimulated me to make some remarks upon the new-deal version of that subject.

It appears that the editor of the Saturday Evening Post, Mr. George Horace Lorimer, is likewise deeply versed in that

game made famous by the Vice President of the United States on the plains of Texas. Lorimer may not be the equal of our distinguished Presiding Officer (known to fame as "Texas Jack") in the gentle game of riding steers and branding mavericks, but he knows his poker, as witness this editorial observation relative to the American game of the days when the Government paid its bills and balanced its Budget, and the dollar was worth a dollar in gold and not 59 cents in hullahaloo.

Lorimer says of "that sterling old American game, draw poker":

It was played under hard and fast rules according to Hoyle.

That was before Rexford Guy Tugwell succeeded Hoyle. That is to say, that was the way the game was played in the days when the Constitution was in force, before Congress became Cohenized, and before Cohen sat in this Chamber to direct the majority what to say and how to vote, and before Comrade Tugwell had come back from Moscow.

In those days, "experience and skill usually determined whether a man finally won or lost." That was when the deal was a square deal, not a new "three-card-monte affair—heads I win, tails you lose", with Cohen as dealer and Corcoran croupier for the White House syndicate.

"In time," quoth Lorimer, "impatient souls wanted more action and quicker results." That was when the new-deal game came in with a bold experiment or planned emergency on every odd-numbered weekday, and two emergencies following a fishing trip on Astor's yacht *Nourmahal*.

Under the new deal, or misdeal innovations, there were introduced "deuces wild", whereby a two-spot was the equal of any card in the deck, from ace to trey. Though Lorimer did not say so, he doubtless had in mind as "deuces wild" such gazaboos as Hugh Johnson, Rexford Guy Tugwell, Corn Wallace, and Harold Ickes. He also may have had up his mental sleeve those Cabinet members—Ickes, Wallace, and Morgenthau—and those bureau chiefs—Hopkins, Morgan, and Kohn—who went "deuces wild" 2 years ago, and crossed the Delaware with royal charters from the President to extend indefinitely their 2-year emergency powers under articles of incorporation, reading:

This Corporation shall have perpetual existence.

As Lorimer says:

Naturally, this caused great confusion, leading to wild and blind betting on the part of the players. Experience and skill no longer counted. Orderly procedure at the card table went into the discard with them.

That is to say, with the "brainstorm trust" camped around the White House.

Another new-deal innovation in the American game of poker, so Editor George Horace Lorimer finds, is the "one-eyed jack wild." That might apply to Wallace, of the A. A. A., plowing up growing crops and converting pigs into fertilizer for the comic or tragic promotion of agriculture. It might apply to Morgenthau proposing to balance a Federal Budget with a four-billion deficit by issuing a doubtful tax levy amounting to 10 percent of the deficit. It would apply to Tugwell, who proposes "government by men", as in Moscow, as a substitute for "government by laws" under a Constitution. It might apply to Roper, who signed a contract to scuttle the *Leviathan* in the interest of Vincent Astor and his British shipping companies. It might apply to Hugh Johnson, who rode the Blue Eagle from egg to earth till it died the death of a sick chicken, and it might apply to the wild-eyed Richberg, who had "ants in his pants." It might apply to Farley, who uses 57 bureaus for propaganda and 30 emergency funds for campaign "sinews."

Still another new-deal innovation of the American game of poker is described by Lorimer as the "seven-card peek." This might apply to the star-chamber tariff acts of the State Department, where only foreign emissaries are allowed to "peek." It certainly applies to the Cohen-Corcoran bills sent over to Congress from the White House, in which, for every five sections of the bill laid before the Senate committee there are two "peek" sections stuck into the bill en route to the Senate Chamber, making in all a "seven-card peek" through the Cohen-Corcoran speak-easy. And

nobody not in the confidence of the White House has a "peek" as to what kind of a bill we are going to be permitted to pass under gag rule and in violation of the Constitution.

All bills submitted by Senate and House to a packed, White House controlled conference committee are "seven-card peek" bills which neither Senate nor House ever saw, drafted by Cohen or dropped from the sleeve of Corcoran, and dealt by some White House croupier as "an act of Congress."

"Dealer's option" is the name of another new-deal innovation listed by Lorimer in the game of poker politics. He did not need to tell us, for we already know, that the "dealer's option" is possessed by the President for listing the must bills. The President deals the cards and Congress is not allowed even to cut the pack. These must bills of the "dealer's option" must be passed before the President will permit us to adjourn, and any recalcitrant Senator who ducks can have none of that \$5,000,000,000 "allocation" pie in the next election, or patronage pork at any time.

Seven must bills of the "dealer's option" are now spread before us as our end-of-the-session stunt. There is a tax bill aimed to steal the share-the-wealth ace from the hand of the Senator from Louisiana [Mr. Long] and put him in the political hole, but better calculated to put the whole country in the hole. There is the unconstitutional coal bill, which is designed to catch the coal-mine vote of Pennsylvania and West Virginia before the Supreme Court knocks it out. There is the electrocution utility bill, which gives the distinguished orator from West Virginia [Mr. Holt] a chance to stump speech for Mr. Farley's postmaster vote several months before the Court gets a chance to knock it out to save 12,000,000 small investors. There is the pending A. A. A. extension and expansion, brought over by Comrade Tugwell from Moscow, to afford the courts plenty of knockout practice. There is the expanded T. V. A. made according to the Lenin formula, that "socialism plus electrification spells communism." There is the waterway bill, which places waterways under railroad domination. There is the bill to create the central United States Government bank, which Andrew Jackson thought he had put out of Washington 100 years ago.

Of course, Editor Lorimer, of the Post, does not go into the concrete detail of the poker games as I have here liberally interpreted it. He sets the type and pattern for us to fit the goods. He might not care to say, for example, that the "dealer's option" means the option of Franklin Roosevelt. Moreover, the editor might not care to say in so many words that the "dealer's option", or the White House must bills, are governed by the following outstanding specifications, with which we as Senators are now familiar, to wit:

First. These seven must bills are not drafted pursuant to the mandate of the Chicago Democratic platform or any 100-percent preelection pledge of the President.

Second. They are drafted pursuant to the mandates of the Socialist platform of 1932 and/or the Communist platform.

Third. They do not accord with the principles of Washington and Jefferson or Jackson and Lincoln or Grover Cleveland and Theodore Roosevelt. But they do accord with the ideas of Hitler and Mussolini, of Karl Marx, and Joseph Stalin in major intents and purposes.

Fourth. So far as possible, they are drafted to violate the principles of the United States Constitution and the American Bill of Rights, and are aimed to put the United States Supreme Court on the "spot" for following the time-honored highways of the "horse and buggy" days.

Finally, the editor of the Saturday Evening Post informs us of that most famous new-deal innovation of all, namely, where the players agree upon the privilege known as "spit in the ocean."

One of the most outstanding plays under this innovation was made by the President in his last annual message, where he called for a "spit in the ocean" amounting to \$5,000,000,000 in "one sum subject to the allocation of the Execu-

tive" for his 1936 emergency—a sum nearly one billion greater than the total annual revenues of the Government, a sum equal to \$125 per voter for each of the 40,000,000 registered voters of the United States.

Whereupon, after that January message, nearly everybody in the majority wings of the Senate and House joined in the "spit", because obviously they feared not to "spit." They threw votes into the jackpot in the apparent hope that some of the expectation might come their way in the shuffle of November 1936.

In 2½ new-deal years an obedient Congress has spit in the ocean so often and with such expectoral abundance for one planned emergency after another, that the Treasury daily statement today reveals a tidal wave of combined emergency funds amounting to a "spit in the ocean" total of \$18,000,000,000, or the equivalent of 5 years of Government revenue collections.

There have been already expended from this new-deal expectation approximately \$10,000,000,000, with \$8,000,000,000 to be expended for emergencies due to arrive in 1936.

The \$10,000,000,000 of "spit in the ocean" already expended have produced thus far or aided the production of a Federal patronage army of 7,000,000, an unemployed army of over 11,500,000, and 22,000,000 public charges subsisting on public doles instead of upon productive industry.

If the \$8,000,000,000 authorized to be "spit in the ocean" in 1936 accomplishes an achievement parallel to the \$10,000,000,000 already spit to the four points of the compass, our dealer and his croupier, James Aloysius Farley, may be able to point with pride at the next national convention to the fact that they have created from their total "spit in the ocean" of \$18,000,000,000 of combined emergency the following world-championship feats:

First. More new bureaus and useless jobs than all previous administrations in American history and more than all the governments of Europe during the past 2 years.

Second. An army of unemployed that exceeds the European total for 22 principal industrial countries.

Third. That they have destroyed more crops and pigs and cows than all the drouths and floods, weevils, and grasshoppers in the Northern Hemisphere.

Fourth. That they have closed more mills and mines and produced more strikes than all other countries combined.

Fifth. That their present production of 22,000,000 public charges is greater than the total for the rest of the civilized world.

And their final summation might read: "Thirteen planned emergencies; 23 cases of economic chaos; 57 new bureaus; an ocean of \$10,000,000,000 of new public debt and \$12,000,000,000 of accrued deficits; and \$9,000,000,000 of demonetized and useless gold, bought at 50 percent more than its value and returned to the hills of Kentucky to keep it away from the new-deal thieves and reserved for the coming empire."

All of the Presidents of the United States combined up to the time of the Wilson administration and the World War, the Treasury reports reveal, expended for Government, including five wars, a grand total of less than \$25,000,000,000. This administration, in two and a half years, has expended or authorized, for political emergency alone, \$18,000,000,000, and for the regular expenses of Government approximately \$10,000,000,000 more, making a new-deal total thus far authorized of \$28,000,000,000.

During the coming 1936 session we are already notified there will be a further "spit in the ocean" of \$5,000,000,000 for scientific emergency, besides \$4,000,000,000 for cost of Government to January 1, 1937. This \$9,000,000,000 forthcoming for 1936 will make the grand-total 4-year cost of the new deal \$37,000,000,000, or a billion dollars over one-half more than the cost of the 35 administrations from Washington down to Wilson's second administration.

In 1936 there will take place in the respective voting booths of the country, if we are allowed a "dealer's option" in election of President, the general free-for-all contest to decide United States championship honors in a final "spit in the ocean."

The main hope of America in saving the republican form of government guaranteed to the States in article 4, section 4, of the Constitution is this: That the new deal, like Mark Twain's famous jumping frog, will be so loaded down with bureaus and barnacles, "sick chickens", and 59-cent hullabaloo dollars, Frankfurters, and Cohens, and Corcorans that it will not be able to jump off the ground, and will just sit there and strain and grunt and have to do its own spitting without the help of Congress.

Mr. President, I ask leave to print the editorial entitled "Poker Politics" and also another editorial, "The Over-worked Emergency", which speaks for itself, appearing in the Saturday Evening Post for July 13. I am sure they will make instructive and entertaining reading.

The PRESIDING OFFICER (Mr. DIETERICH in the chair). Is there objection?

Mr. ROBINSON. I shall object until I can see the editorial.

The PRESIDING OFFICER. Objection is heard.

Mr. BLACK. Mr. President, on July 8 the Senator from Minnesota [Mr. SCHALL] had one of his usual speeches read to the Senate by the clerk. A great many people have been a little interested to know why, if it is possible for one to dictate a speech to a stenographer, it would be impossible for the same man to make the same speech in the Senate. Some have even expressed a question as to who wrote the speeches, which have been distributed over the country by the hundreds of thousands.

It is my understanding that in a period of a little over a year more than 500,000 of these so-called "speeches", which have been placed in the RECORD, have been distributed throughout the Nation. That, of course, is expensive, both to the Government and to someone else.

In the speech of July 8 an editorial was included in the RECORD.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. Would the Senator mind my stating that my speeches have not been distributed, because Postmaster General Farley throws them into the furnace, where evidently the Senator from Alabama would like to see them placed?

Mr. BLACK. I would say that some of them might burn well. I would not insist that they be burned, even though, in my judgment, each one of them violated the rule of the Senate, not only in one regard, but in many.

Mr. CONNALLY. Mr. President, will the Senator from Alabama yield to me?

Mr. BLACK. I yield.

Mr. CONNALLY. The Senator from Minnesota said that the Postmaster General threw the speeches into the furnace. It is barely possible, from the character of some of them, that there might have been spontaneous combustion.

Mr. BLACK. Each one of these speeches contained a title, which was not read into the RECORD, according to my information, at the time the speeches were read by unanimous consent. I have here some of those title. Here they are:

Just a dog.
The joker in the new deal.
Evils of dictatorship.
The slipping deal.
Censorship.
Just a dog, again—

It seems there was a greater demand for these—

Moscow liberals.
The Federal corporate conspiracy.

The point to which I now desire to call attention is that in the speech of July 8, or in that which was read as a speech—

Mr. SCHALL. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. SCHALL. Did the Senator examine that "Federal Conspiracy" to find out anything about the six corporations

which were organized in Delaware and marked "Secret; do not publish", explaining a good deal of the censorship which now seems to have reached the Senate?

I tried here on the floor for days to find out what was behind these corporations, which evidently were organized to take over the manufacture of everything in this country from the button on your cap to the sole of your shoes, and I have yet been unable to find out.

There is something mighty rotten in Denmark, and I have done what little I could to find out what it was, as a blind man, though I have had to have assistance, but I have nowhere near the assistance the Senator from Alabama has in writing his remarks. I do accept whatever assistance I can get, and am glad to get it, and glad to get the news before the country.

If the people of the United States could know what is behind this administration, they would not stand for it a minute, and every effort is made from the top to the bottom, from the President down to the Senator now standing upon his feet, to censorize everything that does tend to get the information to the people.

Nobody wrote that for me.

Mr. BLACK. Mr. President, I am delighted that the Senator from Minnesota has demonstrated the fact that if he wants to make a speech he can make a speech. It is an illustration, to my mind, that the speeches which have heretofore been read into the Record have been written by somebody else.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BLACK. I yield to the Senator from Arkansas.

Mr. ROBINSON. The statement just made by the Senator from Minnesota is another illustration of the strange, unaccountable mentality of the man. He has just said that everybody in this administration, from the President down, has done everything possible to censorize the press. He has made that statement heretofore. In my judgment, there is no foundation in fact for the statement. The President has not attempted to censorize the press. He has been regarded, I believe, by representatives of the press as the most approachable man who has sat in the White House. But for some reason this misrepresentative from Minnesota [laughter in the galleries] insists upon assaulting the President in some way every time he takes the floor, and his last assault is a very questionable procedure. The President has no opportunity of replying to him. People naturally think when they read a statement by a United States Senator that there must be some truth in it. People who do not know the Senator from Minnesota sometimes accept his statements as accurate. But the Senator from Minnesota, every time he gets somebody to write a speech for him, and every time he takes the floor here comes dangerously near transgressing the rules of the Senate.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER (Mr. HATCH in the chair). Does the Senator from Arkansas yield to the Senator from Minnesota?

Mr. ROBINSON. No, Mr. President; I do not yield to the Senator from Minnesota.

Mr. SCHALL. Mr. President, I do not want to let stand that statement, "every time the Senator gets somebody to write his speech for him."

The PRESIDING OFFICER. The Senator from Arkansas declines to yield.

Mr. ROBINSON. Mr. President, I doubt if the Senator from Minnesota has dictated a single one of the speeches which he has had read here almost daily. I express my personal opinion that he has someone employed for that express purpose, and always the effort is to reflect upon some Member of Congress or upon some officer of the Government. It is small business, and only indulged in by individuals of small mentality.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I will yield to the Senator again. Does the Senator wish to say what he desires to say, or have it read?

Mr. SCHALL. No; I think I can say what I want to say.

Mr. BLACK. I yield for a moment. I have an engagement at 1:30, and I am going to place into the Record—and I think it will be very interesting—another part of the newspaper of which the Senator from Minnesota placed a part in the Record on July 8. I should like to do that, and then the Senator from Minnesota will have ample time to take the floor.

Mr. SCHALL. Does the Senator from Alabama expect me to object?

Mr. BLACK. That is immaterial to me.

Mr. SCHALL. Will the Senator give me an opportunity to read it first before he places it in the Record, as the Senator from Alabama demands of me?

Mr. BLACK. It is immaterial to me. I expect to read it so the Senator can hear it.

Mr. SCHALL. If I proposed to have something placed in the Record and the Senator from Alabama objected, then I could not have it read. I just want to get that point of fairness over to the Senator from Alabama. If I had my eyes, I could read probably as well as the Senator from Alabama.

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I shall be glad to yield after I have placed in the Record that which I wish to read myself.

The PRESIDING OFFICER. At this time the Senator from Alabama declines to yield.

Mr. SCHALL. The Senator ought to offer the matter to be printed in the Record and let me object.

Mr. BLACK. I am going to read it so the Senator can object, as the rules provide.

The PRESIDING OFFICER. The Senator from Alabama declines to yield.

Mr. BLACK. On July 8 the Senator from Minnesota placed in the Record an editorial from a paper called the Tonganoxie (Kans.) Mirror of June 27, 1935. This was placed in the Record on July 8. It was a very bitter editorial attacking the administration in the usual style indulged in by the Senator from Minnesota, or those who prepare his addresses.

Mr. SCHALL. Mr. President, I resent this "prepared" stuff. I resent it vehemently.

Mr. BLACK. So do we resent this prepared stuff.

Mr. SCHALL. And I want to say to the Senator from Alabama that I put no more stuff in the Record, which is attributed to me, than he does, or than the Senator from Arkansas does.

Mr. BLACK. So do we resent it, Mr. President.

Mr. SCHALL. The Senator from Alabama will not stand here before the Senate and say that he has not put stuff in the Record sent to him from the President of the United States.

Mr. BLACK. Yes; I say that.

Mr. SCHALL. Well, the Senator from Arkansas [Mr. ROBINSON] will not say it, and the Senator from Alabama will not say that he has not put anything in the Record which he has not written himself, either.

Mr. BLACK. I will say that I have never put anything in the Record as a speech, claiming it was my own.

Mr. SCHALL. I never have, either.

Mr. BLACK. Well, perhaps the Senator has not.

Mr. SCHALL. The Senator has not, and the Senator from Minnesota is in a better position to know than the accusing Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama has declined to yield.

Mr. BLACK. Mr. President, I have before me the speech of the Senator from Minnesota made on July 8. That is the speech which was read. The editorial which was read in connection with the Senator's speech is a very bitter attack. Some of us were talking here, including the Senator from Washington and myself, after we saw this editorial from a weekly newspaper, the name of which we had never heard before, and we said it might be interesting to send out and get a copy of that weekly newspaper. We decided to do that, because we knew that sometimes the editorial views might be

a part of the general publicity of an institution. In that connection 2 or 3 days ago there came out before the Special Committee Investigating Lobbying a pamphlet which was obtained at the lobby of the executives of the power companies in the Mayflower Hotel. The parentage of this pamphlet has not as yet been admitted by anyone, but its presence in their papers is undisputed, because it was brought up to the committee, and it contained a series of editorials against the holding-company bill. At the beginning it said:

There have been a great many editorials heretofore, and—

I am giving the Senate the substance of it.

There has been a great deal of advertising, but if there would be more advertising there would be more editorials.

Of course, that may have been altogether a mistake. However, we sent for the Tonganoxie (Kans.) Mirror, and I have before me the copy of the Tonganoxie (Kans.) Mirror from which was taken the editorial which was inserted in the RECORD. I also have a large number of other copies of the Tonganoxie Mirror, of Tonganoxie, Kans. Perhaps the Senator from Minnesota is a subscriber to the Tonganoxie Mirror, and that is the reason why he happened to have that particular editorial as early as it was written.

Mr. SCHALL. No, Mr. President; I am not a subscriber. I subscribe only to my own home newspapers in Minnesota.

Mr. BLACK. I did not understand the Senator.

Mr. SCHALL. No; I say I subscribe only to my own home newspapers in Minnesota, if that will help the Senator any.

Mr. BLACK. This was a Kansas newspaper, and evidently someone had given the Senator this editorial which he placed in the RECORD.

Mr. SCHALL. Yes; I get many editorials, as the Senator from Alabama does constantly.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. WHEELER. It was probably sent to the Senator by the very close friend of Mr. Daugherty, Mr. Blair Coan, that notorious character of whom we heard so much a few years ago in connection with Mr. Daugherty and Mr. Burns.

Mr. SCHALL. No; the Senator is mistaken in his unfounded suspicions. The only Cohen I know who has had anything to do with legislation is the Cohen who sat at the Senator's elbow during the discussion of the holding companies' electrocution bill, which I mentioned in the speech which has been referred to.

Mr. BLACK. In this issue of June 27 appears on the editorial page the editorial which was inserted in the CONGRESSIONAL RECORD. Here is another page on which appears an advertisement which probably all Senators will recognize. These advertisements have been sent all over the United States. We are going to try to find out how much it cost. The advertisement is headed:

Utility bill un-American. Will injure millions of citizens. Protest now. No good whatever will come—

They say—

from the passage of this bill.

And then this language has appeared in hundreds of other papers:

Who will the bill injure? What will it do? Who appears for the bill? Who opposes it?

That advertisement is signed by the Union Public Service Co., a Cities Service Co.

I have numerous other copies of that newspaper here. I will just pick out any of them. There is no difficulty about it at all. Here is one for another week. This is an advertisement by the Kansas Electric Power Co.

There are a few others from the—I may mispronounce the name, and if so I beg pardon of the Senator from Minnesota—the Tonganoxie, Kansas, Mirror. Here is another one [exhibiting]. This one is under date of June 13. This advertisement is by the Union Public Service Co. Both advertisements are the same. Here is another one by the Union Public Service Co. back in April. If the Senator from Minnesota should desire to place these advertisements in the RECORD I would be glad to make them available to him to use

in the next address or essay which appears in the RECORD over his name.

Mr. SCHALL. Mr. President, will the Senator yield?

Mr. BLACK. I yield to the Senator from Minnesota.

Mr. SCHALL. I ask right now that they be inserted in the RECORD, if the Senator will not object, so as to let everybody know what the Senator is talking about. I have not seen them. I do not know about them. I remember the name, and I remember some article that I asked to have inserted in the RECORD which I thought fitted the foot. I have no objection to their being placed in the RECORD. In fact, I ask that they be now placed in the RECORD.

Mr. BLACK. That was on a par with many of the others which the Senator asked to have placed in the RECORD.

The PRESIDING OFFICER. The Senator from Minnesota asks that the matter referred to be placed in the RECORD.

Mr. SCHALL. Yes; I ask that it be placed in the RECORD.

Mr. McKELLAR. I object.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield further to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. They seemed to be of such importance to the Senator from Alabama and his stated desire to put them in the RECORD that I asked to have them placed in the RECORD where the public could have the privilege of seeing them, and I suggest that they be placed in the RECORD.

The PRESIDING OFFICER. Objection has been made. The Senator from Alabama has the floor.

Mr. BLACK. Mr. President, I have referred to these matters in order to show something about the background of the editorials. The Senator was driven to go all the way to the Tonganoxie Mirror in order to find anything that he thought was down near the level of the addresses which he has placed in the RECORD, and it did somewhat closely approach the slime of the same kind of charges which have been made from day to day and week to week at the expense of thousands and thousands of dollars to the people of this Nation. In addition to the RECORD itself, over 500,000 copies were paid for by somebody and sent all over this Nation; paid for in part but not as a whole, because, even at that, it cost the United States Government thousands and thousands of dollars to distribute these so-called "speeches" to 500,000 people.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I yield to the Senator.

Mr. SCHALL. The Senator refers to the item of cost. Does he think the cost he has just mentioned compares with the cost of the employment of the 300 newspapermen at Government expense and against the law today, hired to prepare and send out over this country expensive false propaganda, under Government frank in many instances, not more than 1 percent of which is truth and 99 percent not truth?

Mr. BLACK. I am glad to find that the Senator concedes there is 1 percent truth in that which is put out by the administration, because I have read practically all the other matter, and, frankly, I have not been able to find one-tenth of 1 percent of truth in any one of the statements which have been distributed by the hundreds of thousands.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield further to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. If the Senator refers to my speeches being sent out by the hundreds of thousands, he is entirely mistaken. I have to pay for the printing of my speeches, but the printing of this propaganda that is sent out is paid for by the Government. Would the Senator permit me to give one illustration of how propaganda was sent out to the farmers by the Agriculture Department at Government expense, containing not even 1 percent of truth?

Mr. BLACK. Perhaps it might be better for the Senator to go out and have it written up and have it read.

Mr. SCHALL. Oh, no. That is not necessary. I think I can remember the figures closely enough to give the Senator the illustration if he so desires, though they may not be minutely exact.

Mr. BLACK. The Senator has heretofore found great difficulty, seemingly, and complains about anybody who objects to anything that is put in the RECORD on the ground that he is blind. While he is blind, of course, he has a tongue and a voice; he is able to speak; he is able to stand; and if he is able to dictate to a stenographer, he should be able to speak on the floor.

Mr. SCHALL. Mr. President, I do not object because I am blind. I object because I want the information to go to the country, and I think they are entitled to have it.

The Senator knows that his remarks are entirely unfair. Figures and statistics I cannot carry in my head. The Senator can see and read them. I know the Senator does not want to be unfair.

Mr. BLACK. No; but I have seen very few figures in any of the speeches made by the Senator. The Senator from Oklahoma [Mr. GORE] speaks upon this floor, and speaks well.

Mr. SCHALL. Yes; he does. And while I do not want to speak for the Senator from Oklahoma, I am sure he would be glad to have the privilege of using the sight of the clerk to read for him. I do not have any doubt that he would. It would only place him on an equality with the Senator from Alabama, who has his sight.

Mr. BLACK. I have not even objected, except once, when I wanted to see what it was which was sought to be placed in the RECORD, because I had seen some statements which I thought were wholly unfair and unbecoming any Senator to express on the floor. I have not been raising objection. I think, however, that there comes a time when it is necessary to call the attention of the Senate to the fact that its privilege is being abused; and it has been repeatedly abused. I think that it is of importance to the people of this Nation at the present time, when an editorial such as the one inserted in the RECORD by the Senator from Minnesota is placed in the RECORD, to know something of what has been published in those newspapers from week to week in order to ascertain who it is that is supplying the money and the venom and the malice behind these editorials. I think that is clearly demonstrated by the list of newspapers which I have before me at the present time, which shows clearly and conclusively whence comes most of the money of the Tonganoxie Mirror, which appears from week to week.

So, Mr. President, I thought it proper at this time to make these few remarks to call attention to the facts in order that in some way—it seems impossible to do it by ordinary methods—it may be impressed upon the Senator from Minnesota that there are certain rules, certain customs, which it is proper for Senators to observe in connection with their remarks upon this floor.

For instance, this morning, during the absence of the Senator from West Virginia [Mr. HOLT] a remark was made in the essay which was read before the Senate with reference to the Senator from West Virginia. While it was not a direct insult, it was plainly an insinuation, such as always appear in the speeches of the Senator from Minnesota, and an intimation in some way intended to reflect not only upon the Senator from West Virginia but with reference to numerous others. It appears to me that at sometime an occasion arises when it becomes necessary and proper to endeavor to bring to a halt any such unfair, unjust, and repeated insinuations as appear in these remarks.

I do not desire to be placed in the attitude of objecting, if the Senator insists he must do it, to his having his remarks read. If they are written by him and not written by any propaganda artist; if they are written by him with the bona fide purpose of having them read; if they are in harmony with the canons of decency and the rules of the Senate, and are not intended constantly to irritate other Senators and to hurl violent insinuations and to charge individuals with insanity, but come within the rules which all gentlemen are accustomed to observe, then I have no objection.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Minnesota?

Mr. BLACK. I yield.

Mr. SCHALL. The Senator intimated that I charged somebody with insanity. I did not mean to do that. My charge was of egotism—a million times an egotist. Many people are egotists; we see them and hear them every day, whether they are a million times so or not.

Mr. BLACK. I judge from the fact that the Senator, when it was called to his attention by the Senator from Arkansas, did not know what the word was.

Mr. SCHALL. Oh, yes; I looked it up very carefully.

Mr. BLACK. The Senator did not state what the word was, but stated a different word, showing evidently that if the Senator had written the speech it had slipped his memory in a very short time.

Mr. SCHALL. No, indeed; that is not true.

Mr. BLACK. Anyway, the word was there, and, whatever it was, I can see no reason why the Senate should be used as a sounding board for vile insinuations, which, in my judgment, are not in keeping with the regular code of ethics which all gentlemen should observe, both in the Senate and elsewhere.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Virginia to strike from the bill paragraph (G), on page 18.

Mr. BONE. Mr. President, I had not intended to participate in this discussion.

Mr. SCHALL. Mr. President—

The PRESIDING OFFICER. The Senator from Washington has the floor. Does he yield to the Senator from Minnesota?

Mr. BONE. I yield.

Mr. SCHALL. Mr. President, a remark was made by the Senator from Alabama [Mr. BLACK] which insinuated that I had made some slighting remarks about the Senator from West Virginia [Mr. HOLT]. I do not think the transcript will bear out such a statement. I had no intention of doing anything of the sort. I voted to seat the Senator from West Virginia. I campaigned against him in his State, but he was elected by the people and came here, and I voted to seat him. I thought it was due to the oath I took under the Constitution so to vote. But when I find people in charge of the Government who are not, as it seems to me, though I may be mistaken—

Mr. BONE. Mr. President, I did not yield the floor so that the Senator might make a speech. If he wants to make a speech, however, I will sit down and give him the floor.

The PRESIDING OFFICER. Does the Senator from Washington decline to yield further?

Mr. BONE. I shall be glad to yield the floor to the Senator if he wants to make a speech. Otherwise, I wish to proceed.

Mr. SCHALL. I merely wish to have my position clearly before the Senate. I have said what I have, not because I liked to do it, but because I have felt away down deep in my heart that somebody somewhere should call these things to the attention of the country. If I stepped on anybody's toes in doing it, all I have to say is that I have felt that it is my duty to do as much as I could to call the attention of the country to what was going on behind the scenes, behind censorship and false propaganda. I have not gotten very far in calling the attention of the country to the situation. The CONGRESSIONAL RECORD does not reach very far. But, Mr. President, so long as I remain here, I intend to do what I can to call attention to what seems to me to be the breaking of the oath of the President. I think, from the outset, right from the beginning, that there has been a conniving to get around the Constitution. The bill which is before us today is an effort to get around the Constitution, to blot it out, and to mislead the people. The entire tenor of this administration from the beginning has been to circumvent the Constitution and betray the oath that he took to uphold and defend the Constitution. I thank the Senator from Washington.

Mr. BONE. Mr. President, the Senator from Alabama [Mr. BLACK] has referred to a little weekly newspaper called

the "Tonganoxie Mirror", which has been quoted, I believe, in some remarks made by the Senator from Minnesota [Mr. SCHALL]. When it was quoted the other day I suggested to the Senator from Alabama that he obtain a copy of this weekly newspaper, because I would be willing to enter into a bet, despite the fact that I am not a sporting person, that along with this newspaper's flailing attack on the administration, and particularly on the power bill which is pending, we would find either a half- or a quarter-page advertisement of the Power Trust in the sheet. So, at my suggestion, a number of these newspapers were procured. Running true to form, numerous weekly newspapers in the United States pursue, as I find, the same course which many weekly newspapers in my State have pursued in times past. So at this point I am going to tell a little story which will illustrate the methods of certain newspapers in this power fight, and which, in my judgment, will generally explain why certain newspapers take the editorial position they do.

In 1924, in the State of Washington, we had a big power fight. It arose around a very simple thing. Things of the character I describe explain why power companies are building more and more public enmity against themselves. In my State of Washington two cities own great municipal power plants—magnificent, finely equipped hydraulic plants. For a great many years the people around and outside those cities have wanted to enjoy the privilege of using electric energy from these municipal plants. Under the laws of the State of Washington these cities were not permitted to sell any of their electrical energy, surplus or otherwise, outside their corporate limits, and therefore the people living in the surrounding territory had to pay the prices exacted by the Power Trust, which at that time was the Puget Sound Power & Light Co., a Stone & Webster affiliate.

To get around that condition it was suggested that we pass a very simple law permitting cities owning power plants to sell power outside of their corporate limits. There were only two cities capable of doing any great amount of harm to the Power Trust—Tacoma and Seattle—but when that suggestion was made one would have imagined, from the howl and uproar that went up from certain flabby little Power Trust newspapers of the State, whose columns were generously filled with Power Trust advertisements, that we were proposing to make common property of all the women and that the country was going soviet or bolshevistic, as has been delicately suggested and intimated here from time to time in the discussion of public-ownership proposals.

The campaign was fought in that State around that issue of the right of Tacoma and Seattle to sell a little of their output of electric power to farmers outside of the corporate limits, who were spending their good money with the merchants of those two big cities. Power-company spokesmen even resorted to the dirty and filthy charge that this effort on the part of those cities to sell a little cheap power outside to the farmers was in itself an effort to overthrow the Government of the United States, and that that sort of proposal was backed by Russian money.

One can understand why men whose sires stood on the flame-crested hills of Gettysburg, men whose forebears were with "Old Rough and Ready" at Buena Vista, and who believed those cities had a right to sell power, deeply and bitterly resented that suggestion coming from spokesmen for an outfit like Stone & Webster, whose infamous lobbyists fooling around with our Legislature in the State of Washington had become a stench in the nostrils of decency. These manipulations were highly suggestive of the lobbying which went on around the Capitol here in Washington when the holding-company bill was pending. The Power Trust of Washington in that 1924 fight made a fight in the newspapers, and one phase of that fight is the story I want to tell my colleagues here, because I think, perhaps, I have had a better close-range opportunity to study these propaganda activities than most of the Members of this body.

The propaganda editorial mill of the power crowd would send out to a weekly newspaper an editorial written in the Seattle offices of the Puget Sound Power & Light Co., the western wing of Stone & Webster, of Boston.

A clever propaganda writer would write one of these nasty editorials for the editor of a weekly paper. From an advertising agency's office in Seattle, and accompanying this "canned editorial", would go a full-page "ad", damning the municipal power people, calling down upon them the mildew of God Almighty's wrath, and asking that it descend on everybody who believed in public ownership in that State.

There would be a vicious cartoon accompanying the ad and editorial, attacking the municipal power proposal as being bolshevistic and red radicalism. Some of the arguments in these canned editorials for tired editors were on a par with some of the loose arguments against the pending utility bill. I wonder how men can formulate arguments that proclaim it a form of disloyalty to urge people to retain ownership of their own rivers and lakes. The Power Trust would say to these little editors: "If you will bunk the people of your community by running this editorial as your own, then you can run this full-page Power Trust 'ad' at fat rates, but you must also run the cartoon." As a result, week after week in 1924 in the State of Washington we saw this rather ridiculous spectacle, a spectacle that casts no credit on the great independent American press which was once proclaimed as the "Archimedian lever that moves the world; the sentinel on the watch tower of liberty; the dynamics of progress."

These editors of certain weekly newspapers repeatedly ran these Power Trust "editorials" in their editorial columns, knowing at the time who prepared them. Mr. President, upon one occasion I clipped 27 of these editorials from 27 weekly newspapers in my State. Each editorial read exactly like the other one. I went around the State frequently showing those editorials to the people living in the community where the paper was published. I said, "When this little editor of your local paper published that editorial and you read it, you thought he had written it, that it had sprung full panoplied from his brain, like Minerva sprang from the brow of Olympian Jove. You thought this brilliant editorial attack came from the brain of your local editor, but he carries the humiliating thought that he had rented his editorial column to the Power Trust."

Mr. President, when a man sells his conscience down the river, he is in a bad way. No man can sell his soul and conscience, and perhaps his honest convictions, to the Power Trust and retain his self-respect. Such a shameless barter and sale of editorial opinion as we have frequently witnessed is a reproach to a noble profession. The people of my State were confronted with hundreds of such editorials written by the Power Trust which had the brazen gall to come down here and talk about lobbying—lobbying on the part of the administration! One outfit down in Oregon, Hofer by name, regularly supplied these Power Trust "canned editorials" to editors with brainfag and a great yearning for full-page Power Trust "ads."

The power concerns to which the Senator from Alabama [Mr. BLACK] referred are not going to even try to be decent. They intend to stage a political battle the like of which this country has never witnessed. The Senator from Montana [Mr. WHEELER] in his very able address on the floor of the Senate in discussing the utility bill, read a 1933 editorial from the Electrical World, one of the official organs of the Power Trust of the country. It was called "Light Up With Politics", in which editorial the organized power companies of the country and the utility holding companies brazenly boast that they are going into politics, to destroy men who dare oppose them. They frankly say that they are not going to merely finance men but they are going to put their own selected candidates in the field and send them down to the United States Senate and to the House of Representatives.

I wonder what sort of government we are going to have when that insolent outfit succeeds in its bold plan to take over the Government of the United States. In this holding-company fight we have seen a stark, horrible fear planted in the hearts of Members of Congress; fear of political death at the hands of the Power Trust, with its unlimited political slush funds. I have seen men here actually cringe, and I have had some colleagues tell me—my own colleagues in this

body, if you please!—that they feared for their political welfare in the future by reason of their votes for this utility holding-company bill. The future for the average citizen is gloomy, indeed, if this power gang can come down here and lay the lash about the shoulders of United States Senators and Representatives and make any man in this body feel a real fear.

How can we go on, how can we hope to go ahead with decent legislation, how can we continue to expect legislation free from taint and bias, when a dreadful fear is planted in the hearts of men here by an outfit that we shall surely have to meet head-on sooner or later. In God's own Providence may it come soon.

We are facing exactly what Roscoe Pound pointed out in a brilliant speech he made a few years ago before the Kentucky Bar Association. The title of that speech was "The New Feudalism." In that speech Pound pointed out that so rapid had been the increase in economic control and power through vast companies, like the holding companies, that there is nothing left for the ordinary citizen but to own a little stock in one of those companies. He can in no wise find a place for himself in our economic life; but to him, a citizen, with what amount of money he may have, all that is left is to buy some stock and thus find his place in the scheme of things.

Dean Pound said:

Today the typical man (for the city dweller, not the farmer, is the type for his time) finds his greatness not in himself and in what he does, but in the corporation he serves. If he is great, he is published to the world not as having done this or that, but as director in this company and that. If he is small, yet he shines in the reflected glory of the corporation from which he draws a salary.

In other words, there has been and there is being deliberately created in this country a new economic feudalism, if you please, Mr. President, in which the individual is being ruthlessly submerged; and I cannot for the life of me understand why men stand on the floor of this body and find even in their hearts a defense of that sinister thing.

There is one other matter to which I wish to call attention. This is a typical illustration of what power companies do in moulding public sentiment, and no wonder they can get a lot of people to write in here and demand the death of this bill.

There was a power company operating in my State, owning a distribution system in the city of Aberdeen, Wash. An investigation of that company was had with respect to expenditures of the company for political purposes and otherwise. It was known as the Grays Harbor Railway & Light Co., and what I am reading is from the report of the public service commission of my State, now the department of public works:

The report showed that the company had contributed generally to practically every community enterprise in the form of cash donations and memberships, which it charged against operation expenses and, by so doing, against the ratepayers.

Here was a company in this community boasting of its generosity, and saying, "Why, if you have public ownership of power in this city, that is not only bolshevism and communism"—such as has been indicated by some of our Members here—"and against the American form of government, but you are going to take out of this community a very generous patron of the arts, a generous contributor to charities and the like", but when the records were finally disclosed to the public it became evident that the company was merely charging these contributions against the ratepayers.

These contributions, made to some 40 community organizations, were not permissible expense items, according to the State board.

The contributions, donations, subscriptions, and gifts were made to chambers of commerce—

Now we can begin to understand why the chambers of commerce are so much interested in power bills. In my own city the power companies had several memberships in the chamber of commerce, and in every city in this country the chamber of commerce is partly underwritten in its activities by the money of the Power Trust.

Federated Industries—

That is the association of employers fighting organized labor.

Swimming pools—

They could not clean the people thoroughly enough in light rates, so they had to give them swimming pools.

Boy Scouts, American Legion—

And if there had been any old-maid scouts, they would have greased them, too. [Laughter.]

Salvation Army, Volunteers of America—

They were trying to get as close to the Deity as possible by taking care of the Salvation Army—

Several sorts of homes, school track teams—

How generous they were! "School track teams!"—

Good-will industries, fraternal organizations, and lodges—

They had to grease the Masons and the Elks and the Moose and the Knights of Columbus; and if there had been a Mohammedan lodge down there, they would have greased it, too.

While I was in that city making a speech, I noticed a man and woman sitting down in front of me, and they invited me to their home. I went into that home, and it was a very poorly furnished home. No carpets were on the floor; just little bits of linoleum with holes worn in them. When I had known that man years before, he had been a man of some means—at least, he had been able to live well. When I came into that home they turned on one light, perhaps a little 25- or 40-watt lamp, and the woman said, "You know, we do not have much light now. My husband has been out of work a long time, and we cannot turn on many lights, because the lights cost a lot of money here in Aberdeen." I looked around that home—a home smitten with poverty—and I thought of that home as I read this report, Mr. President; this report which indicates that the Power Trust, this power combine that was skinning the people of Aberdeen, was contributing to—

Practically every church of all denominations in the community, hospitals, conventions, sportsmen organizations—

They did not miss a thing—

Grays Harbor Golf Club, and the like.

Now, it was perfectly ducky and darling for them to give a contribution to the Grays Harbor Golf Club. Power Trust ethics made it perfectly right for this outfit to exact an ungodly rate for light from that little poverty-stricken home so that it could turn over a part of the loot to the Grays Harbor Golf Club, so that the bankers and the swanky boys down there might go out on the beautiful putting greens and knock their little white pills around, all at the expense of the poverty-stricken homes of Aberdeen. That is a sample of the kind of brazen gall and effrontery of a business that presumed to come down here and tell Congress—may I use the bald vernacular?—where to "head in"!

If my associates have not reached the point now where they are going to cleanse this "Augean stable", there is not much hope for the boys and girls of this country. I have a little fellow coming on. What chance is there in life for my little fellow when a gang can come down here and tell the Congress of the United States what laws it may or may not pass? The feudal system is coming back with a vengeance.

I say this in all candor and honesty to the Members who sit about me. I have talked to men in Congress, who told me that they were literally frightened to death by these power companies. Imagine men whose fathers were at Gettysburg and Antietam and Spotsylvania Court House being frightened by a business organization!

Mr. President, we boast of our traditions; we make speeches about Bunker Hill and Gettysburg and Valley Forge, but the fine fire of manly independence that surged in the breasts of our iron-blooded sires has burned out, if we cringe like whipped spaniels when the Power Trust wields its political lash and threatens independent Americans as though they were Chinese coolies.

The man who, perhaps, a few days before had spoken in grandiloquent terms of what our rugged sires have done, sits in this chair with the fear of God in his heart, afraid to vote his own honest convictions. That is being done to the Congress of the United States by the Power Trust of this country, which has the gall and the effrontery to suggest that we are Communists if we do not like their fantastic financial nightmares.

For one, I desire to say that I deeply resent that kind of business. Back of me are four generations of soldiers, and I do not want the Electric Bond & Share Co. and the Stone & Webster holding company, or any other outfit to suggest or intimate to me that because I want the people of my State to own their own rivers and lakes I am a Bolshevik.

I would build a fire of resentment in the heart of every Member of the Senate against that sort of truculent infamy. It is that kind of business that will ultimately pull the house down around the ears of the Power Trust if it persist in its efforts to control every man in public life. Men who believe in public ownership of power are quite as loyal to this Republic as a crowd that has not hesitated to corrupt public thinking, emasculate school textbooks, and aspire to complete political control of the United States.

Members of the Senate heard me read the other day the story of how the power companies had fixed the geographies in my State to twist the thinking of little children. They actually went in there and messed up the geographies of my State. Dirty? They have plumbed the depths of dubious activities in their efforts to propagandize the public.

The Senator from Minnesota [Mr. SCHALL] talks about propaganda. Great God! If this administration went on a thousand years, and employed every artifice and every strategem that it could devise, it could not come within a million miles of the Power Trust of this country in political trickery and in sheer ability to misrepresent facts.

I have seen Power Trust inspired editorials and news stories accusing men of things that never were done, and the poor devils had to take it, because they had no way to answer. The paper that was low enough to run that kind of stuff closed its columns to an answer; but, thank God, there are a lot of men in America who cannot be made to desist in answering that sort of thing.

I am sorry the Senator from Minnesota has seen fit to say some of the things he has said, but I did not rise to answer him. I say, however, that he has picked out a mighty frail reed to lean on when he picks out one of these little strumpet Power Trust sheets, full of Power Trust ads, to quote here in defense of the principle that he espouses.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 156. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the city of Perth Amboy, N. J.;

S. 2904. An act to prohibit the interstate transportation of prison-made products in certain cases; and

S. 3038. An act to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration Facility, Alexandria, La.

The message also announced that the House had agreed to the amendment of the Senate to each of the following bills of the House:

H. R. 298. An act for the relief of Jack Page; and

H. R. 617. An act for the relief of Lake B. Morrison.

The message further announced that the House had passed the bill (S. 2532) to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 5368. An act to provide for the addition of certain lands to the Chalmette National Monument in the State of Louisiana, and for other purposes;

H. R. 6228. An act authorizing a capital fund for the Chippewa Indian Cooperative Marketing Association;

H. R. 6361. An act to amend the Filled Milk Act;

H. R. 6512. An act to authorize the crediting of service rendered by personnel (active or retired) subsequent to June 30, 1932, in the computation of their active or retired pay after June 30, 1935;

H. R. 7575. An act to legalize a bridge across Black River on United States Highway No. 60 in the town of Poplar Bluff, Butler County, Mo.;

H. R. 7591. An act granting the consent of Congress to the cities of Donora and Monessen, Pa., to construct, maintain, and operate a bridge across the Monongahela River between the two cities;

H. R. 7620. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill.;

H. R. 7659. An act to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes;

H. R. 7809. An act to extend the times for commencing and completing the construction of certain free highway bridges across the Red River from Moorhead, Minn., to Fargo, N. Dak.;

H. R. 7936. An act to adjust the salaries of rural letter carriers, and for other purposes;

H. R. 8002. An act to increase the compensation of letter carriers in the village delivery service;

H. R. 8209. An act temporarily to exempt refunding bonds of the government of Puerto Rico from the limitation of public indebtedness under the Organic Act; and

H. J. Res. 257. Joint resolution to amend a joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, as amended by the Second Deficiency Act, fiscal year 1929, approved March 4, 1929.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated below:

H. R. 5368. An act to provide for the addition of certain lands to the Chalmette National Monument in the State of Louisiana, and for other purposes; to the Committee on Public Lands and Surveys.

H. R. 6228. An act authorizing a capital fund for the Chippewa Indian Cooperative Marketing Association; to the Committee on Indian Affairs.

H. R. 6361. An act to amend the Filled Milk Act; to the Committee on Agriculture and Forestry.

H. R. 7575. An act to legalize a bridge across Black River on United States Highway No. 60, in the town of Poplar Bluff, Butler County, Mo.;

H. R. 7591. An act granting the consent of Congress to the cities of Donora and Monessen, Pa., to construct, maintain, and operate a bridge across the Monongahela River between the two cities;

H. R. 7620. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near a point between Morgan and Wash Streets in the city of St. Louis, Mo., and a point opposite thereto in the city of East St. Louis, Ill.;

H. R. 7659. An act to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes; and

H. R. 7809. An act to extend the times for commencing and completing the construction of certain free highway bridges across the Red River, from Moorhead, Minn., to Fargo, N. Dak.; to the Committee on Commerce.

H. R. 7936. An act to adjust the salaries of rural letter carriers, and for other purposes; and

H. R. 8002. An act to increase the compensation of letter carriers in the village delivery service; to the Committee on Post Offices and Post Roads.

H. R. 8209. An act temporarily to exempt refunding bonds of the Government of Puerto Rico from the limitation of public indebtedness under the Organic Act; and

H. J. Res. 257. Joint resolution to amend a joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, as amended by the Second Deficiency Act, fiscal year 1929, approved March 4, 1929; to the Committee on Territories and Insular Affairs.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. TYDINGS obtained the floor.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. McKELLAR. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. POPE in the chair). The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	Keyes	Pittman
Ashurst	Coolidge	King	Pope
Austin	Copeland	La Follette	Radcliffe
Bachman	Costigan	Lewis	Reynolds
Bailey	Davis	Logan	Robinson
Bankhead	Dickinson	Loneragan	Russell
Barbour	Dieterich	McAdoo	Schall
Barkley	Donahey	McCarran	Schwellenbach
Bilbo	Duffy	McGill	Sheppard
Black	Fletcher	McKellar	Shipstead
Bone	Frazier	McNary	Smith
Borah	George	Maloney	Steiwer
Brown	Gerry	Metcalf	Thomas, Okla.
Bulkeley	Gibson	Minton	Townsend
Bulow	Glass	Moore	Trammell
Burke	Gore	Murphy	Truman
Byrd	Guffey	Murray	Tydings
Byrnes	Hale	Neely	Vandenberg
Capper	Harrison	Norbeck	Van Nuys
Caraway	Hatch	Norris	Wagner
Carey	Hayden	Nye	Walsh
Chavez	Holt	O'Mahoney	Wheeler
Clark	Johnson	Overton	White

The PRESIDING OFFICER. Ninety-two Senators having answered to their names, a quorum is present.

Mr. TYDINGS. Mr. President, yesterday a colloquy took place between the Senator from Alabama [Mr. BANKHEAD] and me in which some of the phases of the A. A. A. bill were discussed. To that purpose I wish to address myself this afternoon.

Before doing so, may I take the time to say that I have no general quarrel with those who are favoring these amendments—particularly Mr. Chester Davis, with whom I have a very slight acquaintance—for the reason that confronted, on the one hand, as they are, by high tariffs in our own country and high tariffs in other countries, which to some extent do not take care of the entire agricultural situation, the protagonists of this bill have been hard put to it in order, perhaps, to raise agriculture to a higher standard than that which it enjoys under the present economic set-up.

I do not wish to criticize their general objectives. In my judgment, however, tariff reform would be a better way to accomplish what appears to be the end they desire to accomplish, though that would not be an easy matter because recently all the nations of the world have passed high tariff acts. Furthermore, while the establishment of any kind of a market for agricultural products is very easy from a theoretical standpoint, it is very difficult from a practical one. So these gentlemen, being confronted with those facts, have probably attempted to do the best they could for agriculture.

Let us come to the measure now before the Senate.

Mr. KING. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. KING. Does not the Senator believe that the policy of high tariffs, and then the attempt to meet the evils resulting from high tariffs by stimulating prices of commodities, regimentation by limiting production, imposing all sorts of

impediments to free transportation, free sale, and exchange of commodities, will ultimately result in greater disadvantage to the farmers and to everybody else than if we attempted to rationalize things in conformity with the rules which prevailed when conditions were more normal?

Mr. TYDINGS. I agree with the observations of the Senator from Utah; but I did not want to be intolerant in my comment about those who represent the other side. I can see the reason for their support of this measure and other measures; I made the brief observation at the beginning of my remarks so that in what I have to say it would not be thought there was anything of a personal attack upon the measure.

Yesterday the Senator from Alabama, in arguing the "constitutionality", so called, of the price-fixing and other provisions of the bill, stated that the States had the authority to regulate intrastate commerce and that the Federal Government had the authority to regulate interstate commerce. When we came to the price-fixing provision, and I asked the Senator from Alabama under what decisions of the courts or provisions of the Constitution the price-fixing provision was upheld or permitted, he was frank in stating that there was no decision of the courts and no provision of the Constitution, unless it be the provision empowering Congress to regulate interstate and foreign commerce, under which the power to fix prices could be exercised by the Congress. In developing that argument, he said that since the States do not have the power to fix prices, obviously, the power must rest somewhere, and therefore it must rest with the Federal Government.

At the conclusion of the Senator's argument I read from the Constitution, and today I shall read several other provisions of the Constitution. The first is amendment number 9 to the Federal Constitution, which reads as follows:

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained—

By whom? By the States? No; "retained by the people."

Amendment no. 10 reads as follows:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

There is a great body of power which the people have never surrendered, either to the National, the State, the municipal, or the county governments. The people would be foolish to surrender all the power to one governing agency or another governing agency. The people have granted only limited powers to each, the States and the National Government. Therefore it is not sound, in my judgment, to say, from the standpoint of law, first, that because a power does not reside in the States it must, forsooth, reside in the National Government, or because it does not reside in the National Government it must, forsooth, reside in the State government, because there are many powers, which I will not take the time now to detail, but with which all are familiar, which have never been surrendered either to the National or the State Governments.

State governments and the National Government are governments of limited authority. They can exercise no authority except that expressly granted in the covenant or the constitution of the respective political unit, except the inherent police powers, which give to these agencies the authority to carry out the express powers set forth in the constitution of the State or the Constitution of the National Government. So much for that.

Mr. President, there is no provision in the Federal Constitution which allows Congress to fix prices. On the contrary, there are a number of provisions, such as that a man shall not be deprived of his property without due process of law, and many others I might mention, designed to protect the individual in the possession of what is rightfully his.

In the pending bill the particular amendment on page 18, line 21, paragraph (G) the first lines, into which I will interpolate a few words, read:

The Federal Government, or an agency of the Federal Government, shall have the power of fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof shall be sold.

I should like to ask those who maintain that the Federal Government can fix minimum prices if, by the exercise of the same power, it can fix maximum prices? I am going to assume that the answer is "yes"; that the power to fix prices gives the Federal Government, according to their philosophy and interpretation, the right to fix maximum prices as well as minimum prices. For the moment I want to digress and show those who represent agricultural communities, or communities in which raw materials are produced, what would be the effect if Congress should ever exercise such power.

Let us suppose that the large cities of the Nation obtained control of the House of Representatives; in other words, that the majority of the Members of the House of Representatives came from urban communities. According to the philosophy of those who say that Congress can fix minimum prices, and assuming that they likewise maintain that Congress can fix maximum prices, Congress could fix the price paid to every farmer in this country for his eggs, his milk, his meat, and his grain.

Mr. WHEELER. Mr. President—

Mr. TYDINGS. Mr. President, I will yield to the Senator in a moment. In other words, if Congress had the authority to fix maximum prices, as it is claimed it has the authority to fix minimum prices, Congress would become the arbiter of the maximum price for which every farmer in America could sell his products. Congress could say that the farmer should get only 40 cents a bushel for wheat, 10 cents a dozen for eggs, or 3 cents a pound for hog meat.

If Senators write this law they may think they are writing it only for a year or 2 years or for their own generation. Let me call to their attention the fact that the acts of Congress form an unbroken line of precedents. That is what they really are. Senators are carrying out a philosophy which, carried to its ultimate conclusion, may do us infinite harm and defeat the very purpose which they have in mind.

I now yield to the Senator from Montana.

Mr. WHEELER. I desire to call the attention of the Senator from Maryland to the fact that during the war we fixed the price of wheat. We fixed a maximum price of wheat for the wheat farmers, and we fixed a maximum price for many other products. I am not at all sure that it is sound philosophy to do such a thing, but I think if we should do it we would have to do it with the limitation placed upon the Congress to fix a reasonable price, and it would have to be determined whether or not it was confiscatory. The Congress of the United States has delegated to the Interstate Commerce Commission the right to fix rates in certain industries engaged in interstate commerce, but those rates must not be confiscatory. I am sure that under the Constitution we could not fix arbitrary prices which might destroy the value of any class of property, whether that of farmers, or anyone else. There is, however, some question in my mind as to whether Congress does not have power to delegate to somebody the authority to fix reasonable prices upon various commodities which are being transported in interstate commerce.

Mr. TYDINGS. I am coming to that Mr. President.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. TYDINGS. I will yield in a minute.

Mr. BANKHEAD. I wanted to give some information which would confirm the viewpoint expressed by the Senator from Montana [Mr. WHEELER]. I read a headnote from the Nebbia case, which I quoted yesterday, on the point the Senator has just stated:

If the law-making body within its sphere of government concludes that the conditions or practices in an industry make unrestricted competition an inadequate safeguard of the consumer's interests, produce waste harmful to the public, threaten ultimately to cut off the supply of a commodity needed by the public, or portend the destruction of the industry itself, appropriate statutes passed in an honest effort to correct the threatened consequences may not be set aside because the regulation adopted fixes prices—reasonably deemed by the legislature to be fair to those engaged in the industry and to the consuming public.

Mr. TYDINGS. I thank the Senator from Alabama.

Mr. GORE. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. GORE. The Senator from Montana [Mr. WHEELER] made reference to the fixing of the price of wheat during the World War, and inadvertently said that Congress fixed the maximum price. Congress thought it was fixing the minimum price. It turned out, however, in effect to be the price.

I should like to say a word further in confirmation of what the Senator from Maryland [Mr. TYDINGS] has said. The Food Control Act passed Congress, I believe, on the 10th of August 1917. As I recall, wheat on that day was selling in Minneapolis at \$3.08. A committee was appointed to fix the price of wheat, and when it made its announcement the first of September 1917, it fixed the price at \$2.20, and the farmers in Oklahoma and Kansas were obliged to take from \$1.75 to \$1.95 for their wheat on the farm. By that action the price fixed was nearly \$1 less than the market price, and thus the wheat farmers of this country were robbed of more than a billion dollars.

Mr. President, it is a sword with two edges, and it may cut both ways.

Mr. TYDINGS. I thank the Senator from Oklahoma, and he has illustrated my general observation by exact example.

Mr. ASHURST. Mr. President, will the Senator yield?

Mr. TYDINGS. Mr. President, I desire to conclude what I was saying, and then I shall be glad to yield to the Senator from Arizona. I have been here in Congress now for nearly 13 years, and I have heard many men stand on the floor of this body and also on the floor of the body at the other end of the Capitol, and describe the effect of price-fixing on the wheat farmer. I have heard my friend from the Northwest time and time again point out how the munition makers made millions upon millions of dollars while the farmer was not permitted to get more than a certain amount for the things he produced. Are Senators complaining against that policy, and then, in times of peace, putting it to their bosom in fond caress and giving it the sanction of their best judgment, after they have held forth all these years upon the inequities and the injustices which have been heaped upon their agricultural constituents by the very policy contained in this bill—the policy of price fixing?

I now yield to the Senator from Arizona.

Mr. ASHURST. I thank the able Senator, but I do not now wish to interrupt him.

Mr. TYDINGS. I cannot conceive of a governmental policy, even though it may be a boon and a benefit temporarily to agriculture, which, carried down the corridor of time, will heap more suffering upon the backs of those who toil than will the opening wedge of price fixing by legislative fiat as it is contained in this bill.

Mr. NORBECK. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. NORBECK. I doubt that the Senator understands the farmer's viewpoint. The farmer's viewpoint is that his prices are not now necessarily fixed by competition. There is much control of commodity prices by selfish interests. I should rather trust Uncle Sam than the Steel Trust; I should rather trust Uncle Sam than the Chicago Grain Exchange. The farmer is helpless. He is looking to the Government to do something in his behalf in order that he may obtain a decent return for his labor. He regards the conditions now as oppressive to him, and wishes we could go back 50 or 60 years when we had competition and everybody could in some measure get his fair share. But the farmer has been bound by the economic conditions of the present time, and he is thinking that the Government can do something for him; and, Mr. President, I think the Government has done something for him in the last 2 years. The Government has not done as much as it started out to do, but it has done something for him. The work of the A. A. A. has been measurably offset by manipulation, and by the N. R. A. decision to some extent, but nevertheless there has been some improvement of conditions for the farmer. The law is defective. Many mistakes have been made. The measure now before us is simply an effort to improve the present law, which has improved conditions for the farmers to some extent, and by means of the measure now proposed more can be done for the farmer.

Mr. TYDINGS. Mr. President, I think the Senator from North Dakota has contradicted himself. Let me show him in a few words where he has done it. The Senator has risen time and again to show how the Government, which he said he is willing to trust, during the days of the war, compelled the farmer to take less than the competitive price for his product, and has proposed legislation here to cure that condition. Now he rises and says, "Notwithstanding the fact that we tried that experiment and it cost the farmers hundreds of millions of dollars, I want to put my head into that noose again so the Government can pull it the second time." He complains, on the one hand, that the Government did not treat him right, and now he rises to say that the farmers do not mind trusting the very Government against whose actions they have so lately complained.

Mr. NORBECK. Let the Senator be fair in this matter. I have never said that anybody treated the farmers exactly right; but I said the farmers are more willing to trust the Government than they are to trust the grain exchange, the Steel Trust, or other organizations to fix their prices. That is all I said.

I know that the Democratic Party proclaims its great desire "to take profit out of war." They did not, however, take the profits out of the munitions industry; they did not take the profits out of manufactured goods; but they took the products out of the wheat farmer, the poorest-paid man in the United States. We are wont to forget that now, but I think it is time to right conditions. Let us go along; let us not stop.

Mr. TYDINGS. Mr. President, by the enactment of this bill, assuming that the courts will hold it to be constitutional, which I do not believe they will, we will be committing the Government to a policy of price fixing for agricultural commodities. I put this question to those who represent large agricultural States: Are you willing to abide by the prices fixed by the Government if we should be engaged in another war? What agriculturist on this floor is ready to rise now and say, "Yes; I am willing to have this policy as to agricultural products put into operation if we become embroiled in another war?"

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. TYDINGS. Just a moment. Before yielding for a question, I wish to know if there is any Senator in this body who will rise and answer that question in the affirmative?

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. TYDINGS. Did the Senator rise for that purpose?

Mr. WHEELER. Yes.

Mr. TYDINGS. Very well; I will yield.

Mr. WHEELER. I will say to the Senator that the farmers of the Northwest are perfectly willing, in the event of another war, to let the Government of the United States fix the price of farm commodities, providing likewise—

Mr. TYDINGS. Ah!

Mr. WHEELER. Providing likewise that the Government fixes the price that is going to be paid to the munition makers and the profits that are going to be made by them and by others. The difficulty and the complaint previously were that the Government only fixed the price of farm commodities and that it let the other industries make unlimited profits.

Mr. TYDINGS. Before answering the Senator from Montana, I should like to ask are there any other Senators from agricultural States who take the position that during the next war they are ready, representing agricultural States and speaking for their people, to have the Government fix the price of agricultural commodities? Are there any other such Senators?

Mr. MURPHY. Mr. President—

Mr. TYDINGS. I yield to the Senator from Iowa.

Mr. MURPHY. I join in the sentiment expressed by the Senator from Montana [Mr. WHEELER]. The farmers are perfectly willing to have the Government, in which they trust, fix the price of their commodities, conditioned upon the Government fixing the prices charged ordinarily by the industries supplying the things related to the progress of the war.

Mr. TYDINGS. Now, out of all the Senators who make up the body, we have two who accept the proposition, and then only on condition and qualification. I am very glad to have the two Senators make their contributions, and I should be happy to have others do likewise, for I want to know what Senators in this body are going to undertake to fix the price of the following articles in the next war: Thimbles, thread, cloth of various kinds, and textures; all kinds of leather, neckties, underwear, tin cans, solders, railroad cars, trucks, rails, crossties, coal, oil, locomotives? Where is the agency that is going to fix prices for such commodities? Does the Congress think it will be able to write a bill of such magnitude on the floor of this body?

Mr. McADOO. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from California?

Mr. TYDINGS. I will yield in just a moment. If we should assume to fix the price of all commodities used in the next war by legislative fiat, we would be here until judgment day, and then we would only be half way through the list.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield first to the Senator from California, and then I will yield to the Senator from Iowa.

Mr. McADOO. Mr. President, I should like to correct what appears to be an erroneous impression on the part of some Senators as to price fixing during the World War. As will be recalled, the minimum price of wheat was fixed at \$2.20 a bushel; and I may say that through the War Industries Board an attempt was made—and successfully, too—to limit the prices of many of the war munitions, not only those which were furnished to our Government but to the governments associated with us in the war. These were, however, strictly war measures.

I venture to say, Mr. President, that never in the history of this Nation, or of any other nation, was such a determined effort made to distribute equitably the burdens of carrying on war as was made during the World War, when those who were making most of the money out of the war were made to bear the highest taxes.

Mr. TYDINGS. Let me interject at that point to say to the Senator from California that I am satisfied that no Senator in discussing this proposition meant to reflect particularly on the general conduct of the war; least of all was that in our thoughts. We were simply trying to show by precedent what had been the effect on a particular commodity that stood out in any way, and we were not reflecting upon the general conduct of the war as a whole.

Mr. McADOO. I did not draw any such inference from the Senator's remarks.

Mr. TYDINGS. I do not think other Senators meant such an inference to be drawn.

Mr. McADOO. Nor do I think so. I only meant to say that I think they were in error in assuming that no effort of the kind I have described was made. We not only imposed excess-profits taxes, but taxation in almost every form and to the limit on those who could pay. I wish merely to make the matter clear, in order that discussion may be based upon the facts.

Mr. MURPHY. Mr. President—

Mr. TYDINGS. Will not my good friend from Iowa let me push on for a little while? I want to yield, and I certainly intend to yield to the Senator from Iowa, but unless I can make a little headway I will not be saying anything, because all my time will be taken up by observations by other Senators.

Mr. MURPHY. Will not the Senator yield to me for a moment?

Mr. TYDINGS. I yield to the Senator from Iowa.

Mr. MURPHY. I should like to say that there is, perhaps, a collateral circumstance in connection with the collapse of the price fixed by the Government on wheat which has not been developed. What suggests that to my mind is that in 1920, when food prices were still high, the Federal Reserve Board deliberately set about to deflate those high prices, and accomplished it by calling loans. There was no fixing

of prices, but there was a collapse of values as the result of the adoption of that policy by the Federal Reserve Board. There may have been that collateral effect also on the wheat situation.

Mr. BANKHEAD. Mr. President—

Mr. TYDINGS. I yield to the Senator from Alabama.

Mr. BANKHEAD. I do not care to engage at this time in a colloquy with the Senator; in fact, I hope he will conclude as quickly as he can. However, I think his statement a few minutes ago leaves an improper impression in the RECORD. He wanted to know what Senators here were willing, as I recall it, that the Government should fix farm prices during a war period. That led to some discussion. Then the Senator from Maryland assumed that only those who engaged in the colloquy were responsive to his proposition. I think that is entirely an unfair inference, because there may be many others here who do not care to get into this colloquy and did not respond to his invitation. In fact, the conclusion the Senator draws reminds me of the preacher who asked everybody present who wanted to go to heaven to stand up, and then he assumed that those who did not participate in the performance did not want to go to heaven.

Mr. TYDINGS. Mr. President, one of the reasons why this bill comes before the Senate is that the agriculturists feel that under the policy of tariffs which this country has adopted prices have been fixed for industrial products but have not been fixed for agricultural products. Yet, as is the case in most instances, when men complain about a condition or policy, if they find they can get some benefit from that against which they are complaining, it suddenly takes on an atmosphere of righteousness, no matter how bad it might be when they are excluded from the fruits of the particular policy.

If this bill shall give the Agricultural Administration the right to fix minimum prices, it must, forsooth, give them the right to fix maximum prices; and I venture to say that there is not one farmer on the floor who will rise and say that he is in favor of the Government of the United States fixing maximum prices for the products of the soil. There is no agricultural representative here who will advocate that agricultural products should have a maximum price. Ah, no; he is embracing this particular sophism upon the theory that always the price is going to be the minimum price; and if it shall be carried out, and the courts shall hold it to be constitutional, which I have no doubt they will not, he will live to see the day when the price fixing will not be the kind of price fixing which he thinks is going to apply in this time of depression.

Senators, you are not adopting this policy for a depression; you are not passing this law for a year; you are committing this Government to a policy which has got to affect agriculture through all the years to come.

That is one of our troubles in the national legislative body. We all look at legislation from the immediate angle rather than the ultimate angle; and thereby often we find ourselves in great difficulty. We assume that if a thing is good for 6 months or a year it will be good for a thousand years, and we justify this, that, and the other as emergency measures. There are very few measures which are good in emergencies which are not good as permanent legislation, and very few measures which are not good as permanent legislation will prove to be good if tried in an emergency. We are passing upon this bill as if it were emergency legislation. If we enter upon the field of price fixing, and the courts shall hold the action to be constitutional, aside from any legal arguments that may now be made against it, its very philosophy will come home to damn us a thousand times over in the course of 5, 10, or 15 years. Once the Government enters upon fixing the prices of everything its people produce, we shall have all the labor troubles and all the trade troubles and all the class troubles laid right here on the doorstep of the Congress.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. TYDINGS. Yes.

Mr. MURPHY. There is something which is now damning this country. The producers are being damned and have been for a number of years.

In 1929 the national income was \$82,000,000,000. Of that income, the farmers, constituting one-fourth of the population, received only 10 percent. Thirty million of our people received only 10 percent of the national wealth produced!

There is something damning the country, and this bill is an effort to correct that condition. Where shall we begin the correction? I am in entire sympathy with the views expressed by the Senator as to the necessity of opening markets abroad. If we had such markets, we would not now be concerning ourselves with this proposed legislation, which was brought into existence because of the loss of our foreign markets.

But shall we now abandon all effort to correct this condition which is resolving the farmer into a condition of perpetual want, a condition of poverty, if you please? Every attempt that has previously been made to relieve the producers affected has resulted in disaster. We can here and now carry out a pledge we made to the people when we went before them seeking their votes. We can carry out the pledge to seek to raise prices of agricultural commodities not as yet affected by our policies.

How can we correct the disparity in the distribution of national wealth? Somebody else is getting the wealth as a result of the farmer's labor, as a result of what he produces. How can we stop that? How can we begin the real distribution of wealth, which should begin at the grass roots, at the very point of production? When shall we begin it?

I shall not commit myself at this time to the principle of price fixing. I confess there is a great deal in what the Senator has said in viewing with apprehension the consequences of such a policy. But where shall we start to correct this condition which gives 30,000,000 of our people only 10 percent of the national wealth?

My philosophy is much like that of the Senator from Maryland, but I can accept the philosophy of the A. A. A. as an expedient. Yet the Senator rejects it, and I ask the Senator what he would substitute as a means of bringing a measure of prosperity back to the 30,000,000 farmers to be served by this measure in view of the conditions which exist with reference to our exports.

Mr. TYDINGS. Mr. President, the Senator will recall that about 2 months ago I brought a program to the floor of the Senate and discussed that program for about two and a half hours. In my judgment, that program would have been conducive to starting the country on the road to better prices and more work. I do not want to be diverted now to review the fundamentals of that program. I am very definite about the point, however, that if I had lost one arm in a sawmill I should not want to stick the other arm in another sawmill. I would much rather give all my attention to the arm I had left and try to save what remained and make of it the greatest possible use.

Mr. MURPHY. If I have lost my farm I am willing to try something else in an effort to get it back.

Mr. TYDINGS. Of course, the Senator is, and so am I; but I do not want to try anything anyone says I ought to try without examination to see whether it is a good thing to try. That has been the trouble. We have had any number of measures come before the Senate, as to which someone has said, "Put this through, and the depression will be ended in no time." However, I have not seen the depression disappearing at a mile-a-minute speed.

I am going to return to what I have said a dozen times, that the depression is fundamental, and any superstructure we build on top of it is not going to cure it. We have got to go back to fundamentals and straighten them out, and make the old foundation solid. It will be a slow and long process, and it is the longest way round, but we will get through much more quickly than walking illusory mirage roads which invite us with so much gusto.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I have yielded to a dozen or more interruptions. I have done hardly anything but yield, and I should like to proceed. However, I am glad to yield to the Senator from Kentucky.

Mr. BARKLEY. This is not a facetious question. We are always being told that we should get back to fundamentals.

Mr. TYDINGS. Does the Senator want me to illustrate what I mean by "fundamentals"?

Mr. BARKLEY. No one has yet explained what is the fundamental to which he wants to get back. If the Senator would do that it would enlighten me a great deal. What are the fundamentals about which we talk so much?

Mr. TYDINGS. I shall give the Senator a few now by way of illustration.

Mr. ASHURST. Mr. President, will the Senator let me give one?

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Arizona?

Mr. TYDINGS. Gladly.

Mr. ASHURST. A bill before us provides that no citizen shall have the right to inquire in court as to whether money heretofore taken from him was taken lawfully. It is proposed seriously to tax the citizen and not permit him to go into court to test the validity of the tax.

When the wild Indians captured a prisoner, tied him to the stake and tortured him, they allowed the poor prisoner privilege to cry out and writhe. We propose to torture the American taxpayer and not give him even the privilege to cry out and writhe.

One fundamental is to allow the taxpayer at least the right to writhe and cry out in his torture.

Mr. BARKLEY. Even where we would place the tax on an innumerable multitude of people?

Mr. ASHURST. Certainly the courts should determine such questions. In other words, we ought not to write a book, close it, and say, "This you shall not read. Our actions must not be reviewed by the courts. We are the people. We are the law. We are the knowledge. No court must presume to inquire into our activities."

That is one of the fundamentals to which I should like to come back.

Mr. TYDINGS. Mr. President, I thank the Senator from Arizona for his very worth-while contribution to the discussion. That is a fundamental which I have not surrendered and I do not intend to surrender it. That is one fundamental we still have and to which I am going to hold so far as I am personally concerned.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I want to answer the Senator's question before yielding further. He asked for some fundamentals. I would not run the Government on borrowed money. I would tax and pay as I went. If I had to levy high-income taxes I would do it.

I would not waste money, I would view the depression as it is, feed the people who are unemployed and spend as little unnecessarily as I could so that the debt would be the least burdensome on the people when the time comes to pay it back. That is one good fundamental. It is as old as time itself that we cannot spend ourselves out of debt. That is another fundamental.

Another fundamental to which I hold is that we cannot increase the price of an article and increase its consumption at one and the same time. Fix the price of automobiles at \$5,000 apiece and how many of the people who now are riding in automobiles would have new ones?

We seem to have a philosophy that we can increase the prices of meat and foods of all kind and at the same time increase the consumption of such commodities. It cannot be done. Today the people have stopped buying beefsteak and pork in the stores because the price has gone so high that they cannot afford to eat them. I would rather create wealth and feed the people on plenty than to create scarcity and feed the people on some substitute.

Do those instances answer the Senator's question? They are some of the fundamentals about which I feel pretty strongly.

Mr. BARKLEY. No; they do not. The Senator is evidently complaining because the price of agricultural products has increased. Does the Senator mean that we ought to have pursued a policy of doing nothing so that wheat would now be selling at 40 cents a bushel instead of 80, and pork at 3 cents a pound instead of 7 or 8 cents a pound, and that

tobacco would be selling at 5 cents a pound instead of 15 or 20 cents a pound? In other words, does the Senator take the position that the Government of the United States ought not to have done anything, artificial or otherwise, temporarily to stimulate the prices of agricultural products during the depression, pending the arrival of the time when normal conditions may return and the law of supply and demand have some effect upon them?

Mr. TYDINGS. The Senator's argument is equivalent to this: Four men go in and rob a bank. They get \$400 and divide it among them. Each one has \$100. One man speaks up and says, "I am sorry we robbed that bank." Another man speaks up and says, "Are you not \$100 better off for the moment?"

The other argument is that the farmer gets 15 cents more for any commodity he raises. That 15 cents does not come from the rich, because the rich eat very little of what the farmer produces. It comes from the masses of the people, of whom 12,000,000 are unemployed and 22,000,000 more of the total population are on the relief rolls. We paid the farmer, who had some income, at the expense of the men who was on the Government relief roll for the very necessities of life with which to keep himself and his wife and his little children alive until an opportunity to work should come.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. The Senator from Kentucky does not mean to say that the money which the farmer has received has not come out of the pockets of the people, does he?

Mr. BARKLEY. Oh, no; I do not mean to say that—

Mr. TYDINGS. Let us be frank about it.

Mr. BARKLEY. But I do mean to say that the Senator's illustration of four men robbing a bank is certainly not an analogous situation to the efforts of the Government of the United States to increase the price of agricultural products.

We have not held up anybody. We have not robbed anybody, unless all taxation is a matter of robbery. The Senator may interpret the processing tax as a robbery. Of course, it is yet to be decided whether or not the Court will hold that tax unconstitutional; but even if the Court should hold it unconstitutional, we all know that in nine hundred and ninety-nine cases out of a thousand the man who paid the tax has already passed it on to the public and it has been paid; and if he is allowed to recover from the Government and nobody can recover from him, it will constitute what the Supreme Court in the gold case described as an unjust enrichment.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Idaho?

Mr. TYDINGS. I will yield to the Senator from Idaho in just a moment.

I wish to say in all calmness that any Member of this body can go to any city or town or hamlet in his State, and can walk into the grocery store where the people who are poor buy their food; and if he finds what I have found—and I believe he will find it—he will find, in many of the stores of this Nation, that people have stopped eating meat because it is too expensive for them to eat. In the little town of Havre de Grace, of 4,500 people, the A. & P. store manager says they do not provide a stock of beef any more because so much of it goes to waste for lack of sale. I found that condition to be true generally in the stores of my town, because with the pyramiding of all these taxes—quite often unjustly—the people cannot afford to consume the quantities of food which they once consumed; and I think any Member of this body can verify that story by contacting the people in his own State, who will subscribe to what I have said.

Mr. GORE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Maryland yield to the Senator from Oklahoma?

Mr. TYDINGS. I do.

Mr. GORE. I call the Senator's attention to the fact—he is doubtless familiar with it—that this morning the United States Circuit Court of Appeals at Boston, in the Hoosac Mills case, held the processing tax to be void.

Mr. TYDINGS. Yes; I am familiar with it.

I have been diverted from what I intended to say. I asked for the authority to fix prices under the Constitution. I have already spoken at some length on that point. I say that if we have the authority to fix minimum prices, we have the authority to fix maximum prices; and if we have the authority to fix maximum prices, we have the authority to take property without due process of law. I say that the Federal Government no more has the power to fix prices in either interstate or intrastate commerce than it has the power to go into any one State and regulate those functions which are reserved to the States or to the people thereof. This is a government of limited authority, and even its police powers permit it to go no further than the necessary force to be exerted to carry out its express powers.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. Not just now. I wish to finish this statement. Then I shall come back to the general argument.

It is conceded that during the war, under the exercise of the price-fixing power, the farmer was defrauded of the full competitive price of his wheat. If it be true—and I have no reason to doubt it—that in certain cases it worked to the injury of the wheat producers, are Senators willing to project this Government on a policy of price fixing which some day may see the representatives of the urban centers outnumber the rural representatives in the Federal House of Representatives? There the city people will tell our farmers the highest price they may get for the products they raise.

We are not making history for a year, Senators. We are not making history for a decade. We are starting this Government on a line of legislative philosophy which it has never before embraced in all its history. We may live to see the day when the very shield we now hold up for our protection will be beaten into a spear which will pierce the heart of agriculture all over this country.

Even as I speak, the A. A. A. has been held to be unconstitutional. I may be wrong. As I said at the beginning of my remarks, I have the greatest respect and sympathy for Mr. Chester Davis. Confronted as he was with a policy of tariffs which did not apply to agriculture except in part, with the world locked up in watertight compartments, with the farmer able to sell less and less of his products in restricted markets, Mr. Davis said, "Away with theory! I want something practical which I think, during this depression, will lift the farmers up to where they can get something like parity with those who are not employed in agriculture." I sympathize with his objective; but I believe the old, orthodox way of trying to lower the parity to agriculture in a situation where 22,000,000 people exist upon the dole of the Government—a fifth of them all—is more conducive to laying the foundation for recovery than by artificial taxation to drive up prices, which makes those who must consume less able to consume the volume necessary to take up the slack in employment.

I am not at odds with Mr. Davis' philosophy; neither am I arguing against the justice with which he comes here to plead his case. I take issue only with the method by which he seeks to accomplish the purpose he has in mind. The Federal Government is at best one of limited authority, express authority, supplemented and implemented by the police power necessary to carry out the express or implied grants of power in the Constitution. All the power it has is that, and it has no more power than that. The States, on the other hand, are likewise limited in the scope of their powers; and over in a great reservoir remains the power of the people, never given to any governmental agency, State or National, because the entire history of government shows that all governments at times are bad, and they cannot have unrestrained power without damage to the large masses who make up the population.

Therefore, as the power to fix prices never has been given to the Federal Government, either directly or indirectly, I feel that those who are embracing this measure will give to see it declared to be unconstitutional by the courts, that confusion will again come, and we shall have wasted our time on this as we have on other measures without

any real, lasting, constructive good being gained for anybody.

Mr. NORRIS. Mr. President—

Mr. TYDINGS. I yield to the Senator from Nebraska.

Mr. NORRIS. In the first place, let me preface my question with the statement that in no way do I desire to controvert the Senator in the assertions he is making; and I concede freely that he has a perfect right to the ideas he has expressed. I concede also that he may be right in them.

Mr. TYDINGS. And I may be wrong, I likewise concede.

Mr. NORRIS. I wish to ask the Senator to take what I believe to be the honest picture of those who are behind this bill.

First, as the Senator has said, the present Agricultural Adjustment Act has been held by the Circuit Court of Appeals to be unconstitutional. Of course, that decision is persuasive, although it is not final.

Mr. TYDINGS. That is true.

Mr. NORRIS. But, assuming that it is likely to be final, let me call the attention of the Senator to what I believe to be true, that the principal object of the pending measure is to meet that very question. If the original act shall be ultimately held unconstitutional, and if this bill circumvents the constitutional objection, the fact that the original act may be held to be unconstitutional would not be any argument against the present attempt to secure the enactment of a bill that is constitutional. I think that is a fair statement.

Mr. TYDINGS. With a qualification, I can agree with much that the Senator has said. However, I am afraid the very thing we are attempting to escape—namely, the declaration of the unconstitutionality of this measure—we are going to lose through the amendments, because we have included in the measure not regulation of milk, not regulation of interstate commerce, but price fixing.

Mr. NORRIS. The Senator will have to agree with me, I think, that the object to be attained is to increase the price of farm products.

Mr. TYDINGS. Yes; I agree with the Senator as to that.

Mr. NORRIS. The Senator has made some assertions about that which on their face, without any modification, I should not contradict. The Senator has said that we cannot reduce the cost to the consumer by increasing the cost to the producer, but while this may seem wrong, and may be entirely wrong, my theory is, and I think it is the theory of this bill and other bills like it, that we can do that very thing. The Senator, although he may say we are wrong in it, must, I think, concede—I believe he will—that in what we believe to be a method of relieving depression we ought to start with the foundation of our superstructure, and get for the producer—who, after all, is the foundation stone of our civilization—

Mr. TYDINGS. And is the farmer.

Mr. NORRIS. Yes, sir; the farmer. I wanted to make my statement a little broader than the farmer when I said "producer", but perhaps "farmer" will include it all. We ought to get for the producer a sufficient amount so that he will not be producing, at a financial loss to himself, the commodities we must have.

Is it not true that if the producer is producing at a financial loss, eventually the civilization based on such a condition must fail? Should we not start with the proposition that the foundation stone, the producer, should get a recompense for his toil?

As I understand, the theory is that when the producer gets a proper compensation for the products he raises, it makes him a consumer; he commences to buy of the factory; the factory, now idle, commences to employ men and pay them higher wages, and they will buy the products of the farm, although they will pay increased prices. If we put the price away down and have no consumers, and no employment for the consumers, it does not make any difference if the commodities are produced for nothing; the producers will eventually fail.

Mr. TYDINGS. I agree with the Senator from Nebraska on that fundamental. He says the farmer has not been getting his parity price, and I do not think he has; but I would much rather, with the least injury possible, bring the artificial prices down to a point where the farmer could trade with those who produce the commodities.

Mr. NORRIS. I agree with the Senator.

Mr. TYDINGS. I do not mean to say that that is an easy thing to do, but I am willing to work on it, although it is slow, in my judgment. In the end we will build on a real foundation, rather than have the whole country on stilts.

Mr. NORRIS. The matter is open. It seems to me that, admitting the premises, namely, that the producer is not getting enough, if this measure is not right, if this kind of legislation is wrong, then it is up to those who claim it is wrong to suggest some other remedy than the one now proposed. I am not denying that they can do so. I realize that men have different opinions about it.

Mr. TYDINGS. The Senator's position is that in the circumstances which confront him he is doing the best he can.

Mr. NORRIS. Yes; and if anyone can do any better, let us give him carte blanche and send him out to do it.

Mr. TYDINGS. I think that on this general philosophy the Senator and I could agree on what we should do in preference to what is proposed, if we could do it; but my fear is that we will never get down to a sound foundation so long as we adopt the policy of placing stilts under this, that, and the other thing. I should like to saw about 2 feet off of some of the stilts rather than put another set of stilts under the farmer.

Mr. NORRIS. I frankly concede to the Senator that I think he has pointed out a danger.

Mr. TYDINGS. Mr. President, I do not care to take up the time of the Senate any longer, except to summarize what I have said. I believe—and it is admitted freely by those who favor the bill—that there is no decision of the courts, there is no precedent, except the war-time wheat proposition, in all the history of legislation wherein Congress has ever embarked heretofore on such a far-sweeping price-fixing proposal, without restraint or control, as is set forth in the bill before us, and that, too, without any limitation, it being left absolutely within the jurisdiction of the Department of Agriculture and its agents to say what the minimum price shall be, with no yardstick, minimum or maximum, by which they must find that price. Therefore, we have not only violated our authority as to delegating power but we have an absence of authority even to hold the power and do the things ourselves.

I take the position that this is a Government of limited powers and that the people themselves hold the power to fix prices, and until the Constitution is amended, or that power is conferred on Congress, we have no right or ability at all to deal with it.

Further than that, in conclusion, even if it is legal, even if it may be temporarily good, it will be the entering wedge, and price fixing will grow on the scale on which tariffs have grown, and we will have Nation-wide campaigns of price fixing, utter confusion, class prejudice and class greed and group greed, until this body will not be able to stand up under the desire to fix this price and that price and the other price in accordance with the wishes of the group affected.

We are not passing this measure for a day or a year or a decade. If price fixing is held to be within the jurisdiction of the Congress, then we will find the need in the future to have the prices of more and more commodities fixed each and every year, and, in my opinion, it will be a Pandora's Box, the lid of which we will never be able to replace once it has been opened.

PAYMENT OF DEBT DUE BY ENGLAND THROUGH TRANSFER OF ENGLISH ISLANDS, AND NICARAGUAN CANAL TREATY

Mr. LEWIS. Mr. President, I am led to depart from the complete phase of this discussion to inject a suggestion for action which I feel is valuable to consider and important not to postpone.

I know when I touch the subject to be mentioned my honorable colleagues will have summoned to their reflection the observation of Polonius upon Hamlet—

Still harping on my daughter.

I call attention to the fact that the public press informs us that England has, in some spirit of generosity, offered to cede to Italy territory of her possession as a consideration of Italy not pressing further her territorial demands or military advance upon Ethiopia. The object of such, if it be for peace, is, of course, commendable. If it be for the service of England in her own defense or profit, it is natural and, therefore, justified.

So, sir, if England finds it agreeable to transfer her territory lying off the zone of her immediate possessions to Italy as the payment of an obligation that shall satisfy an Italian debt due and avoid conflict, I place the query before this honorable body, why should not England, in view of the debt of billions she now owes to the United States of America, not find it agreeable, upon the same theory in which she offers the territory to Italy possessed by her, to turn her attention to the fact that here in the islands of the Caribbean, adjacent to the United States, lies property, islands known as Bermuda, Barbadoes, and Jamaica, that belongs to England, for which she has no necessity as a defense to Britain, nor for the security of England. Yet, sirs, this domain is necessary to the defense of the United States.

Mr. President, I do lay down the doctrine that a free and liberal government should not allow any foreign government to have territory within a gateway from which the Nation could be assailed. Therefore, England would see the justice of a transfer to the United States, for the protection of this Government, of such land as lies adjacent to our Nation, practically in our own waters. Particularly true should this be where England, by transferring it to the United States could pay off her debt which she owes in billions to the United States. It is this debt which England declines to pay. Apparently this is for want of funds. Because of lack of funds, England not only makes no effort to pay, but in her last budget she even refuses to announce the acknowledged debt of interest. Finally, an eminent spokesman of that gracious Nation, speaking from the floor of Parliament, said there was now no further reason to mention the subject.

Mr. President, I rise to call attention to the fact that there are two situations which we now may well bring to our attention. England has these islands which can be transferred as land to the United States for the payment of the debt, where they are so segregated and, if you please, sir, so separated that they involve no central point of her government, and do not strike the main sphere of her existence. These islands, belonging to us by their very nature, and from their possession under nature, could be transferred completely to us for all the uses we could make of them, which can in no wise be inimical to England.

In addition to this, we are now on the eve of beholding the necessity of enlarging the Panama Canal. It has been discovered that it is not sufficient for the uses of our enlarging commerce. England professes to hold some form of a previous agreement with Nicaragua by which she contends her privilege to cut a canal through Nicaragua to precede any right on the part of our own Government. In this precedent England assumes the prerogative to obstruct and to defeat the object of the United States to build this second canal, to cooperate as aid to the Panama Canal. England recalls that in taking the Suez Canal for her uses she forced France to yield up a conflicting claim of a parallel privilege held under grant from Egypt.

I therefore suggest that, as a further consideration in the payment of the debts which England owes us, she promptly transfer this claim of canal from Nicaragua to the United States. We have heretofore disputed the claim. For a while it stood in such a menacing attitude that we yielded our contention for the time, and adopted as a substitute the Panama Canal route. England, for and as payment of a

part of the debt which is now due us, may transfer the concession, whatever the nature may be, to the United States. From this we could at once perfect a complete title in our own behalf. From this we may construct the second and necessary canal in aid of the Panama Canal. By this we should project our commerce without obstruction, and assure something of a natural defense at the south of our Nation as well as that to the east.

I take the liberty of inviting the attention of this honorable body to the fact that the hour surrounding us is a serious one; and if it is possible that other nations shall be at war, though not at war with us, they could, nevertheless, punish us for services we may, as a neutral, give in commerce to some country at war, all in the discharge of our privilege of merchandising. The assailing nation could seize one of these islands lying at the very door of our country, and in the seizure use it as the base from which to assail America. Behold how defenseless we should be! On the other hand, in the possession of this property we could so conduct ourselves as to enable us to defend and protect this country against the very advance which all eyes now may behold as possible.

Mr. President, I rise to make this suggestion at this time because it seems that there is no effort being made on the part of these great debtors to pay the United States. I deplore to have to say, in the presence of these honorable colleagues of mine, that there seems to be a silence on the part of the eminent men of our Government looking to the enforcement of this payment. We seem inclined, for some reason, to let it lag, drawl, and linger. It is hoped by the debtor it may be something forgotten, or looked upon as a matter of an intrusion if it should be offered for further discussion.

I deplore that status. I am opposed to it. I want action. I want that action which shall enforce this payment; and if it be true that these honorable governments are unable to pay for lack of money, here I describe the property which they possess, which can be transferred to pay the debt with no injury to any and with some profit to ourselves.

Mr. President, the time has come when this country must look about her. This is the Western Hemisphere. We seem to forget it. Here, in this country, there should be an American continent of the continent of America. For that reason I tender the suggestion that it may receive in the proper quarter its due regard, that something be done looking toward an arrangement with these countries which have these islands in our waters for transferring such share of them as shall not injure other lands; but, sir, to contribute a payment upon the obligation due us, and something to the preservation and protection of the United States, the friend nation of all.

Having expressed the view, sir, and stated the policy, I trust my honorable colleagues will see from it that there is the second feature of protection of the Nicaragua Canal, and the construction of that great inlet and that avenue, so necessary to our future, and which should be now considered in such a way as will insure to us the title and opportunity which we must behold now, in a very short while, may become essential.

I am anxious for the protection of America. I am anxious for this continent to be preserved. I want the friendship of all other nations; but I ask that honor in the payment of debts due the United States which, if it cannot be done with money, may be done by such transfer of such powers at our own doors as become our rights as a Nation.

I thank the Senators for letting me indulge these views at this moment. Later I shall elaborate them to the completion of the expression defining our new policy—the continent of America as an American continent.

Mr. LEWIS subsequently said: Mr. President, with the consent of the chairman of the committee, I beg at this moment to give a notice.

A short while ago I addressed the Senate upon a certain subject, and refused further to elaborate, after having suggested my position, because of the anxiety of the chairman of the committee to conclude consideration of the pending

bill. I desire to give notice that at the conclusion of the consideration of the bill I purpose to elaborate the discussion which I opened this morning, and I shall also present a resolution at what I think will be the appropriate time for its consideration.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. SMITH. Mr. President, I am very anxious that the Senate should make what disposition it chooses of this bill; but in view of the statement made by the Senator from Maryland [Mr. TYDINGS] I desire the Senate again to understand the purpose of the so-called "price-fixing section."

Anyone studying the bill will see that this price fixing is predicated upon the fact that the producers and the handlers handling at least 50 percent shall get together under a trade agreement and determine the minimum price. That is not arbitrary action on the part of the Government, but is based upon the action of the producers.

All this bill purports to do is that when agreements are reached as to a minimum price, the Federal Government, insofar as it can do so in the exercise of its delegated powers under the commerce clause, will help the farmers in good faith to carry out the contract and receive the minimum price. Of course, as was reiterated to the committee, the producers can at any time ask for a cessation of the agreement, and it will be ended at once. That was repeated and reiterated before the committee.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. CONNALLY. Of course, when the producers determined upon fixing a minimum price, they would have to have some sort of vote to fix the minimum price in the whole industry.

Mr. SMITH. Yes; a minimum price for that commodity.

Mr. CONNALLY. Yes; but let us take the case of citrus fruits or anything else. When the producers once fixed that minimum price they could not unfix it unless they had another vote, could they?

Mr. SMITH. I think not.

Mr. BANKHEAD. I will say they could sign another trade agreement.

Mr. SMITH. Oh, yes; they could at any time, by a majority vote, rescind their previous action.

Mr. CONNALLY. That is what I am talking about. They would have to have another majority vote, of course, to do that.

Can the Senator from South Carolina give us any idea how long it would take in some instances? The Senator from Alabama on yesterday indicated that the minimum price could be fixed, and, if they changed their minds, in 2 days' time it could be called off. I am wondering how that can be done if it is necessary to consult everybody in an industry; and my interest in the question is as to the wisdom of fixing a minimum price for perishable commodities. While a vote was being taken, the oranges or other perishables might all rot, or the fruit might all go to the bowwows while those administering the measure were waiting on the sovereign votes of the producers.

Mr. SMITH. They can get together and fix their formula, just as is done by other trade organizations. They can, through their organization, carry out the will of the majority of the producers and fix the price as conditions may develop, just as is done by any other organization.

This is an attempt on the part of the Government to make it possible for an organization of producers to receive at least a price which they may think is a reasonable price at that time. Neither the Senator nor anyone else thinks an arbitrary price should be fixed, but it is subject to the will of the majority of the producers.

Mr. CONNALLY. Mr. President—

The PRESIDING OFFICER (Mr. ADAMS in the chair). Does the Senator from South Carolina yield to the Senator from Texas?

Mr. SMITH. I yield.

Mr. CONNALLY. Let me ask the Senator what would be an arbitrary price? They could fix any price they wanted to; so in this particular case it might be arbitrary, might it not?

Mr. SMITH. No; not if it were done by a vote of the majority. Suppose they all agree that they will have a minimum price. Perhaps it may be a minimum price today, but it may be changed tomorrow.

Mr. CONNALLY. That is what I am getting at. In other words, it is the Senator's idea that they will enter into some sort of an arrangement and empower some organization, or one man or a group of men, to fix the price when, if, and how they desire?

Mr. SMITH. Yes; certainly, as other trade organizations do.

Mr. CONNALLY. I was trying to get at that, because the debate has indicated that the producers themselves are going to do it.

Mr. SMITH. The producers do it; but they set up the organization which has been referred to.

What I wish to have the Senator from Texas understand is that this is an attempt to create an organization which will protect the price paid the farmer just as trade organizations protect their trades; and I do not think there would be any more common sense used in this than would be used in the trade agreements. Do the Members of the Senate desire to defeat this provision and leave the farmer where he now is? There is not a farmer in America raising the ordinary agricultural commodities which are generally marketed who has ever had one word to say in regard to the price of the thing he produces, nor have we ever fabricated or fashioned any kind of an organization which stood between the unorganized and defenseless producers of the raw material, on the one hand, and the organized purveyors of the things he needs, on the other hand.

The Senator from Texas knows, and I know—

Mr. CONNALLY. I would not be sure that I do.

Mr. SMITH. That there is not a farmer in his State who has ever fixed the price of a pound of cotton in Texas, a State which makes one-third of all the cotton grown in America. All in the world that the farmer does is to grow the crop and deliver it at the other fellow's price. I desire to ask the Senator this practical question, and also ask it of the whole Senate—

Mr. CONNALLY. I was going to try to answer the former question before the Senator asked another.

Mr. SMITH. I will give the Senator ample time to answer; but, since this occurs to me, I want to ask this body of intelligent men, if I do not insult them by using that adjective [laughter], how many merchants and manufacturers in and around the city of Washington would exist for 1 month if they had to sell their goods at the price which the purchaser put on them? That is a practical question that faces us as practical men.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. Yes; I yield.

Mr. BYRD. Why does not the Senator from South Carolina propose to fix the price of cotton? This bill does not propose to fix the price of cotton or the price of wheat. Why does not the Senator make an effort to fix the price of every food product if he believes in the principle of price fixing?

Mr. SMITH. That is exactly what I want done, and what I tried to do by the cooperatives; but we could not get enough farmers to come together, because there was no promise of aid. However, if the Federal Government will now say to the farmers, "So far as the Constitution will allow, if you will get together and pool your commodities, so far as we can do so constitutionally, we will aid you until you learn to walk."

Mr. BYRD. But does not the Senator realize that it is easier to fix the price of cotton than it is to fix the price of beans? He proposes to fix the price of beans which are grown in every State of the Union.

Mr. SMITH. No; I do not.

Mr. BYRD. And beans are a perishable food product; but the Senator declines to make an effort to fix the price of cotton.

Mr. SMITH. I do not know that this applies to vegetables alone. If the principle is good for one, it is good for the other.

Mr. BYRD. The bill does apply to vegetables alone, for it so says in the title. If the Senator favors price fixing, why does he not go down the line and fix the price of cotton and fix the price of wheat and fix the price of meats and of everything else which the farmer produces?

Mr. SMITH. I am not trying to get the Government to fix the price of anything.

Mr. BYRD. The Senator is advocating the bill.

Mr. SMITH. I am advocating the farmer fixing the price, as the Senator knows.

Mr. BYRD. The Senator well knows that there is nothing in this bill that gives the farmer the right to fix his prices, because the marketing agreements are made by 50 percent of the handlers, and all the farmers can do is to terminate an agreement after it has been made.

Mr. SMITH. I will read to the Senator the section. I know that there was a mistake made.

Mr. BYRD. That mistake has not been rectified as yet, either.

Mr. SMITH. It will be rectified. If the Senator wants constructively to help the farmer, he will not try to destroy a method that might help him.

Mr. BYRD. I object, Mr. President, to the Senator from South Carolina making about this bill a statement which is not correct. The bill does not give the producers the right to fix their own prices; it gives that power to 50 percent of the handlers, as the Senator well knows.

Mr. SMITH. Very well. I will read the provision to the Senator as found on page 22. It occurs under the heading "Orders With or Without Marketing Agreement."

The Senator will find under paragraph (B)—

That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein.

Mr. BYRD. Mr. President, this is a matter which I am anxious to have accurately presented to the Senate. Will the Senator read section 8, which is the first step in the establishment of marketing agreements, whereby 50 percent of the handlers can establish a marketing agreement? The second step is if the handlers decline to do that, then 75 percent of the producers may do it. That is in the bill.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. MURPHY. I think the Senator from South Carolina as well as myself have already conceded to the Senator from Virginia the acceptance of an amendment to the section to which reference has just been made providing also for the consent of two-thirds of the producers. When and if the Senator shall offer such an amendment, to that extent, as I indicated to him yesterday, there is a disposition on the part of the Senator from South Carolina, and certainly there is a disposition on my part, to accept it.

Mr. SMITH. Certainly. I asked those who were charged with the drafting of the bill why they had separated the two provisions to which the Senator from Virginia has called attention. I asked them why they had provided that if 50 percent of the handlers agreed the order as to the marketing arrangement might be made but did not include in the same section the consent of the producers. Their idea was that if they could get the consent of the handlers to handle a given product on certain terms, then it would be agreeable to the producers, for the handler was the obstruction in the way.

Let me call attention to the fact that there was a misunderstanding. When the suggestion was made by the Senator from Virginia, that there should be included the consent of the producer as well, all of them agreed and said that it would have been very much better to have included such a provision in both paragraphs. However, the chairman of

the committee honestly thought that the preceding language predicated all marketing agreements upon the action of a majority of the farmers signing the agreement.

I will say to the Senator from Virginia that wherever there is any language in this bill which throws any doubt whatever as to whether or not agreement is predicated on the consent of the farmers, I want it made clear that it must be so predicated and will offer no objection. I would not even stand on the floor as chairman of the committee to pretend to advocate the passage of this bill if I did not believe it had in it at least an effort to create a line of resistance by which the farmer could obtain at least some return for what he produces.

Mr. President, every Senator knows that the degrading influence in agriculture, that which has impoverished the farmers is their inability ever to name any price for any staple article they produce and sell.

Mr. BYRD. Mr. President, may I ask the Senator just one more question? Then I will not interrupt him further.

Mr. SMITH. I yield.

Mr. BYRD. If the Senator favors the principle of price fixing—

Mr. SMITH. By the farmer.

Mr. BYRD. Well, by the farmer or by anybody.

Mr. SMITH. I mean by the farmer.

Mr. BYRD. If the Senator favors the principle of price fixing, why not amend this bill so as to include every food product of every character and description.

Mr. SMITH. I am taking the bill as it stands, and God knows that the Senator from Virginia and every other Senator ought to help the man who produces the food we eat and the clothing we wear at least to have some say so.

Mr. BYRD. If the Senator approves price fixing, is it not his duty, holding the views he does, to move to amend this bill so as to include cotton and every other farm commodity?

Mr. SMITH. I do not want to use a term that has become universally obnoxious—price fixing. But why should not the man who is the producer of the food we eat and the raw material out of which we are clothed not be helped to name at least a reasonable return for that with which he sustains organized society?

Mr. BYRD. I agree with the Senator fully that the producer should be helped, but if the Senator thinks price fixing is the way to help him, let him move to amend the bill so as to include all other articles of food.

Mr. SMITH. Because one-sixtieth of a grain of strychnine might be a tonic is no reason why I should take a fistful. [Laughter.]

Mr. BYRD. What the Senator desires to do is to have foods and vegetables take so much strychnine that nobody will be able to eat them.

Mr. SMITH. No; but I suspect the Senator is more engaged in the production of—no, I will not make that reference.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. SMITH. Yes.

Mr. MURPHY. In effect, have we not established a minimum price already by our loans on cotton and on corn, much money having been loaned by the Government on each of those commodities?

Mr. SMITH. But it must be understood that it is treason, it is absolutely against the law of organized society and decency to stand here and make a plea for the poor degraded wretch who feeds and clothes the world. We may talk eloquently about railroads and insurance companies and factories and organized labor, but the poor devil who today is out yonder making the wheat and the corn and raising the hogs is "Mr. Hayseed", and what right has he even to be considered by the Members of this great legislative body who fill their stomachs with the products of the farm every day and come here clothed by the products of his labor? For the shirt I now wear I paid \$2.50. It is composed of 5 ounces of the simplest weave of cotton known to the manufacturer, but that cotton in the form of a shirt is sold at the rate of eight or nine dollars a pound.

Contrast that with the 8 cents a pound paid the farmer for 12 months' toil, gambling with the seasons. Anywhere from eight to twelve dollars is paid for a pound and a half of cow hide to go on your hoofs. [Laughter.] Under modern chemical processes of tanning, in 48 hours the hide is ready to be used in the manufacture of shoes; and yet it takes the rancher on the plains of the West 3 mortal years to raise a pound of hide.

We sit here and strain at a gnat and swallow a camel. Just consider the time we are losing here when we dare bring in a measure designed to help "Reuben." Oh, no, that will not do. But when it comes to a banking bill—

Mr. DICKINSON. Mr. President, will the Senator yield?

Mr. SMITH. Not right now. I am in a reasoning way and I do not wish to have my logic interrupted. [Laughter.]

A bill is going to be brought before us affecting banking, as a bill has been before us for the regulation of utilities; we have bills brought before us for many other purposes, and, oh, with what zeal they are considered. It is an everlasting and unanswerable indictment of the Members of this body that we find so great a number of protagonists for any organized industry—the implication is deadly—and yet when we begin to talk about the agricultural interests there is indifference on the part of everybody. The farmer has no lobby here. He has no organization that may directly or indirectly affect the attitude of Senators. He is numerically great, but organically disorganized. Therefore we can safely stand here and talk about the constitutional provisions which affect him in the field.

Mr. President, it is very discouraging to me. I would to God that the farmers of the country could do one of two things—organize themselves so as to be felt as a unit at the ballot box, or strike for a twelvemonth. What would happen to this country if, for the sake of his self-respect and a demonstration of his manhood and of his right to a place in organized society, the farmer should say, "If I am not to be respected, if I am not to be considered in the scheme of things, I shall withdraw from the markets. I shall not sell any food or any raw material except enough to support myself and my family." How far are our metropolitan centers from starvation? What would be the result? Yet we treat him like the nations of the earth treat disorganized China, more numerous in population than any other nation of the earth, but, with no coherence, no organization, an open door to all nations.

Cannot Senators, if they have any desire to aid, offer constructive criticism of the bill? I am disappointed in the attitude of the Senate toward the bill. If there be anything in it that will help the farmer, that can be made legal and constitutional, let us have it. Any set of ignoramuses can come here and tear down the finest building in Washington which it has taken great genius to build. Any of us can be destructive, but it takes a man of brain and character to be constructive.

Mr. President, I have made my last appeal to the Senate to treat fairly this effort on the part of the Committee on Agriculture and Forestry. I have made my last plea to preserve constructive and helpful elements of the bill. Where it is unconstitutional, let Senators suggest what can be done to make it constitutional and still preserve its efficacy so far as the farmer is concerned. But do not let us burn down our house because we think there is a rat in it.

Mr. NORBECK. Mr. President, will the Senator yield?

Mr. SMITH. Certainly.

Mr. NORBECK. There are two objections made to the bill. The first is that it is not constitutional. The second is that it is so drawn that it is constitutional. What are we to do?

Mr. SMITH. Yes; it is as I said yesterday:

I can and I can't; I will and I won't.

I am damned if I do, and damned if I don't.

It does not seem to make any difference what we do.

Mr. NORBECK. I have never seen lawyers in the Senate object to anything because it was constitutional, but now they object to a bill that is so drawn as to be constitutional, and their objection seems to be based solely on that ground.

Mr. SMITH. Mr. President, I sincerely hope the Members of this body will join with us in this effort. It is a period of transition. I acknowledge, as everyone must, that the conditions are rapidly changing in the relations of the Government to the people. All the discoveries of science have changed conditions, but the fundamental principles are still here. I beg this body, instead of offering destructive and carping criticism, to get together constructively and pass a bill that will bring some hope to the hopeless millions toiling in the fields of America.

Mr. DICKINSON. Mr. President, I think there is a genuine desire on the part of every Senator to do whatever can be done for the farmer. I do not think there is any use of chasing rainbows. I do not believe there is any use of enacting legislation which is not economically sound and which will not work. I have yet to find a single solitary illustration anywhere in history which admits that price fixing will work. It may give a temporary relief for a few minutes, but in the end it always results in disaster and distress. That has been the history of price fixing all along the line.

Mr. NORBECK. Mr. President, will the Senator from Iowa yield?

Mr. DICKINSON. I yield.

Mr. NORBECK. Does the Senator refer only to Government price fixing or does he refer to the price fixing by the trusts?

Mr. DICKINSON. I am referring to Government price fixing.

Mr. NORBECK. The trusts seemed to be able to fix prices and to make them stick.

Mr. DICKINSON. I do not agree with the Senator on that point. I think prices follow the law of supply and demand. There may be some little marginal profit in it somewhere that the Senator from South Dakota does not like, but, in the end, I have found that every effort on the part of the grain exchange, or of any individual, to fix prices has always resulted in disaster and ultimately in collapse. That is the history of the board of trade at Chicago. It is the history of every other effort that has ever been made along artificial price-fixing lines.

Mr. President, I desire to consider for a few minutes the question of whether the Senate is doing a thing that should not be done in the face of the record of the legislation to date. For instance, there has just been rendered a decision in the circuit court of appeals in the city of Boston in the case of Franklin Process Co. against Hoosac Mills Corporation. I have here the brief filed by the complainant and also the brief filed in behalf of the Government. On page 48 of the brief of the receivers, I find this contention:

The Constitution contains no clauses or provisions delegating to the United States the power to regulate, fix, or control prices or to control manufacturing, agriculture, and trade except interstate or foreign commerce. It is even more evident that it gives no power to improve the economic conditions of any class of citizens or to redistribute the wealth of the country, nor can such power be held to be implied for implied powers must clearly and directly appropriate to the carrying out of the granted powers, and such powers have never been held to exist if the connection is remote or uncertain. * * *

(*United States v. DeWitt*, 9 Wall. 41; *Loan Asso. v. Topeka*, 20 Wall. 655.)

It is beyond the power of the Federal Government to reclaim arid lands although there may be arid lands in need of reclamation and the Federal Government is the only organization large enough to accomplish it. Such a power is one of those reserved to the States.

Citing *Kansas v. Colorado* (206 U. S. 49-91).

In other words, there is the main contention with reference to price fixing in a case which has just been decided in the circuit court of appeals in the city of Boston.

A press dispatch of today reads as follows:

Boston, July 16.—The cotton textile and other processing taxes, under the Agricultural Adjustment Act, met the fate of the N. R. A. codes today.

In the Federal circuit court of appeals here the processing taxes were declared unconstitutional on two grounds.

One was that Congress had no authority to regulate the production of cotton, which is primarily under control of the States.

The other ground was that the law itself is an improper delegation of authority.

Judges Scott Wilson and George F. Morris concurred in the decision.

Judge George H. Bingham dissented.

At Washington, Government attorneys said a prompt appeal to the United States Supreme Court will be taken.

Why do we proceed to do a thing which we do not know to be within the letter of the law, and keep on amending and attempting to amend the existing law, when as a matter of fact the fundamental principle involved in this case is exactly the same as that in the Agricultural Adjustment Act as it was originally passed? And if the original law is unconstitutional by reason of the two grounds set forth, these amendments likewise would be clearly unconstitutional.

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield.

Mr. FRAZIER. This decision, as I understand, affects only the district in New England and, of course, will not be final until the Supreme Court shall have passed upon the matter.

Mr. DICKINSON. It affects all the processing taxes to be collected in that district, and will be a precedent for every other circuit court of appeals in the United States. Of course, it will not become national law until it shall have been passed on by the Supreme Court of the United States.

Mr. FRAZIER. Of course, the other circuit courts of appeal do not necessarily follow the precedent this court has set, nor does the Supreme Court. In the recent decision on the amendment to the Farm Bankruptcy Act passed at the last session, two district courts held it to be unconstitutional, and the Supreme Court held the other way.

Mr. DICKINSON. Oh, yes. I am perfectly familiar with the right of the courts in the different areas to reach different conclusions.

Excerpts from the decision handed down today in Boston by the United States circuit court of appeals are as follows:

The Government contends that Congress does not seek by the act to interfere with the State's control over agriculture, inasmuch as the reduction of acreage and of production of either of the basic agricultural products depends on voluntary agreements by the producers, and the processing and floor taxes depend on the execution of such agreements to reduce production.

Citing *Massachusetts v. Mellon* (262 U. S. 447).

But it is clear, we think, under the recent decision of the Supreme Court in the Schechter Poultry Corporation case, decided May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz: to control or regulate the production of agricultural products in the several States by the methods adopted in this act, is beyond the power of Congress (*Kansas v. Colorado* (206 U. S. 406), *Flint v. Stone Tracy Co.* (220 U. S. 107)).

The processing and floor taxes are not dependent on the execution of agreements to reduce acreage or production alone, but on the determination by the Secretary without any foundation other than his own opinion that the existing economic emergency demands that to accomplish the declared purpose of the act, rental or benefit payments shall be made. The imposing of the taxes automatically follows. The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose deemed by Congress in furtherance of the "general welfare", but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.

The issue of whether, under the act, there has been an unauthorized delegation by Congress of its legislative powers is decisive of the case before this court. Except as a premise for the conclusions which follow, it is unnecessary to restate what has been so often reiterated by the courts, viz: that the Federal Government is a government of enumerated powers, and Congress cannot delegate legislative powers to the executive department. The line between grants of legislative powers and the authority to perform a purely administrative function, as drawn in the decisions, may at first blush appear wavy instead of straight, notwithstanding the rule has been often definitely stated.

The decree of the District Court is reversed, and the case is remanded to that court with directions to enter a decree for the appellants.

As a matter of fact, that simply gives a synopsis of the decision rendered in this case. The two grounds set forth, it seems to me, are in no way clarified by the amendments now proposed here. If the original act is unconstitutional upon the grounds stated, the original act as amended by these amendments must fail.

There have been numerous suggestions along this line. I think it was only yesterday, or the day before, that the circuit

court of appeals in Cincinnati held the act authorizing condemnation of land for subsistence homesteads to be unconstitutional, on the theory that the Government under the Constitution has no right to condemn lands for that purpose, or to use or expend public money therefor.

I remember that in the T. V. A. case a similar question arose; also, in the farm-tenant case, the Bankhead bill, with reference to the right of the Government to issue bonds guaranteed by the Government, endorsed by every taxpayer in the country, to buy land for speculative purposes, to be sold out in allotments to individuals. In other words, we are stretching and trying to write into the Constitution all along the line authority which is not there.

I read now from pages 36 and 37 of the reply brief of the United States, giving some of the views of the Government with reference to what may be done:

As a final reply to the contention of the receivers that the use of the proceeds of the processing taxes for rental and benefit payments is class legislation since they inure to the individual advantage of producers of basic agricultural commodities, the language of the court in *Coster v. Tidewater Co.* (18 N. J. E.), pages 518, 523, 524, is adopted:

"The legislative power is not competent to take the property of A and transfer it to B, simply for the benefit or convenience of B, because such an act has no public aspect; it concerns and affects, exclusively, the two individuals. In such case, it would be within the authority of the judiciary to pronounce such transfer unconstitutional and void. But if the sequestration of the property of A will, to a material extent, be serviceable to the public at large, whether such sequestration shall take place, must be committed, as a pure matter of discretion, to the legislature, provided such discretion be exercised in good faith, and does not rest, incontrovertibly, upon a false foundation."

In other words, it is my belief that in order to take property from A and transfer it to the general public, there must be vested in the property something of a public-interest nature. It must be of the type of transportation; it must be some type of service which is recognized as being imbued with a public interest. I do not believe it can be the mere matter of producing crops, or the mere matter of the production of any commodity, or the mere matter of the price which may be received for a commodity in one locality as against another price. Therefore, I contend that the Government, in its effort to sustain this law, is again attempting to write into the general rule of the law a condition which really is not there.

I presume there are a great many Members of the Congress who, if the roll were called today, would vote to charge the production of foodstuffs in the country with a public interest. I do not think we can do it under the Constitution. I do not believe it would be a good thing if we could do it under the Constitution, because, on the whole, I think we are trying to impose too much responsibility upon the Government. In other words, if a certain condition exists in one locality, I can see how the power of the State, the inherent power of the people themselves in that locality, will rise to a point where they will overcome that condition in their own right.

I can see how the problems of California ought not to be made the problems of Maine. I can see how the problems of Minnesota ought not to be made the problems of Florida. On the other hand, if we bring together all the problems of all those States which have to do, not only with agriculture but with all other phases of society, all the social-economic problems that can be gathered together and lay them on the doorstep of the Federal Government, we shall find that the Government is no longer able to function, and sooner or later it will fall of its own weight. That is the danger I see in many of the steps we are now taking.

Only a few days ago I secured a copy of the new book, *The Liberal Tradition*, by Lewis W. Douglas. There can be no partisanship so far as Mr. Douglas is concerned. He was formerly Budget Director for the present administration.

From page 52 I begin the quotation:

Expressly this language means a system of planned prices. Its implications, however, are much greater, for under it the Federal Reserve Board is practically directed to control the activities of every industry and of every productive enterprise in the United

States. It must be viewed not alone and as an isolated proposal but in connection with the many other attempts to circumscribe our activities by governmental dicta and to plan our economy.

Then he gives the various efforts.

Some of the many other attempts to plan our economy may be listed as follows:

- (1) The Agricultural Adjustment Administration Act and its clarifying amendments, which vest in the Executive complete power to plan agriculture and all processing of agricultural products.
- (2) The National Recovery Administration, which vests in the Executive complete control of all industry and commerce.
- (3) The Wagner labor bill, which centralizes control of all employer-employee relations.
- (4) The Guffy coal bill, which in effect socializes coal mines.
- (5) The Securities Act, which, even as amended, tends to make the United States Government the exclusive capitalist.
- (6) The Social Security Act, immaturely considered, which tends to socialize all savings.

We could go much further than that. He has not itemized them all. There could be included the Bankhead Land Socialization Act, to which I have heretofore referred, and also the Tennessee Valley Authority Administration.

The question in my mind is whether or not we are laying on the doorstep of the Federal Government more responsibility than it should assume; and in the end, instead of bringing relief to the people, instead of affording a solution of any of the problems, will it not bring about a collapse that will be worse than the existing condition?

I read from page 54 of the same book:

The case is strong against the planners. Experience proves that no group, however divine may be its spark of intelligence, is able successfully to plan the various activities of men engaged in hundreds of thousands of different fields and employed in the production of hundreds of thousands of articles which go to make up our complicated modern social and economic organism.

From page 101, I read the following:

The fallacies of a planned economy, too, have been analyzed. Its complete incompatibility with both freedom and equality and with the survival, existence, and growth of a vital middle class; the universal poverty which it causes; the social evils which it intensifies; the despotism which it makes inevitable. And it has been shown, also, that the present pseudo-planned economy leads relentlessly into the complete autocracy and tyranny of the collective state.

I now wish to refer to the issue of the Saturday Evening Post of today. It contains an article from which I think we can learn something. It refers to the lessons of history of years ago.

I know that there are a great many people who say we do not need to pay any attention to the signposts of history, that we can ignore them in economics, that we can ignore them in all walks of life; but usually we will find as we proceed that, unless we pay attention to the signposts of history, we fall into the very pitfalls into which the people of various other countries have heretofore fallen.

On page 36 of the Saturday Evening Post which appeared today, there appears an article by Raymond G. Carroll from which I read:

Why did the splendid, yes, magnificent, civilization of the Roman Empire sink into the blackness, the chaos, and the misery of the Middle Ages? Why did Rome prove unequal to her problems? What were the causes of her decline? In the answers to these questions are there any lessons for modern minds? Some do find them there.

The ancients had their antiquity, which we may assume to have been regarded by them with a share of the same disdain which we affect toward all the prior generations which we see massed behind us. It is not the habit of those who wear the garments of trail blazers to cast a scrutinizing eye back over remote persons and events. Yet the ancients were pretty much the same as we are.

The Roman Emperor Diocletian, in 301 A. D., promulgated an edict fixing a maximum price for provisions and other articles of commerce, and a maximum wage for every service, whether by a common laborer, an experienced lawyer, or physician. He was warned against price fixing and wage making by the abortive attempts in the same direction by the Assyrians, the Persians, and the Egyptians centuries before, but all experience was brushed aside.

There was but one penalty for a violation of the edict of Diocletian, engraved on stone and set up in every market place throughout the Roman Empire, and that was death, both for the one who asked for an excess of the official price and for the one who paid it. Deportation was an alternative penalty in

extreme extenuating cases. Trade was thus forbidden to fluctuate, exactly as now, and no allowances were made for differences of conditions of production or transportation.

What happened in Rome? The Diocletian edict, plus the commercial speculation of insiders and several bad harvests, ruined the commerce of the Empire. The depreciation of the currency that followed brought about a return to a system of barter, and Romans no longer bought and sold on credit or with the aid of money. Under Diocletian, the Senate became a political non-entity, the last traces of republican institutions disappeared and were replaced by an absolute monarchy approaching to despotism.

Mr. President, that gives some idea of what the experience has been. When we analyze the civilization of Rome we find that they had many of the things we now have; and to say that we are so much superior to them that we can avoid all the pitfalls into which they fell would be sheer egotism on our part.

Much of the article quoted has been heretofore referred to in various articles. I find something quoted here from Governor Hadley, of Missouri, which I think is well worth while. He said:

Destroying the right of private ownership of property, denying to a man of talent and ability the right to advancement or extra reward for his services, brought upon the Roman world a social, industrial, and economic break-down that was the natural result of these efforts to run counter to the inflexible rules of human nature and the inexorable laws of supply and demand. Then, as always in the history of the world, have such efforts not only failed but produced a melancholy train of misery and misfortune. Hope and ambition were banished from the hearts and minds of men.

Mr. NORBECK. Mr. President—

The PRESIDING OFFICER (Mr. MOORE in the chair). Does the Senator from Iowa yield to the Senator from South Dakota?

Mr. DICKINSON. I yield.

Mr. NORBECK. Does the Senator believe that price fixing brought on the decline in the civilized world, which extended all over Europe and was not confined merely to the Roman Empire? The Senator must admit that the period referred to was one when everything was breaking down.

Mr. DICKINSON. Are we not now in a period when everything is breaking down?

Mr. NORBECK. But does the Senator attribute the break-down in the Dark Ages to price fixing?

Mr. DICKINSON. That was one of the causes.

Mr. NORBECK. The Senator says one of the causes.

Let him be fair. That is only one of the many things that have happened to the farmers and caused their present lamentable condition.

Mr. DICKINSON. If the Senator from South Dakota thinks he is any better friend of the farmer than I am, very well.

Mr. NORBECK. I have heard the Senator from Iowa complaining here about the lack of profits for industry. I have heard him say here that industry is getting into the red on account of conditions. Are not all the Iowa farmers in the red? I have heard the Senator say nothing about that.

Mr. DICKINSON. I have mentioned that a good many times. The Senator listens when he wants to listen, and does not the rest of the time.

Mr. NORBECK. The Senator from Iowa stood for the Hoover farm relief bill. That brought a dark age in the United States among the farmers.

Mr. DICKINSON. The same thing exactly is being done under the A. A. A. The Government is lending on cotton at 12 cents, and it loaned on wheat at \$1.25.

Mr. NORBECK. The difference is, I voted—

Mr. DICKINSON. Let me finish stating my position.

Mr. CONNALLY. Mr. President, I would like to have order on the other side of the Senate. [Laughter.]

Mr. DICKINSON. The collapse of civilization has never come about from one thing.

Mr. NORBECK. Exactly.

Mr. DICKINSON. I am not contending that price fixing is the only thing that helped bring about the collapse of the Roman Empire. Nor am I contending that price fixing is the one thing we ought now to avoid. I contend that there are many things we ought to avoid.

Now I shall make further reference to where we are drifting. I hold in my hand a publication dated July 15, 1935, entitled "Foreign Crops and Markets", issued weekly by the Foreign Agricultural Service, Bureau of Agricultural Economics, United States Department of Agriculture, Washington, D. C.

I find there are numerous pages of this text—I do not know that there is any authority for its publication—which is given over to the Soviet agricultural program in Russia. I find, before I turn to that particular phase, that United States competitive agricultural imports are now declining. I am glad to hear that. Here, however, is one statement I wish to read. On the bottom of that page I find this statement:

The volume of imports of meat and meat products was nearly double the amount taken last year, 74,000,000 pounds this year as compared with 41,000,000 pounds for 1933-34. Most of this gain is accounted for by the increase in imports of canned beef, which have risen from 37,000,000 pounds during the 1933-34 period to 64,000,000 for the current season.

As a result of the drought and the consequent forced slaughter of thousands of head of livestock last year, there exists a large surplus of hides and skins.

As a former Member of the House, I remember that a few years ago there was, in the House of Representatives, a strenuous fight, which lasted some 4 or 6 weeks, on the question of putting a tariff on hides. We finally succeeded in putting a tariff on hides. I think we ought to try to see that the importation of hides are not again increased. We want to hold that market here in our own country.

I continue to quote:

Butter is the only item in dairy products to show much change from last year. The volume of imports of this commodity in the current July-May period was roughly three times as large as the volume for the corresponding months of 1933-34.

Turning to page 62, I find that the importations of butter for 1934-35 were 20,956,000 pounds, as against 689,000 pounds in 1933-34. In other words, the imports were more than 26 times greater.

Mr. NORBECK. The Senator contends that we should maintain our own market for the production of hides. How does the Senator think we ought to do that?

Mr. DICKINSON. I think we could do it if we had a higher tariff on hides.

Mr. NORBECK. Has it ever occurred to the Senator that hides are not a product in themselves? Hides are a by-product. Provision first has to be made as to what to do with the carcass.

Mr. DICKINSON. As a matter of fact, we are importing a great deal of beef all the time.

Mr. NORBECK. But what percentage? The Senator quoted certain figures, but does that represent 1 percent or half of 1 percent?

Mr. DICKINSON. I could not give the Senator the percentage, but I think it is 6 percent.

Mr. NORBECK. Following one of the worst shortages of crops we have ever had.

Mr. DICKINSON. The point I desire to make to the Senate, however, is that we cannot fix the price of an animal on one product alone. It is not only the T-bone steak that is involved; it is the chuck; it is the hide; it is the hoof and the hair.

Mr. NORBECK. The Senator said that there was a great struggle in the other House on the question of a tariff on hides. Hides are not a product. Hides are just a part of the animal.

Mr. DICKINSON. I said we had a fight on putting a tariff on hides, and we had a hard time getting a tariff put on hides, and I think the Senator from South Dakota voted for it.

Mr. NORBECK. Yes; but I did not vote for the Hoover farm-relief program, and the Senator from Iowa did.

Mr. DICKINSON. The Senator from South Dakota, however, is supporting a plan which is along the same lines as one which has been tried before.

Mr. NORBECK. The Hoover farm-relief plan brought us nothing, and at the time it was before us a Senator from New

England said it was not going to bring us anything. He said: "Senator NORBECK, I am going to vote for it, although there is nothing in it except to give Uncle Sam a chance to lose some money, and he can afford to do it." He was right. The farmer got nothing out of the Hoover farm bill.

Mr. DICKINSON. Beginning at page 53, and running to page 57, I find the entire article in this Foreign Crops and Markets given up to an amplification of the scheme of agricultural control in Russia. Quoting from page 53:

The Soviet Government is confronted with the problem of organizing the harvesting campaign and gathering the crop in the shortest possible time and with a minimum loss. In former years, good crops in the field have been materially reduced through the inefficiency of harvesting operations and a noncooperative attitude among the members of certain collective farms.

Further down it is said:

A field will be considered fully harvested and cleared of grain only with the approval of the chairman of the collective farm or the manager of the state farm.

COTTON

It is expected that this year's cotton production will reach 2,342,000 bales (of 478 pounds) compared with 1,736,452 bales in 1934. For this reason the Soviet Government has been paying particular attention to the cotton crop.

We are paying a bonus in this country to keep our people from raising crops. We are imposing upon them a restriction, saying they must not raise cotton. I quote further:

The Commissariat of Agriculture of the Soviet Union must outline the chief measures concerning the cotton season. Special attention must be paid to the question of planning the entire work in the fields, labor-hours, wages, full utilization of equipment, and particularly measures which would induce the farmers to exert themselves to the best of their ability.

The immediate concern of the Soviet Government is not only to coordinate all types of harvesting work, but it is also concerned now with the delivery of grain to the state, i. e., with the fulfillment of the 1935 agricultural-procurement program.

Mr. President, instead of having ever-normal granaries over there, they have what is known as the Government production program. After the farmers have raised so much grain and turned it into the hands of the Government, they may have for their own utilization whatever amount they have left. In other words, if there is a crop failure, the farmer must turn over to the Government his entire quota before he may have any left for himself.

Continuing to quote from page 54 of this report:

The struggle for grain, for the fulfillment and overfulfillment of the grain-collection plan, remains with us a component, inseparable part of our entire work aimed toward the completion of the foundation of the Socialist economy. The grain-collection plan is the most important component part of the general national economy, which to a considerable degree determines our resources for the further development of Socialistic reconstruction.

Judging by recent official statements this pronouncement still holds true in 1935. It is for this reason that the Government is not sparing any effort this season to insure the fulfillment of the plan according to schedules already announced.

The 1935 plan is in all essentials similar to the one introduced in 1933. Its outstanding feature is the substitution of a fixed grain tax levied upon each cultivated hectare of the land for the former contract system of grain collection. The collective farmer is paid for the grain delivered in this manner at a price fixed by the state. The total of these tax obligations is determined by the area already sown.

Then the report proceeds to show how they sow and how they reap. Quoting further:

Yet another measure which aims toward a speedier delivery of grain is the provision of the resolution which eliminates any trade in grain, both by the collectivized and individual farmers, or any buying of grain by the State cooperative organizations, beginning July 1, 1935.

In other words, they are simply put out of business so far as grain production is concerned.

I continue to quote:

The trade in agricultural products may be resumed only after the grain collection plan has been completed, the farmers' obligations to the machine tractor stations discharged, and seed has been set aside for fall and spring planting.

In other words, the farmers must rent the tractor, and they must pay the rent before they may have any seed, and

a certain amount is set aside for sowing in the fall of the year. This statement gives some impression of how a collectivized or socialized agriculture proceeds.

I continue to read from page 56:

The distribution of income in the collective farms in accordance with the principle of "whoever works more and better receives more", may also play an important part in bringing about a successful harvesting season. The quality of production as a most important criterion in determining the remuneration of the collective farmers is stressed in all decrees dealing with the organization of labor in the collective farms. If, for instance, a member of a collective farm plows 1 hectare (2.47 acres) in 1 working day, which is the nominal, he is credited with 1 labor-day; should he only plow one-half of a hectare in 1 working day he is credited with one-half of a labor-day; but if he plows 1½ hectares in 1 working day, he is credited with 1½ labor-days.

Such, in the main, are the measures intended to insure a successful harvesting season and a fulfillment of the procurement plan. The chief reliance of the Government seems to be not upon mere issuance of orders, drawing up of resolutions, and other forms of management on paper, but, on the contrary, upon a tendency away from administrative fiat and toward an appeal for the cooperation of the collectivized peasantry, expressed in terms of mutual economic advantage.

The strange thing is that just at the time when we are considering here an amendment to the A. A. A. Act, which is the ever normal granary plan for our country, the Department of Agriculture, through its foreign agricultural service, finds it necessary to devote about three-quarters of its weekly publication to an emphasis of what is really happening under the planning system in Soviet Russia so far as agriculture is concerned.

I do not say there is any connection between the two, except the conclusions we may draw that one plan is like the other. If we are working to that end this plan will not help the farmers of any State in the Union, but in the end will be their undoing. The farmers have been the greatest individualists and I believe are the greatest individualists we have today. They want to proceed in their own way. They do not want to have someone tell them how and when to plant and how much they may sell or how much they shall curtail their crops.

In conclusion, I want to quote from Walter Lippmann in today's New York Herald Tribune, in which he speaks about planning:

My friend, Mr. Mark Sullivan, may see in all this the deep planning of a highly intellectualized "brains trust." But to my eye it looks much more like the absence of any plan and the lack of intellectual effort, the work of tired brains, relying on their wishes and their prejudices and throwing out casual suggestions which they are too hot and bothered to think about.

For these reasons it is my hope the amendment will be rejected. In the end, I think it would be a splendid thing if the bill should be sent back to the committee whence it came for reconsideration. I do not believe, under the circumstances, that the Supreme Court can hold the A. A. A. Act, as amended, to be constitutional, and for that reason I shall vote against the amendment.

The PRESIDING OFFICER. The question is on the committee amendment on page 18, line 21.

Mr. BYRD. Mr. President, I make the point of no quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Chavez	Holt	O'Mahoney
Ashurst	Clark	Johnson	Pope
Austin	Connally	Keyes	Radcliffe
Bachman	Copeland	King	Reynolds
Bailey	Costigan	La Follette	Robinson
Bankhead	Davis	Lewis	Russell
Barbour	Dickinson	Loneragan	Schall
Barkley	Dieterich	McCarran	Schwellenbach
Bilbo	Donahey	McGill	Sheppard
Black	Duffy	McKellar	Shipstead
Bone	Fletcher	McNary	Smith
Borah	Frazier	Maloney	Townsend
Brown	George	Metcalf	Trammell
Bulkeley	Gerry	Minton	Truman
Bulow	Gibson	Moore	Vandenberg
Burke	Gore	Murphy	Van Nuys
Byrd	Guffey	Murray	Wagner
Byrnes	Hale	Neely	Wheeler
Capper	Hatch	Norbeck	White
Caraway	Hayden	Norris	

The VICE PRESIDENT. Seventy-nine Senators have answered to their names. A quorum is present. The question is on the committee amendment on page 18, after line 20, to insert paragraph (G).

Mr. BYRD. Mr. President, I shall detain the Senate for only a moment.

The Senator from Vermont [Mr. AUSTIN] yesterday asked a question to which at the time I was unable to respond. He asked whether or not paragraph (G), at the bottom of page 18, had anything to do with the control of the prices of milk.

In answer to that question I desire to say that that paragraph has nothing to do with the control of milk prices; and that opinion is confirmed, as I understand, by the chairman of the committee, the Senator from South Carolina [Mr. SMITH].

I am very sorry that the vote cannot be taken at the same time on paragraphs (F) and (G), as they are related. I desire to say to the Senate that in the event the committee amendment known as "paragraph (G)" shall not be agreed to, and later on the Senate shall decline to eliminate paragraph (F), I shall move to reconsider the vote on paragraph (G), because either both paragraphs should be in or both should be eliminated.

The VICE PRESIDENT. The question is on agreeing to the committee amendment designated as paragraph (G), at the bottom of page 18.

Mr. BYRD. Mr. President, as I understand, the parliamentary situation is that a vote in the negative is a vote against confirming the action of the committee.

The VICE PRESIDENT. This is a committee amendment which the Senate must vote into the bill if it is to become part of the bill.

Mr. VANDENBERG, Mr. BYRD, and Mr. NORBECK called for the yeas and nays, and they were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. McNARY. Mr. President, a parliamentary inquiry.

Mr. BARKLEY. Mr. President, I desire to propound a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Oregon has already risen for that purpose.

Mr. McNARY. It is probably of the same nature. The question, as I understand, is on agreeing to the committee amendment.

The VICE PRESIDENT. The question is on adopting the committee amendment. Those who desire the committee amendment to be adopted will vote "yea". Those opposed to it will vote "nay." The clerk will continue the calling of the roll.

The Chief Clerk resumed the calling of the roll.

Mr. McNARY (when his name was called). On this question I have a pair with the senior Senator from Mississippi [Mr. HARRISON], and therefore withhold my vote. If the Senator from Mississippi were present he would vote "yea", and if I were at liberty to vote I should vote "nay."

The roll call was concluded.

Mr. DAVIS (after having voted in the negative). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN]. If he were present, he would vote "yea." I transfer my pair to the senior Senator from Delaware [Mr. HASTINGS], who would vote "nay" if present, and will allow my vote in the negative to stand.

Mr. AUSTIN. I announce the necessary absence of the Senator from Oregon [Mr. STEIWER] and the Senator from California [Mr. McADOO], who have a general pair. If the Senator from Oregon were present, he would vote "nay." I am not advised how the Senator from California would vote.

Mr. FRAZIER. My Colleague [Mr. NYE] is absent. He has a general pair with the senior Senator from Virginia [Mr. GLASS]. If my colleague were present, he would vote "yea"; and I understand the Senator from Virginia if present, would vote "nay."

Mr. BULKLEY (after having voted in the negative). I announce my general pair with the senior Senator from Wyoming [Mr. CAREY], who is necessarily absent. I under-

stand that a special pair has been arranged for him on this question, so I will allow my vote to stand.

Mr. LEWIS. I desire to announce that the junior Senator from Massachusetts [Mr. COOLIDGE], the senior Senator from Massachusetts [Mr. WALSH], the Senator from Virginia [Mr. GLASS], the Senator from Mississippi [Mr. HARRISON], the Senator from Kentucky [Mr. LOGAN], the senior Senator from Louisiana [Mr. LONG], the Senator from California [Mr. McADOO], the junior Senator from Louisiana [Mr. OVERTON], the Senator from Nevada [Mr. PITTMAN], the Senator from Oklahoma [Mr. THOMAS], the Senator from Utah [Mr. THOMAS], and the Senator from Maryland [Mr. TYDINGS] are necessarily detained from the Senate.

I wish further to announce a special pair between the Senator from Oklahoma [Mr. THOMAS] and the Senator from Wyoming [Mr. CAREY]. I am not advised how the Senator from Oklahoma would vote on this question. The Senator from Wyoming [Mr. CAREY] would vote "nay."

I wish also to announce a special pair between the Senator from Utah [Mr. THOMAS] and the Senator from Maryland [Mr. TYDINGS]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Maryland would vote "nay."

Mr. AUSTIN. I desire to announce that the Senator from Wyoming [Mr. CAREY], the Senator from Delaware [Mr. HASTINGS], the Senator from North Dakota [Mr. NYE], and the Senator from Oregon [Mr. STEIWER] are necessarily absent.

The result was announced—yeas 40, nays 38, as follows:

YEAS—40

Austin	Costigan	McGill	Reynolds
Bankhead	Duffy	McKeller	Robinson
Barkley	Frazier	Minton	Russell
Bilbo	Gibson	Murphy	Sheppard
Black	Guffey	Murray	Shipstead
Brown	Hayden	Neely	Smith
Bulow	Holt	Norbeck	Trammell
Byrnes	Johnson	Norris	Truman
Capper	La Follette	O'Mahoney	Van Nuys
Caraway	Lewis	Pope	Wheeler

NAYS—38

Adams	Chavez	Gerry	Moore
Ashurst	Clark	Gore	Radcliffe
Bachman	Connally	Hale	Schall
Bailey	Copeland	Hatch	Schwellenbach
Barbour	Davis	Keyes	Townsend
Bone	Dickinson	King	Vandenberg
Borah	Dieterich	Loneragan	Wagner
Bulkley	Donahay	McCarran	White
Burke	Fletcher	Maloney	
Byrd	George	Metcalf	

NOT VOTING—18

Carey	Hastings	Nye	Thomas, Utah
Coolidge	Logan	Overtton	Tydings
Couzens	Long	Pittman	Walsh
Glass	McAdoo	Steiber	
Harrison	McNary	Thomas, Okla.	

So the amendment of the committee was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 156. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the city of Perth Amboy, N. J.;

S. 2904. An act to prohibit the interstate transportation of prison-made products in certain cases;

S. 3038. An act to authorize the transfer of certain lands in Rapides Parish, La., to the State of Louisiana for the purpose of a State highway across a portion of the Federal property occupied by the Veterans' Administration facility, Alexandria, La.;

H. R. 298. An act for the relief of Jack Page; and

H. R. 617. An act for the relief of Lake B. Morrison.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 3492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. BORAH. Mr. President, I call the attention of the Senator from South Carolina to page 16, the amendment

which yesterday I asked to have go over. We may dispose of it now. I withdraw any opposition to the amendment involving soybeans, so that may be disposed of.

Mr. SMITH. May we have a vote on it?

The VICE PRESIDENT. There was so much confusion in the Chamber that the Chair was not able to hear what the Senator said.

Mr. SMITH. On page 16 the amendment to add the word "soybean" was passed over yesterday by request.

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 16, line 11, as amended.

The amendment, as amended, was agreed to.

Mr. BYRD. A parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BYRD. I intend to move to strike out subsection (F) at the proper time. Will it be in order at that time for me to move to reconsider the vote by which subdivision (G) was adopted? Those are related provisions. If the chairman of the committee could give me assurance that he would not object to a reconsideration of the vote in the event the Senate should strike out subdivision (F)——

The VICE PRESIDENT. The Senator is within his parliamentary right in making a motion to reconsider the vote within 2 days. If the bill is passed, after 2 days the Senator would not have the right to make such a motion.

Mr. BYRD. I will make the motion to reconsider at the proper time.

The VICE PRESIDENT. If the Senator will permit the Chair, the Chair does not believe the Senator is in a position to make a motion to reconsider, having voted on the losing side.

Mr. BYRD. I had an agreement with the chairman of the committee.

Mr. ROBINSON. Mr. President, I suggest to the Senator from Virginia that that issue can be raised when subdivision (F) is acted upon.

Mr. BYRD. I simply wanted to serve notice on the Senate that they were related provisions.

Mr. ROBINSON. The Chair has suggested that the Senator from Virginia is not in a position to make a motion to reconsider. If subdivision (F) shall be voted out, there will be no difficulty about a reconsideration of the vote on subdivision (G); but the question as to subdivision (F) must first be disposed of, and there is no occasion now for raising the issue of reconsideration.

With the approval of the Chairman of the Committee on Agriculture and Forestry, in charge of the pending bill, I should like to submit a request for unanimous consent to limit debate during the further consideration of the bill.

I ask that debate be limited so that after the conclusion of the business of the Senate today no Senator may speak more than once nor longer than 30 minutes on the bill, nor more than once nor longer than 15 minutes on any amendment that may be pending or that may be offered.

Mr. McNARY. Mr. President, I regret that I am not in a position to consent to the proposal made by the Senator from Arkansas. There are several important amendments yet to be discussed, and they may be fully discussed. There are some Members of the Senate absent who might desire to discuss the questions, and at this time I could not consent to the proposed limitation. However, I am willing that it should be considered tomorrow sometime during the discussion of the unfinished business.

Mr. ROBINSON. I may say that I had intended offering the request yesterday. I discussed the subject with the Senator from Oregon, and understood that he was not in a position yesterday to consent to such an arrangement, but felt that he might be today. If he is not in a position to do so, if the debate is to be continued without limit, which would mean, of course, that lengthy speeches might be made on irrelevant subjects, I shall feel that it will be necessary for the Senate to continue in session longer than heretofore. We have been proceeding in a leisurely way, and we may have to change that procedure. At the suggestion of the Senator from Oregon, I spoke to a large number of Senators, and found them all in accord with the proposal I have sub-

mitted. I do not know of anyone, save the Senator from Oregon, who objects to a limitation on the debate; but, of course, the request is subject to objection, and I can make no further suggestion at this time.

Mr. McNARY. Of course, Mr. President, we all yield, and we try to yield gracefully in the face of facts. I had hoped we might come to an agreement, and I still hope so. But this is not the last day of the world. I am willing to meet this suggestion tomorrow, and will meet it fairly, as I always do meet suggestions. I am not in a position now to agree to the proposal, and I shall object.

The VICE PRESIDENT. Objection is heard, and the clerk will state the next amendment passed over.

The next amendment passed over was, on page 19, line 8, after the word "more", to insert "of the following"; and after line 10, to insert the following:

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

Mr. KING. Mr. President, may I inquire of the chairman of the committee just what the implications are that will arise from this amendment? Does it mean that milk and all its products shall be subject to all the terms of the law?

Mr. SMITH. No; it is simply a provision for the filing of the price subject to change at any time. It is simply that the price must be filed so that the public will be advised as to the prices paid.

Mr. KING. If it is desired later that there should be some change in the assumption of control over milk, there would be no objection to returning to this for further consideration?

Mr. SMITH. Milk is excepted.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The VICE PRESIDENT. The clerk will state the next amendment passed over.

The next amendment passed over was, on page 19, in line 16, before the word "Providing", to strike out "(B)" and insert "(C)"; in the same line, after the word "the", to insert the words "appointment or"; in line 18, before the word "selection", to insert "appointment or"; in line 19, after the word "which", to strike out "among other things,"; and, in line 20, after the word "include", to insert "only"; so as to read:

TERMS COMMON TO ALL ORDERS

(7) In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the appointment or selection by the Secretary of Agriculture, or a method for the appointment or selection, of an agency or agencies and defining their powers and duties, which shall include only the powers.

The amendment was agreed to.

Mr. COPELAND. Mr. President, the Senator from South Carolina will recall that on yesterday I suggested the insertion of some language on line 18, page 19, and I assume that because that is not a committee amendment the Senator would prefer to have it go over.

Mr. SMITH. In which line?

Mr. COPELAND. Line 18, after the word "agencies", it was agreed that there should be inserted in parentheses the words "which in the case of milk shall be a market administrator." That was agreed to yesterday, but I assume the Senator would prefer to have it go over?

Mr. SMITH. Yes.

Mr. MURPHY. I may say to the chairman of the committee that I assured the Senator from New York yesterday that, in my opinion, the chairman of the committee would have no objection to the acceptance of the amendment proposed by the Senator.

Mr. SMITH. However, as we are going through committee amendments, and this would be an amendment to the House text, I prefer that it wait.

Mr. COPELAND. Very well. I think that is only right.

The VICE PRESIDENT. The clerk will state the next committee amendment passed over.

The next amendment passed over was, on page 20, line 23, after the word "order", to insert "which is produced or marketed within the production or marketing area defined in such order"; so as to read:

ORDERS WITH MARKETING AGREEMENT

(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 percent of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order.

The amendment was agreed to.

The next amendment passed over was, on page 21, line 4, before the word "Any" strike out "(A)", and in line 11, after the word "order" to insert "which is produced or marketed within the production or marketing area defined in such order"; so as to read:

ORDERS WITH OR WITHOUT MARKETING AGREEMENT

(9) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 percent of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines.

Mr. KING. Mr. President, recurring to the amendment which has just been agreed to, I ask the Senator in charge of the bill what limitations are to be found in the bill with respect to the areas, the milk areas, or, for that matter, areas affecting any other commodities? Who is to determine what the area shall be? Shall it be a State, or a subdivision of a State, or several States?

Mr. SMITH. The Senator will find that on page 23 of the bill. It is to accommodate itself to those areas where similar conditions prevail, and is to accommodate itself largely to what is already the marketing area.

Mr. KING. However, I presume it is in the discretion of the Secretary of Agriculture, or whoever he may designate to carry out the provisions of the bill.

Mr. SMITH. No; I think it will be largely determined upon the consent of those affected in the area. It will be necessary to get the consent of the producers within each area before the prices can be established.

The VICE PRESIDENT. The question is on agreeing to the amendment on page 21, lines 4 and 11.

The amendment was agreed to.

The next amendment passed over was, on page 21, line 17, before the word "that" to strike out "(1)" and insert "(A)", and in line 23, after the word "therein" to insert "which is produced or marketed within the production or marketing area specified therein"; so as to read:

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and.

The amendment was agreed to.

The next amendment passed over was, on page 22, line 3, before the word "That", to strike out "(2)" and insert "(B)", and in line 6, after the word "or", to strike out "favored

by at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, or by producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market during such period" and to insert "favored:

"(i) By at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption in the marketing area specified in such marketing agreement, or order, or

"(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold or consumed within the marketing area specified in such marketing agreement or order", so as to read:

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored;

(i) By at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold or consumed within the marketing area specified in such marketing agreement or order.

Mr. COPELAND. Mr. President, according to our agreement yesterday I think the chairman would be willing to change "two-thirds", in line 14, to "three-fourths"; and also, in lines 24 and 25, to strike out "two-thirds" and insert in lieu thereof "three-fourths." That was the arrangement we had on yesterday.

Mr. SMITH. The chairman of the committee was absent at that time. I do not know whether that difference is serious enough to interfere with carrying out the provisions of the bill. I offer no objection to changing "two-thirds" to "three-fourths."

Mr. COPELAND. That should be done in each instance.

The VICE PRESIDENT. The clerk will state the amendment proposed by the Senator from New York [Mr. COPELAND] to the committee amendment.

The CHIEF CLERK. On page 22, line 14, it is proposed to strike out "two-thirds" and to insert in lieu thereof "three-fourths." On the same page, lines 24 and 25, it is also proposed to strike out "two-thirds" and to insert in lieu thereof "three-fourths."

Mr. JOHNSON. Mr. President, is it proposed to change from two-thirds to three-fourths the proportion of those who shall make the marketing agreements?

Mr. COPELAND. Yes.

Mr. JOHNSON. I do not consent to that, so far as I am concerned. An increase from two-thirds to three-fourths, I submit to the chairman of the committee, ought not to be made.

Mr. SMITH. I have consulted the Department as to their experience, and they said that they would prefer the two-thirds, but, in their opinion, three-fourths would not make any material difference whatever in the agreements they have signed up thus far.

Mr. JOHNSON. Mr. President, in response permit me to say it might make a very material difference. If two-thirds, in the experience of the Department, has been the appropriate proportion which ought to be applied, and if the De-

partment also says it believes two-thirds to be the appropriate proportion, I can see no reason for increasing it to three-fourths. It would simply make more difficult the operation of the bill, and make it more difficult for those who desire to come under it to get under it.

I hope the amendment to the amendment will not be adopted.

Mr. SMITH. In justification of the position I take, I wish to say that I have stated the facts to the Senate. I will, of course, have nothing to do with the administration of this law, if enacted. However, it will be left entirely with the Senate as to whether it will agree to the three-fourths or the two-thirds. Of course the question will be put to a vote.

Mr. JOHNSON. But, Mr. President, it ought to be made perfectly plain, I think, that those who have administered the law in the past prefer the proportion of two-thirds and not the proportion of three-fourths.

Mr. SMITH. They do; that is the fact.

Mr. JOHNSON. Then I think the amendment to the amendment ought not to be adopted, because experience has demonstrated the fact, and we ought not to change it in the light of what has transpired in the days gone by.

Mr. COPELAND. Mr. President, Senators will observe on page 13, line 5, where the volume of milk is referred to, that in the House bill it says "three-fourths of the volume." The milk producers of my State do not like the bill, anyway, but they are anxious that a larger proportion of the producers should be permitted to determine what shall be done. I submit to my friend from California that, while there is not much difference between two-thirds and three-fourths, after all it means something; and yesterday, after rather full consideration, it was determined that there would be from those in charge of the bill no opposition to the change. The Senator from Iowa [Mr. MURPHY] was in charge of the bill at the time, and that was the position he took. So I appeal to the Senate to make the change from two-thirds to three-quarters.

The VICE PRESIDENT. The clerk will again state the amendment offered by the Senator from New York to the amendment of the committee.

The CHIEF CLERK. As an amendment to the committee amendment, it is proposed, on page 22, line 14, to strike out the words "two-thirds" and to insert in lieu thereof the words "three-fourths."

Mr. JOHNSON. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. JOHNSON. This is a committee amendment. We are now considering only committee amendments which were passed over, and the amendments which were to be presented otherwise were to be presented subsequently to the determination of the committee amendments in the bill.

The VICE PRESIDENT. Let the Chair call the Senator's attention to the fact that, as the Chair understands, this is an amendment to a committee amendment.

Mr. JOHNSON. One of those which were passed over.

The VICE PRESIDENT. Yes; but the Chair does not know of any agreement to prohibit amendments to committee amendments. There was no agreement to that effect.

Mr. JOHNSON. That is quite true; but this is an amendment now offered from the floor, and the committee amendment was the one which was passed over. The right to offer the amendment, of course, rests with the Senator from New York [Mr. COPELAND], but not under the system which prevails in the consideration of the amendments.

Mr. SMITH. Mr. President, I think the Senator from California is laboring under a misapprehension. The committee amendments which were passed over certainly are subject to amendment as we reach them. The amendments to the text will come after we shall have gotten through with the committee amendments.

The VICE PRESIDENT. The Chair understands the parliamentary situation to be that in the beginning the Senator from South Carolina [Mr. SMITH] asked unanimous consent to have committee amendments considered prior to any amendments offered to perfect the bill. Later on, the Senator asked that certain amendments be passed over without prejudice; so now they come up de novo. Therefore, the Chair thinks the amendment is in order.

Mr. BORAH. Mr. President, what is the purport of this amendment? Is it proposed to increase the two-thirds to three-fourths?

Mr. COPELAND. Yes.

The VICE PRESIDENT. The Senator from New York has offered an amendment on page 22, line 14, and lines 24 and 25, to strike out the words "two-thirds" and insert the words "three-fourths."

Mr. COPELAND. Mr. President, yesterday I thought the matter was settled. Argument was made at that time. It should be kept in mind that there are two types of orders under consideration. First, there are orders in connection with the marketing agreements; second, there are orders in cases where it has been felt impossible to effect a marketing agreement. The provision for making orders in the absence of a marketing agreement is one of the most drastic authorizations of the measures. Its drastic character may be seen from the fact that such orders may be made only following the approval of the President. To stand any reasonable chance of enforcement, as I see the matter, it is obvious that the orders should be supported by a strong producer sentiment; and, therefore, the proposal is that compulsory orders shall not be made unless approved by at least three-fourths of the interested producers.

A minority less than 25 percent might well be expected to thwart any attempted regulation. That is the reason why the proposal for the concurrence of three-fourths of the producers brings the provision in harmony with the requirement under somewhat similar circumstances which I have pointed out on page 13. Certainly there is a much stronger reason for the adherence of 75 percent of the producers. I hope that the Senate will agree to what those in charge of the bill agreed to yesterday, that the number should be changed from two-thirds to three-fourths.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from New York to the amendment of the committee.

The amendment to the amendment was rejected.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The VICE PRESIDENT. The next amendment of the committee which has been passed over will be stated.

The next amendment passed over was on page 23, line 14, in the subheading, to strike out "rule" and insert "application", so as to read:

Regional application.

The amendment was agreed to.

The next amendment passed over was, on page 24, line 17, after the word "Secretary", to strike out "may" and insert "shall", so as to read:

COOPERATIVE ASSOCIATION REPRESENTATION

(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

The amendment was agreed to.

The next amendment passed over was, on page 25, line 17, after the word "Provided" and the comma, to strike out "That no person shall be convicted under this title because of any violation of any order or of any obligation imposed in connection therewith, if such violation occurs between the date upon which such person files with the Secretary a petition, with respect to such order or obligation, as provided for in subsection (15), and 5 days after the Secretary enters a ruling thereon", and insert: "That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary,

and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15)", so as to read:

VIOLATION OF ORDER

(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).

The amendment was agreed to.

The next amendment passed over was, on page 26, line 24, after the word "business", to strike out the word "is" and insert the word "are"; on page 27, line 11, after the word "requires" and the period, to strike out "Nothing contained in this subsection (15) shall be construed to prevent, hinder, or delay the United States or the Secretary of Agriculture from pursuing the remedies provided for in section 8a (6) of this title." and insert "The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 8a (6) of this title", so as to read:

PETITION BY HANDLER AND REVIEW

(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The district courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within 20 days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

The amendment was agreed to.

The next amendment passed over was, on page 28, line 10, before the word "specified", to strike out "as", and in line 15, after the word "order", to strike out "provided that such majority have during such representative period produced for market more than 50 percent of the volume of such commodity produced for market during such period" and insert "within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 percent of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 percent of the volume of such commodity sold or consumed in the marketing area specified in such marketing agreement or order", so as to read:

TERMINATION OF ORDERS AND MARKETING AGREEMENTS

(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale or consumption within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 percent of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 percent of the volume of such commodity sold or consumed in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

Mr. McNARY. Mr. President, I wish to submit an inquiry with reference to the language proposed to be stricken out on page 28, commencing in line 15.

The VICE PRESIDENT. That is the amendment which has just been stated.

Mr. McNARY. May I ask the chairman of the committee wherein there is any change made from the House text?

Mr. SMITH. The purpose of the amendment was to determine the interests both by area and by volume, by production, and by marketing area.

Mr. McNARY. The House text proceeds upon the theory that there must be 50 percent of the volume and of the quantity, and the other consideration applies that factor as well as the area?

Mr. SMITH. Yes.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment passed over was, on page 29, line 16, after the word "orders", to insert a colon and the following proviso: "*Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8 (c), given not less than 3 days prior to the date fixed for such hearing, shall be deemed due notice thereof", so as to read:

PROVISIONS APPLICABLE TO AMENDMENTS

(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8 (c), given not less than 3 days prior to the date fixed for such hearing, shall be deemed due notice thereof."

The amendment was agreed to.

Mr. KING. Mr. President, may I inquire of the Senator from South Carolina [Mr. SMITH] if there is any limitation in the bill as to the duration of the A. A. A. Act or of the pending bill? That is to say, will they terminate contemporaneously or is there any period fixed for the termination of either?

Mr. SMITH. Mr. President, no provision is made in this bill to that end, but in section 13 of the original act there is a provision that it shall cease to be in effect when the President finds the emergency to have come to an end.

Mr. KING. Is it left entirely to the discretion of the President of the United States as to how long the measure now before us, if it shall be enacted into law, and the A. A. A. Act shall continue in force?

Mr. SMITH. The Senator must realize these are simply amendments to the original act, but in that respect they are not amendatory of the original act.

Mr. KING. I assume the Senator has accurately stated the situation, but it seems to me this would be a good time, before the fall shall have passed, to amend the original act so that it shall terminate at a given time.

Mr. SMITH. We are proceeding upon the assumption that this is emergency legislation and that recovery shall have been made and we shall have returned to normalcy, if I may use the term which sprung up during war times, these provisions will not be necessary, but we will be in such a glorious state of prosperity that our difficulties will have disappeared like mist before the sun.

Mr. KING. Of course we shall look forward with the eye of the prophet to that day and will rejoice when it shall have dawned, but notwithstanding the A. A. A. measure is predicated upon the assumption that when parity of prices had been reached between agricultural commodities and other industrial commodities, processing taxes would cease. Now I find in the bill a provision that when that happy state shall have been reached we may go on enforcing these taxes until 20 percent above parity shall have been attained, and I am not sure that even when that state shall have been attained there is any provision that when the emergency shall have passed the bill shall cease to operate or that the A. A. A. shall terminate.

Mr. GERRY. Mr. President, I should like to ask the chairman of the committee a question because I desire to have the point clear in the record and also clear in my own mind. On page 40 of the bill, beginning in line 23, it is stated that when "more than 20 percent of the fair exchange value thereof" is reached, "the rate of such tax shall be reduced * * * to such rate as equals 10 percent of the fair exchange value thereof." In other words, the tax does not continue as was originally intended, but is lowered to 10 percent of the fair exchange value. Am I correct in that understanding?

Mr. SMITH. If the Senator will read the paragraph beginning in line 3 he will understand that the benefit payments will cease when a certain stage is reached. Then the tax will be reduced to zero and pass out of existence; but where there is a temporary approach to parity and there is reason to believe it is merely temporary during the marketing year the tax may be reduced to 10 percent. If, however, for 2 months preceding the next marketing year the conditions are such as to justify the belief that the parity will be maintained, the tax will be reduced to zero, and no benefit payments made.

Mr. GERRY. But it is always left to the Department to declare that condition to have been reached.

Mr. SMITH. Yes; but it is always dependent upon the facts in the case. The facts in the case will be that when parity shall be reached and maintained, no benefit payments will be made, and therefore no tax will be levied or collected. That is provided for in the first paragraph on page 40. In the next paragraph it is provided that during a marketing period where the price reaches parity, or even above, it may be reduced, for the obvious reason that during the same marketing period prices may drop away down below parity, and otherwise no machinery and no provision whatever would be made to recoup for the benefit of the producer.

Mr. GEORGE. Mr. President, may I ask the Senator if, under these amendments, these taxes may not be continued so long as the Secretary of Agriculture or the Administrator has any obligations under the act?

Mr. SMITH. I do not understand the Senator's question.

Mr. GEORGE. So long as the Secretary or the Administrator has any obligations under the act, so long as he is called upon to perform any duty with respect to the payment of benefits, or if he is engaged in purchasing commodities to be kept in storage, as is authorized under the bill, are not the processing taxes to be continued?

Mr. SMITH. No; I think not, for this reason: I went over the language carefully, and called their attention to the fact that there was a moral as well as a legal obligation implied, and it is explicit; that where we levy a tax for the purpose of bringing the price of the produced material up to parity, when the processors and the producers have agreed upon and maintained that price or above that price, as in the case of tobacco, it is morally wrong still further to collect the tax, because the object was to raise the price to parity.

Mr. GEORGE. That is entirely true. The distinguished chairman is entirely correct; but, if he will study his bill—

Mr. SMITH. I went over those terms very carefully.

Mr. GEORGE. I understand, but I am going by the bill. If the Senator will study the bill, he will find that the processing taxes will continue until certain affirmative findings and conclusions shall have been reached by the Secretary or the Administrator, and that they may be continued notwithstanding the parity price has been attained and has been maintained during the period if there is any other obligation or any other undertaking by the Administrator which has not been discharged. So I wish it to be made perfectly clear that the purpose of the bill as it actually is written, considering all the technicalities, is to continue this tax practically indefinitely.

Mr. GERRY. Mr. President, that is what I was afraid of. The statement of the Senator from Georgia is very clear. It seems to me that the section should be made clearer, because the idea is just what the chairman of the committee has said.

Mr. SMITH. I think the Senator from Georgia has misconstrued the bill, because whenever parity shall be reached, the bill provides, not only in the paragraph under discussion, but in the one on page 5, that—

Whenever * * * the average farm price for such commodity is not likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, or

The conditions of and factors relating to the production, marketing, and consumption of such commodity are such that none of the powers conferred in subsections (2) and (3), and no combination of such powers, would, if exercised, tend to effectuate the declared policy of this title—

The tax shall cease.

Mr. GEORGE. Mr. President, that provision is found in the bill; but under the subsequent amendments which are included in the bill I do not think I can be wrong in my conclusion.

Mr. SMITH. Will the Senator call the attention of the chairman of the committee to the specific language to which he refers?

Mr. GEORGE. I shall be very glad to do so, but I had not anticipated doing so.

Mr. SMITH. There was no such understanding whatever in the discussions of the committee.

Mr. GEORGE. I am quite sure of that.

Mr. SMITH. If the Senator will find in the bill any provision under which the Secretary of Agriculture may tax the processor for some other purpose than bringing about parity, the chairman now commits himself to strike that from the bill.

Mr. GEORGE. I am glad to have the Senator say that.

Mr. GERRY. I am glad to hear that.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. CONNALLY. I do not know what is in the mind of the chairman with regard to that matter; but while we probably shall have to abandon a great many of the details of the rather complex structure we now have before us, I am one who believes we are going to have to continue for a long while the processing taxes in behalf of the major agricultural crops, and the Senator from Texas favors it.

What hope have we, unless we maintain the processing taxes, that agricultural prices of themselves will maintain any fair relationship to the costs of other commodities? They did not do it before the war, and they have not done it since the war. They did it for a short time only under the influence and the stimulation of a great shortage of food supplies in Europe, because millions of men were withdrawn from productive enterprise and were killing each other.

Mr. SMITH. Is the Senator from Texas saying that he would be willing to tax the processor after the price of the commodity had reached parity, the object of the tax?

Mr. CONNALLY. No; perhaps not; but I am not in favor, simply because for a little while—

Mr. SMITH. Provision is made here—

Mr. CONNALLY. Just a moment.

Mr. SMITH. Oh, certainly; I will give the Senator all the time he wishes.

Mr. CONNALLY. I thank the Senator very much. He is generous with his time. I am very grateful to him for being allowed to talk a little while.

The moment the price reaches parity, produced probably by some temporary cause, I am not in favor of instantly abandoning the processing taxes.

Mr. SMITH. That is not in the bill. I tried to make clear that the tax would be reduced only temporarily when the price reached parity or above during a current marketing year; but if, preceding the next marketing year, conditions were such as to warrant, in the estimation of both the producers and the Department, the belief that the price would be parity or above, the tax could be reduced to zero.

Mr. CONNALLY. I thank the Senator. What I am trying to point out is this:

I have heard the Senator from South Carolina, standing upon this floor, denounce the high industrial costs, the high tariffs that the farmer has to pay. I have heard him say here within the past few days that never in the history of the world has the farmer been able to fix his own price and get what he desired for his product. What is there in the future which indicates to the mind of anyone that without some form of relief such as the Agricultural Adjustment Administration industrial costs are coming down and farm prices are going up?

No one, if he will study the history of the past, can believe that that will happen; and, so far as I am concerned, I am prepared to vote for processing taxes in behalf of the major agricultural crops whose surpluses are exported, and whose prices, therefore, are fixed in the export market. I am willing to vote for processing taxes on such products in order to equalize the spread between the high price of industrial products which the farmer has to buy and the low price of agricultural products which he has to sell.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. CONNALLY. Just a moment. By the same process of reasoning, if the American farmer is forced by law to pay a higher price for the products of American industries in order that the men who work in those industries may receive higher wages and in order that the men who own the factories may derive higher dividends, why is it not fair for the same men who work in the factories and the same men who own the factories to pay the farmer increased costs on his product in the form of a processing tax in order that the man who labors on the farm and the man who owns the farm may get back a little of what they have been paying to the industrialists for 75 years?

I am astonished that the senior Senator from South Carolina should be opposed to that sort of a principle.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. SMITH. Mr. President, I do not want the Senator to take me to task for doing what he is arguing against. If the price of the farmer's produce reaches a parity with the protected price or any other price of the commodities he has to buy, that is, if the farmer's dollar has a value of 100 cents as compared with what he has to buy, does the Senator think it is fair to keep on taxing the other industries to pile up an extraordinary price even above the ungodly protected price? Does he think that is fair?

Mr. CONNALLY. I will answer the Senator, but I promised to yield first to the Senator from Rhode Island.

Mr. SMITH. I do not want the Senator to misquote my statement.

Mr. CONNALLY. I will come to the Senator's suggestion if he will give me time. I will reach the Senator on the calendar.

Mr. SMITH. The Senator from South Carolina will take care of himself.

Mr. CONNALLY. The Senator from South Carolina not only takes care of himself, but of the time of everybody else.

Mr. SMITH. No, that is not a task I would assume.

Mr. CONNALLY. The Senator from Texas thought he had the floor. He promised to yield, but was denied that opportunity by the Senator from South Carolina.

Mr. SMITH. I now give the Senator the opportunity.

Mr. CONNALLY. I will yield to the Senator in due process, but I reserve the right to control my own time. I now yield to the Senator from Rhode Island.

Mr. GERRY. My question was as to what provision there is in the bill to provide for the situation affecting the taxes when the price shall have reached parity. The Senator will understand that in the textile business it is very important whether or not the tax is to continue after parity shall have been reached. The Senator from Georgia seemed to have some doubt as to the interpretation of the bill. I think that should be made very clear.

Mr. CONNALLY. Let me say to the Senator from Rhode Island that I am not talking about parity as parity was defined in the bill originally. I am not prepared to say that I am going to live by that rule of parity the rest of my life. That was a standard that was fixed arbitrarily by taking a certain series of years, from 1909 to 1914. I do not know that that standard of measurement was necessarily fair at that time.

Mr. NORBECK. Mr. President, will the Senator yield to me?

Mr. CONNALLY. I yield.

Mr. NORBECK. The testimony before the committee was to the effect that the parity ratio was established before farmers had Fords or had radios, and did not take into consideration those things which were then considered luxuries.

Mr. CONNALLY. That is correct.

Mr. NORBECK. So that he has to be on a lower standard of living in order to live at the parity price.

Mr. CONNALLY. The Senator from South Dakota is exactly correct. The standard of parity which we adopted was one which obtained at a time when the farmer had no artificial aids whatever. In other words, the prices were fixed, not by artificial devices, but by the natural process of things. So we adopted that, but it is not necessarily a safe and fair guide value, because at that very time the industrial interests were receiving bounties in the form of high tariffs, and the laboring men in the factories, at least in theory, were receiving higher wages because of the existence of those tariffs.

I understand the difficulties of the Senator from Rhode Island, in whose State there are textile factories. Of course, the textile mills are having to pay more for the cotton they spin because of the processing tax. That makes it more difficult for them to compete in foreign markets.

I have an amendment now pending which will be of benefit to the textile producers in that I propose that the Government shall use a part of the import revenues to pay an export bounty on the manufactured cotton, not on raw cotton, but on the articles manufactured in the textile mills, in order to aid the textile manufacturer to compete in the export trade and to some extent to repay him for the burden which is imposed upon him by the processing tax.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. CONNALLY. I now yield to the Senator from South Carolina, if he desires.

Mr. SMITH. The point I desire to make is this: The Senator talked about taking an arbitrary date. The statisticians took the date when, in their opinion, the purchasing power of the agricultural dollar was a hundred cents. That will be maintained in all the exigencies of the subsequent marketing trend. For instance, if the thing the farmer has to buy goes up, then the parity is spread. In other words, the object of this entire proposal is to give to the farmer, in return for what he sells, the same value in dollars as he pays for the things he buys, and, of course, there is a sliding scale. We took the year when it happened that his dollar was worth exactly what the dollar of the industrialist was worth. It just happened that that was the year when there was such a parity.

Mr. CONNALLY. Mr. President, of course the Senator from South Carolina has elucidated the matter entirely, completely, and thoroughly, and the statement means just what the Senator from Texas said a moment ago, that when we adopted a standard of parity we adopted a standard in which the farmer had no artificial benefits, but one which he reached by reason of world economic laws. I am not prepared to say that for all time that is a just standard, and I am prepared to vote for a new standard whenever it appears that the farmer is entitled to that sort of a standard.

I am not attacking the Senator from South Carolina. He says the purpose of the bill is so-and-so. Of course, that is the purpose. My complaint is that it does not necessarily attain the purpose by the measures which the Senator from South Carolina proposes.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. SMITH. Mr. President, will the Senator from North Carolina allow me a moment?

Mr. BAILEY. Certainly.

Mr. COPELAND. A parliamentary inquiry.

The PRESIDING OFFICER (Mr. CLARK in the chair). The Senator will state it.

Mr. COPELAND. What is the amendment now before the Senate?

The PRESIDING OFFICER. The next amendment passed over has not been stated.

Mr. CONNALLY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Texas has the floor. The Senator from New York rose to propound a parliamentary inquiry.

Mr. CONNALLY. I propound a parliamentary inquiry myself. I thought when one had the floor he had to be asked to yield.

The PRESIDING OFFICER. The Senator does not have to be asked to yield when a parliamentary inquiry is propounded.

Mr. CONNALLY. I have the floor. If the Senator wants me to yield, I will yield, but I do not understand the process whereby he can take me off the floor.

Mr. COPELAND. I did not take the Senator off the floor.

The PRESIDING OFFICER. Under the Senate practice a parliamentary inquiry is equivalent to a point of order. There is no amendment before the Senate at the present time. The inquiry of the Senator from New York was equivalent to a point of order. The Chair announced that the next amendment passed over had not been stated.

Mr. CONNALLY. There is a flock of amendments pending; the whole bill is before the Senate.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. BAILEY. Mr. President—

Mr. CONNALLY. I yield to the Senator from North Carolina.

Mr. BAILEY. I am making an inquiry only for information. I freely confess that I have had the very greatest difficulty in comprehending the pending bill in its details or as a whole. I have carried it around with me for several days.

On the matter of the base price, the parity price, we are all in confusion. I wish to see if we can clear it up. I may be entirely wrong.

We began in the Agricultural Adjustment Act in 1933 with the pre-war period parity, August 1909 to July 1914. That was the base and that was the standard of parity in the old act and the present law. But at the top of page 3 of the pending bill that standard is abandoned and a different standard is established. If that be true, I wish to know it; and if it be not true, I wish to be corrected; but I shall read the language. It is as follows:

Whenever the Secretary of Agriculture has reason to believe that:

(a) The current average farm price for any basic agricultural commodity is less than the fair exchange value thereof, or the average farm price of such commodity is likely to be less than the fair exchange value thereof for the period in which the production of such commodity during the current or next succeeding marketing year is normally marketed, and—

And so forth.

It occurs to me that we are asked to establish a new standard. Are we still on the old standard of 1909 to 1914?

Mr. SMITH. Yes.

Mr. BAILEY. Then what is the meaning of this language?

Mr. SMITH. The terminology is interchangeable—"fair exchange value or parity."

Mr. BAILEY. Would that be the fair exchange value as of now or the fair exchange value as of 1909-14?

Mr. SMITH. The fair exchange value as interpreted in terms of 100 cents of the farmer's purchasing price as it was in 1924.

Mr. BAILEY. But that took as the base 1909-14. This language is without dates, but I understand the Senator now to say that the base is still 1909-14. Is that correct?

Mr. SMITH. That is correct.

Mr. CONNALLY. Mr. President, I do not care to occupy more of the time of the Senate. What I rose to do was to challenge the statement of the Senator from South Carolina and other Senators that at some time or other we had to abolish the processing taxes. It seems to me that if we are to maintain any sort of a farm program at all for the benefit of farm producers, we must maintain the processing taxes in some form, or else go into the Treasury itself. The processing taxes are the sounder and the better method, because we are making the consumers of the product pay a higher price; and the justification is that the farmer himself has been paying all his life a higher price for the commodities he has consumed. So I, for one, am prepared to vote, whenever and however it may be necessary, for a permanent system of processing taxes.

The VICE PRESIDENT. The clerk will state the next amendment passed over.

The next amendment passed over was, at the top of page 38, to insert:

SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND BARLEY

(5) If at any time prior to December 31, 1937, any tax with respect to flaxseed, or barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. The provisions of section 16 of this title shall not apply in the case of flaxseed and barley.

Mr. McNARY. Mr. President, that opens up a very controversial question. Would the Senator from South Carolina be willing to recess at this time?

Mr. SMITH. Mr. President, we have consumed practically all of the day on matters which were of interest to those who discussed them; and while the discussion perhaps has been very illuminating, we have made very little progress. I should prefer to go on and at least try to get rid of a few more of the amendments.

Mr. McNARY. This is an amendment which will require considerable discussion. A number of the Members of the Senate are absent. It is nearly 15 minutes after 5. We have had a good day, and have progressed very well.

Mr. GEORGE. Mr. President, I suggest to the Senator from South Carolina that it is going to take some time to dispose of the amendment on page 38 relating to flaxseed. I hope the Senator will either ask for a recess now or let that amendment go over until tomorrow morning. I can assure the Senator that we cannot finish it tonight.

Mr. SMITH. Mr. President, I do not know of any time—

Mr. GEORGE. The Senator is not going to finish the bill tonight.

Mr. SMITH. I know the Senator is not going to finish the bill this afternoon, but what we are trying to do is to make as much progress as possible.

Mr. GEORGE. That is all very well; but there are many of us here who have not taken up much time on this amendment or any other amendment, and it is not fair to hold the Senate in session after 5:15 in the afternoon when it is perfectly obvious that we have now reached a portion of the bill as to which there will be considerable discussion.

The amendments which immediately follow this amendment all go to the very vitals of this whole measure. There may be other committee amendments which the Senate could take up, but it is obviously not fair to take them up this afternoon.

Mr. SMITH. Mr. President, I do not know just where the element of fairness or unfairness is.

Mr. GEORGE. It is 5:15 o'clock, and it is now past the middle of July. There are some of us who have not taken up a great deal of time in discussing any matter before the Senate, or any particular issue which may have arisen before the Senate. It seems to me that an amendment which is so important and so intricate as is this amendment might be passed over until tomorrow. I am not particularly interested in the other amendments; but I do know, and the Senator from South Carolina knows, that inasmuch as the amendment relates to the taxes and provisions relating to proceedings in court, we have reached the point in the bill where certainly some time will necessarily be consumed.

There may be other committee amendments undisposed of outside of these particular amendments. I am not familiar with them; but I make the request, which the Senator does not have to grant, that this particular amendment, paragraph (5), on page 38, go over until tomorrow morning.

Mr. McNARY. Mr. President, I simply wish to make the request, after what has been said by the Senator from Georgia, that the Senator from South Carolina consent that the Senate take a recess at this time.

Mr. SMITH. Mr. President, so far as I am concerned, the Senator knows that I am just as weary—perhaps more so—than is any other Senator here, because unfortunately I am more or less charged with the responsibility of trying to pilot this measure to its final conclusion. I am compelled to be in attendance all the time, and I desire to have the bill completed as soon as possible.

Mr. McNARY. The Senator has worked assiduously and has been kindly, and we have all tried to cooperate in the consideration of this very comprehensive bill. I think such cooperation will continue, and I am only asking that the Senate may recess at this time.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. McNARY. I yield.

Mr. SHIPSTEAD. I wish to add my request to that of the Senator from Georgia and the Senator from Oregon that the Senator from South Carolina consent that a recess be taken at this time.

The Senator from South Carolina has worked hard today and he has done everything he could to further the passage of the bill. He says he is weary, and I desire to assure the Senator that the Senators who have not taken part in the debates are as weary as he is, possibly more so. On behalf of those who are weary—and I am sure we are in the majority—I ask the Senator from South Carolina to consent that the Senate now take a recess.

Mr. SMITH. I can appreciate what the Senator says, that some Senators not actively engaged in the debates on this particular bill are weary. They have reason to be weary.

Mr. WALSH. Mr. President, in connection with the pending bill, I desire to call the attention of the Senate to a news item published today in the Washington Evening Star, as well as in every other newspaper in the country. It relates to a decision rendered today by the United States Circuit Court of Appeals holding unconstitutional the processing taxes and the flour taxes imposed under the Agricultural Adjustment Act. I ask unanimous consent that the article in question be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. CLARK in the chair). Without objection, it is so ordered.

The article is as follows:

[From the Washington Evening Star of July 16, 1935]

A. A. TAX IS ILLEGAL, UNITED STATES APPEALS COURT IN BOSTON ASSERTS—SPLIT DECISION OF 2 TO 1 HOLDS PROCESSING, FLOUR LEVIES UNCONSTITUTIONAL—JUDGES SCORE DELEGATION OF AUTHORITY TO SECRETARY—CONGRESS FIXED NO RULES FOR HIM, BUT PERMITTED LAWS BY DECREE, TRIBUNAL DECLARES

Boston, July 16.—The United States Circuit Court of Appeals today held unconstitutional the processing and flour taxes imposed under the Agricultural Adjustment Act.

The court found that no such authority to impose taxes had been delegated to the Secretary of Agriculture by the Constitution or by decisions of the Supreme Court.

The Circuit Court's decision was based upon a test case brought by receivers of the Hoosac Mills, which sought recovery of \$81,694.48. The decision was subscribed to by Judges Scott Wilson and George F. Morris. Judge George H. Bingham, senior justice, dissented.

The Hoosac Mills suit was one of many brought by textile corporations who sought recovery of taxes paid on constitutional grounds. It was chosen by United States attorneys as a test case to be carried to the United States Supreme Court chiefly because of the initial success of the Government in obtaining a favorable decision in the district court of Judge Elisha H. Brewster.

COLLECTION OF \$700,000,000 HELD UP

Yesterday Judge Brewster had hinted that this finding might be reversed by the Circuit Court as he ordered continuation of a temporary injunction preventing collection of processing taxes from four New Bedford mills and a Fall River corporation.

The collection of some \$700,000,000 of processing taxes hinges upon the question of their constitutionality.

"It is clear", said the court of appeals decision, "that the main purpose of the act is to control and regulate the production of the so-called 'basic agricultural commodities' of the several States, through agreements with the producers and in consideration of what is termed 'rental or benefit payments', to reduce acreage or production for market sufficient to increase the current average price of such products to that elusive point where the returns to the farmer from the production of such commodities will purchase under present conditions the same amount of industrial products that the returns to the farmer from the same products would buy in the 5-year pre-war period from July 1909 to August 1914. * * *

HEARING IN FALL SEEN

Frank J. Wideman, Assistant Attorney General in charge of tax cases, said the Hoosac case would be heard before the Supreme Court "some time in the fall * * *, in any case before the holidays."

The decision will not stop processing tax collections, Wideman said.

Two other direct tests of the A. A. A.'s constitutionality, now awaiting action of the Federal Court of Claims here, probably will be heard in October, he added.

The Hoosac Mills case may be consolidated with these two, brought by Continental Mills and Interlaken Mills in the Supreme Court hearing.

THREE APPEALS TOMORROW

About 200 suits to stop tax collections are pending. These ask injunctions, and Government attorneys contend they do not involve the constitutionality of the tax. The circuit court at Louisville will meet tomorrow to hear an appeal from three Cleveland injunction suits against the A. A. A.

Gratification at the promptness of the Boston decision was expressed by Chester C. Davis, the A. A. A. Administrator.

Davis said it probably would result in an early ruling by the Supreme Court on the taxes and the entire farm program.

Officials were quick to say that the ruling would not affect immediate progress of the adjustment programs.

CANNOT INVADE INTRASTATE FIELD

"The power of Congress to regulate interstate commerce does not authorize it to do so by taxing products either of agriculture or industry before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

"The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation, for any purpose deemed by Congress in furtherance of the 'general welfare', but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose."

The court also set forth: "The power to determine what the law shall be, what property shall be affected by taxation or regulation, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

MUST LAY DOWN GUIDE

"The power to impose a tax and to determine what property shall bear a tax can only be determined by the legislative department of the Government. If Congress undertakes to lay down a guide for an administrative officer to follow in carrying out its mandates, it must be an intelligible and reasonably definite standard. * * *

"The balance between production and consumption of certain commodities or the equalizing of the purchasing power thereof between certain widely separated periods alone forms no such standard.

"If Congress has the power to control or regulate the production of agricultural products within the several States, and assess a tax on their processing or sale for that purpose, it is obviously legislative in character. Query: Then has Congress set up any definite standard for the Secretary's action in making rental or benefit payments to producers and thereby imposing a processing tax?

"NO SUCH GUIDE FOUND

"We find no definite, intelligible standard set up in the act for determining when the Secretary shall pay rental or benefit pay-

ments in order to reduce production of any particular commodity except in his own judgment as to what will effectuate the purpose of the act.

"The declaration of the emergency in the agricultural act contains no such standard for the Secretary of Agriculture to follow in entering into restrictive agreement with producers of agricultural products. It is merely a statement of conditions which, in the judgment of Congress, warranted legislative action. * * *

"Without requiring any findings to warrant his action, Congress has empowered him, in conjunction with the producers, to determine when a reduction of acreage or production of any one of the agricultural commodities which it termed basic should be resorted to to accomplish the act, when rental or benefit payments are to be made and in what amounts, and thereby to determine through the initiation of the benefit payments or rentals the consequent imposition of a tax.

"NO FACT FINDING MADE

"The Secretary made no findings of facts as to why he selected the first list of basic commodities for reducing acreage or production, and was not required to do so. He simply made a proclamation; rental and/or benefit payments are to be made with respect to cotton; and a processing tax automatically followed.

"While the amount of the reduction of acreage or production of any basic commodity under this act is done by agreements and not by a code, the purpose and the result is the same; viz, the control and regulation of a great intrastate industry. * * *

"If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress or to foretell the future limitations of local self-government.

"SCHECHTER CASE CITED

"No standard or guide is here laid down to determine how the compensating tax shall be fixed or what elements shall be taken into consideration in determining the amount, except that it shall be determined by the amount necessary to prevent such disadvantage in competition. We find no decision of the Supreme Court authorizing such a delegation of power to an administrative officer.

"On the contrary, the recent decision in the Panama Refining Co. case and the Schechter Poultry Corporation case, we think, clearly condemns it as unwarranted under the Constitution.

"If Congress has invaded a field over which it has no control under the Constitution, or the Secretary has been unlawfully vested with legislative powers, the exercise of which has affected these appellants, it is not necessary to consider whether the processing and floor taxes are direct taxes, or, if excise taxes, are not uniformly laid.

"The decree of the district court is reversed and the case is remanded to that court with directions to enter a decree for the appellants."

ILLINOIS COLLECTIONS BALKED—COURT HOLDS CONSTITUTIONALITY AT LEAST APPEARS DOUBTFUL

SPRINGFIELD, ILL., July 16.—The United States District Court has ruled the Government temporarily cannot collect processing taxes from 12 firms in central and southern Illinois.

Eleven milling companies and one packing firm have been granted a temporary order restraining the Government from collecting the taxes. They claimed the A. A. A. was unconstitutional.

Judge Charles G. Briggie issued the order late yesterday declaring constitutionality at least appeared doubtful. He held that a section saying no injunction should be issued to prevent the collection of taxes did not apply because of extraordinary circumstances in the cases involved.

"The equitable powers of the court were invoked in spite of the prohibitory provisions of the section relating to injunctions, because of the character of the penalties involved for failure of the companies to pay the taxes and the multiplicity of the suits required to get refunds from the Government", Justice Briggie said.

He held the companies should pay the taxes to the clerk of the court, pending decision of the constitutionality of the act.

VIRGINIA MILLERS PROTEST

RICHMOND, VA., July 16.—Virginia millers today had joined with peanut companies of the Old Dominion in a protest against processing taxes.

Judge John Paul in district court at Harrisonburg Monday will hear petitions of the Shenandoah Milling Co. and other millers for an injunction to restrain the collector of internal revenue from collecting processing taxes on wheat ground into flour.

Other petitions have been filed by the J. M. Strickler Mills of Harrisonburg and the Natural Falls Milling Co. of Bridgewater. Judge Paul has granted a preliminary restraining order on each.

EXECUTIVE SESSION

Mr. ROBINSON. Mr. President, with the approval of the Senator from South Carolina, it is my intention to move an executive session.

Mr. SMITH. I think that will be all right, Mr. President.

Mr. ROBINSON. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER (Mr. CLARK in the chair). If there be no further reports of committees, the clerk will state the first nomination in order on the calendar.

THE JUDICIARY—DISTRICT OF COLUMBIA MUNICIPAL COURT JUDGES

The legislative clerk read the nomination of Nathan Cayton, of the District of Columbia, to be judge of the municipal court, District of Columbia.

The PRESIDING OFFICER (Mr. CLARK in the chair). Without objection, the nomination is confirmed.

The legislative clerk read the nomination of George C. Aukam, of the District of Columbia, to be judge of the municipal court, District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Ellen K. Raedy, of the District of Columbia, to be judge of the municipal court, District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

JUDGE OF THE POLICE COURT, DISTRICT OF COLUMBIA

The legislative clerk read the nomination of Walter J. Casey, of the District of Columbia, to be judge of the police court, District of Columbia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

SPECIAL COUNSEL, NAVAL RESERVE NO. 1, CALIFORNIA

The legislative clerk read the nomination of John W. Preston, of California, to be special counsel.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

WORKS PROGRESS ADMINISTRATION

The legislative clerk proceeded to read sundry nominations for State administrators in the Works Progress Administration.

Mr. McKELLAR. I ask unanimous consent that the nominations on the calendar for State administrators in the Works Progress Administration be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations will be confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate, as in legislative session, took a recess until tomorrow, Wednesday, July 17, 1935, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 16 (legislative day of May 13), 1935

JUDGES OF THE MUNICIPAL COURT FOR THE DISTRICT OF COLUMBIA

Nathan Cayton to be judge of the municipal court, District of Columbia.

George C. Aukam to be judge of the municipal court, District of Columbia.

Ellen K. Raedy to be judge of the municipal court, District of Columbia.

JUDGE OF THE POLICE COURT, DISTRICT OF COLUMBIA

Walter J. Casey to be judge of the police court, District of Columbia.

SPECIAL COUNSEL, NAVAL RESERVE NO. 1, IN THE STATE OF CALIFORNIA

John W. Preston to be special counsel, naval reserve no. 1, in the State of California.

STATE ADMINISTRATORS, WORKS PROGRESS ADMINISTRATION

Thad Holt for Alabama.
W. R. Dyess for Arkansas.
Frank Y. McLaughlin for California.
Matthew J. Daly for Connecticut.
J. L. Hood for Idaho.
Wayne Coy for Indiana.
Evan Griffith for Kansas.
George H. Goodman for Kentucky.
John H. Mackall for Maryland.
Harry Lynn Pierson for Michigan.
Wayne Alliston for Mississippi.
Victor Christgau for Minnesota.
Matthew S. Murray for Missouri.
D. F. Felton for Nebraska.
William H. J. Ely for New Jersey.
Lea Rowland for New Mexico.
Lester Herzog for New York.
G. W. Coan, Jr., for North Carolina.
Thomas H. Moodie for North Dakota.
E. J. Griffith for Oregon.
Edward N. Jones for Pennsylvania.
Lawrence Pinckney for South Carolina.
M. A. Kennedy for South Dakota.
Harry S. Berry for Tennessee.
H. P. Drought for Texas.
William A. Smith for Virginia.
George H. Gannon for Washington.
J. Burleigh Cheney for Rhode Island.

POSTMASTERS

CONNECTICUT

Helen O. Gatchell, Andover.
Frank E. Hurgin, Bethel.
Lawrence T. Loftus, Broad Brook.
Pauline I. Olie, Pequabuck.
John L. Walker, Ridgefield.

GEORGIA

Essie T. Patterson, Byromville.
Jim Lou Cox Hoggard, Camilla.
Zack L. Strange, Collegeboro.
Joseph D. Holland, Nashville.
Thomas Archie Pearson, Nicholls.
William E. Pitts, Rocky Ford.
Watson K. Barger, Sardis.

IDAHO

Harold E. Landacre, Dubois.

IOWA

LeVerne Riggs, Cumberland.
Thomas H. Kenefick, Eagle Grove.
John B. Murphy, Fairbank.
Edward A. Kregel, Garnavillo.
Raymond A. Johnson, Latimer.
Earle F. Rex, Odebolt.
Lee E. Finders, Oelwein.
William H. Theisen, Palmer.
Francis W. Aubry, Perry.
Charles A. Alter, Persia.
Charles B. Chapman, Prescott.
Marie Eilers, Steamboat Rock.
Mack C. DeLong, Washington.
Jimmie N. Hopkins, Whiting.

KANSAS

John H. Eckhart, Almena.
Lindsey S. Haile, Howard.
Alfred L. Hastings, Thayer.

KENTUCKY

Charles A. Myers, Bandana.
Gertrude Owens, Brodhead.
Ernest Muster, East Bernstadt.
Hallie Casey, Loyall.
Harry Greene, Milburn.
Arthur K. Slaton, Slaughters.

MAINE

Charles L. Ripley, Andover.
George L. Hawes, East Corinth.
Loton R. Pitts, Naples.

MARYLAND

Claudine M. Friend, Friendsville.
Nena M. Jamison, Walkersville.

MONTANA

Mearl L. Fagg, Billings.
Joseph E. Swindlehurst, Jr., Livingston.
Mary E. Matthews, Oilmont.

NEW HAMPSHIRE

William J. Neal, Meredith.
Glea L. Rand, Plymouth.

NORTH DAKOTA

Ella M. Nevin, Bathgate.
August M. Bruschwein, Driscoll.
Everal J. McKinnon, Ross.

OREGON

Viva Todd, Cloverdale.
Thomas W. Angus, Gardiner.
Rose Mildred Chisholm, Monroe.
Harry E. Mahoney, Oakland.
Pearl A. Lawson, Riddle.
Charles A. Purcell, Troutdale.
Edward F. Kelso, Yoncalla.

SOUTH DAKOTA

Frederick S. Countryman, Canova.
Grover C. Kenworthy, Deadwood.
Bastian J. Kallemeyn, Hayti.
Robert Maley, Sr., Howard.
Frank O. Schumaker, Iroquis.
Julius Pitzer, Java.
John Krambeck, Lead.
George W. Lawrence, Mount Vernon.
Mary A. Hurley, Lennox.
William E. Ruckle, Onida.

WASHINGTON

Felix P. La Sota, Metaline Falls.

HOUSE OF REPRESENTATIVES

TUESDAY, JULY 16, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our blessed Heavenly Father, we pray that the spirit of the Lord may rest upon us—the spirit of wisdom and understanding, the spirit of counsel and might, the spirit of knowledge and the fear of the Lord. Do Thou keep us untroubled and unclouded by regular desire; free us from delirious fancy and help us to see through every perplexity and triumph over every assault of evil. Let the blessed divinities of patience and golden hope work in us. May obligation to our country, the subordination of self be fostered by a Christian faith. We thank Thee for a world which Thou hast made and clothed in all its glory; it is so rich in materials and opportunities. Make us altogether one in the unity of the faith and of the knowledge of the Son of God. Amen.

The Journal of the proceedings of yesterday was read and approved.

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 16), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. BYRNES to the bill (H. R. 8492)
to amend the Agricultural Adjustment Act, and for other
purposes, viz: At the proper place insert the following:

SEC. 15. Section 9 of the Agricultural Adjustment Act,
as amended, is amended by adding at the end thereof the
following new subsections:

"(g) There shall be levied, assessed, collected, and paid
a processing tax, on the first domestic processing of any
material which results in the production of rayon or other
synthetic yarn suitable for commercial winding, at the rate
of 5 cents per pound standard weight thereof.

"(1) The tax shall be measured by the yield in pounds
of rayon or other synthetic yarn suitable for commercial
winding.

1 “(2) The term ‘first domestic processing of any mate-
 2 rial which results in the production of rayon or other synthetic
 3 yarn suitable for commercial winding’ means that amount
 4 and degree of manufacturing or other processing of such
 5 material from the spinnerette up to the point where such
 6 yarn is in form either to be packaged and/or sold as such,
 7 or to be used in further manufacturing.

8 “(3) Rayon and other synthetic fiber waste, staple
 9 fiber, ropes of more than five hundred filaments, monofila-
 10 ments, and the products thereof, shall be exempt from the
 11 processing tax imposed by subsection (g) of this section 9.

12 “(h) During any period after the date of the adoption
 13 of this amendment when a processing tax is in effect with
 14 respect to any material which results in the production of
 15 rayon or other synthetic yarn, there shall be levied, assessed,
 16 collected, and paid:

17 “(1) Upon raw silk in which the sericin content
 18 exceeds 15 per centum, imported into the United States or
 19 any possession thereof to which this title applies, from any
 20 foreign country or from any possession of the United States
 21 to which this title does not apply, a compensating tax at
 22 the rate of 10 cents per pound standard weight thereof;

23 “(2) Upon raw silk in which the sericin content is 15
 24 per centum or less, and upon silk advanced in manufacture
 25 to and including yarn, thread, and fabrics, imported into

1 the United States or any possession thereof to which this
2 title applies, from any foreign country or from any posses-
3 sion of the United States to which this title does not apply,
4 a compensating tax at the rate of 12 cents per pound stand-
5 ard weight of silk (not including other textile fibers);

6 “(3) Upon wearing apparel and other manufactured
7 products wholly or in chief value of silk, imported into the
8 United States or any possession thereof to which this title
9 applies, from any foreign country or from any possession
10 of the United States to which this title does not apply, a
11 compensating tax at the rate of 15 cents per pound standard
12 weight of silk (not including other textile fibers);

13 “(4) Pierced cocoons, frisons, and other silk waste
14 shall be exempt from any tax imposed by this section 9.

15 “(i) In lieu of the refunds or credits authorized to be
16 made with respect to rayon or the products thereof and
17 silk or the products thereof, under subsection (c) of sec-
18 tion 15 and section 17 of this title, upon the delivery to
19 any organization for charitable distribution or use, including
20 any State or Federal welfare organization for its use, or
21 upon the exportation to any foreign country and/or to the
22 Philippine Islands, the Virgin Islands, American Samoa,
23 the Canal Zone, or the island of Guam, of any rayon or silk,
24 or any product thereof, there shall be paid out of the amounts
25 appropriated and made available by section 12 of this title,

1 or there shall be credited, under rules and regulations to be
2 made by the Secretary of Agriculture and the Secretary of
3 the Treasury, an amount of money (1) in the case of rayon,
4 equivalent to the amount of tax which would be payable
5 with respect thereto under subsection (g) of this section 9
6 and (2) in the case of silk, based upon the quantity of
7 silk by standard weight contained therein multiplied by the
8 applicable rate of tax specified in subsection (h) of this
9 section 9.

10 “(j) General provisions:

11 (1) The taxes imposed by subsections (g) and (h)
12 of this section 9 shall be at the rates fixed therein and shall
13 not be altered by the Secretary of Agriculture, regardless
14 of the rate of the processing tax in effect on cotton. If
15 at any time the processing tax on cotton is wholly termi-
16 nated, or if for any reason the provisions of subsections
17 (g), (h), or (j) of this section 9 are held invalid or
18 become inoperative, the provisions of subsections (g) to
19 (j), inclusive, of this section 9 shall thereupon simultane-
20 ously cease to be in effect.

21 “(2) The provisions of section 8, subsections (a) to
22 (f), inclusive, of section 9, subsection (d) of section 15,
23 and section 16 of this title shall not apply in the case of
24 rayon, or other synthetic yarn, or silk, or the products
25 thereof.

1 “(3) The provisions of subsections (g), (h), (i),
2 and (j) of this section 9 shall become effective at 12:01
3 antemeridian eastern standard time of the day following
4 the date of the adoption of this amendment.

5 “(4) For silk and products thereof the term ‘standard
6 weight’ means the moisture-free weight plus 11 per centum
7 moisture regain thereon.

8 “(5) The term ‘moisture-free weight’ means the
9 total weight (other than moisture) of dry clean fiber plus
10 sericin, oil, sizing, and/or loading or weighting.

11 “(6) For rayon or other synthetic yarn the term
12 ‘standard weight’ means the dry clean fiber weight plus
13 11 per centum moisture regain thereon in the case of syn-
14 thetic products of cellulose base, or the dry clean fiber weight
15 plus 7.5 per centum moisture regain in the case of synthetic
16 products of cellulose ester base.”

I am as firmly convinced as they that the fiscal policy of the United States must—at all events and immediately—be headed back toward the promise of our platform and the performance of early 1933—a balance between revenue and expenditure, and that income taxation should be based on a rule of maximum revenue and diminishing returns rather than on any social theory. I am aware that until the threat of monetary inflation by way of the printing presses is absolutely abolished, there can be no sound recovery. I know by personal experience that there is not sufficient coordination of the rapidly expanding activities of government and I hope as eagerly as any for the cessation of experimentation.

These ends I believe can be attained without the slightest impairment of the fundamental aims announced in the Democratic platform or the preelection promises of the President. Those promises, if carried out as here discussed, would not retard prosperity. By a vast enrichment of a balanced domestic market it would give us such prosperity as we have never known. Ninety percent of those promises have been fulfilled or are in process of fulfillment. Some of the departures from them were absolutely forced by circumstance. Others—it might as well frankly be admitted—were mistakes.

As to this penumbra of evils—this froth of errors—while I concede that it is still offsetting benefits from new-deal fundamentals, it is not, I take it, the main subject which you are here to discuss.

The great question for this conference and for the country is whether, having soon proved by the greatest economic catastrophe in history, the fallacy of the old Bourbon doctrine in its application to this new age, we are going to continue in the direction of a better balanced economy, under the general principles of the new deal or whether—because we have become impatient over the lack of any easy magic to end our present distress—we propose to return to the cause of that catastrophe and merit the cynical comment of Proverbs, "As a dog returneth to his vomit, so a fool returneth to his folly."

That I think we shall never do.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. McNARY. Mr. President, yesterday evening I objected to a proposal for a limitation on debate offered by the Senator from Arkansas [Mr. ROBINSON] because I desired further to study the matter. At this time I am willing to enter into the proposal which was made yesterday afternoon.

Mr. ROBINSON. I thank the Senator from Oregon. Then, Mr. President, I ask unanimous consent that hereafter debate be limited so that no Senator may speak more than once or longer than 30 minutes on the bill, or longer than 15 minutes on any amendment.

This is a slight modification of the request which I made yesterday, in that it is now proposed, while limiting the time of any Senator to 15 minutes on an amendment, to permit him to have a division of that time. I make the modification at the request of Senators on the other side of the Chamber.

Mr. McNARY. Mr. President, I am very glad the modification has been suggested. When I objected yesterday to the proposal for a limitation of debate, the Senator from Idaho made the suggestion which is now covered by the request of the Senator from Arkansas. I think the modification will clearly meet the views of the Senator from Idaho.

The VICE PRESIDENT. The Chair understands the request of the Senator from Arkansas to be that each Senator may have 15 minutes on an amendment and that the 15 minutes may be divided?

Mr. ROBINSON. I think it had better be stated the other way, namely, that each Senator shall have 30 minutes on the bill and 15 minutes on any amendment.

The VICE PRESIDENT. And only one speech?

Mr. ROBINSON. No.

The VICE PRESIDENT. That is the point the Chair did not understand.

Mr. ROBINSON. I tried to make plain that as to the bill there would be only one speech, but as to amendments each Senator may divide his time if he chooses to do so.

The VICE PRESIDENT. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

The clerk will state the next amendment passed over.

The next amendment passed over was, on page 38, line 1, to insert the following new paragraph:

"SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED AND BARLEY

"(5) If at any time prior to December 31, 1937, any tax with respect to flaxseed or barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds, and in the case of barley at the rate of 25 cents per bushel of 48 pounds. The provisions of section 16 of this title shall not apply in the case of flaxseed and barley.

Mr. COPELAND obtained the floor.

Mr. JOHNSON. Mr. President, will the Senator yield for a suggestion?

Mr. COPELAND. Certainly.

Mr. JOHNSON. I assume the Senator is going to attack this particular amendment. I have an amendment to the amendment which I desire to present, and I think the Senator from Minnesota [Mr. SHIPSTEAD] has an amendment which he desires to offer. Would it not be well to perfect the amendment before we enter into the argument in regard to the amendment itself?

Mr. COPELAND. Very well. I shall not take the floor at this time under the circumstances.

Mr. JOHNSON. Mr. President, to the committee amendment I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. In the committee amendment it is proposed, on page 38, after line 13, to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

Mr. KING. Mr. President—

The VICE PRESIDENT. Does the Senator from Utah desire to discuss the amendment of the Senator from California?

Mr. KING. I desire to ask the Senator from California what is the purpose of the amendment?

Mr. JOHNSON. The design of the amendment primarily is to permit those States which have not what is termed by the Agricultural Department a history of 10 years in respect to the benefits which may be allotted, to participate in reality in those benefits for such flaxseed as they may have cultivated or raised. It is to put on a parity the States which would now be denied any participation in the benefits to be derived under the amendment with those which have a longer history of flaxseed production. If the Senator wishes the statistics, I can give them.

Mr. KING. No. If I understand the amendment, as I think I now do, it rather is an expansion than a limitation. It is rather a protection to the flaxseed producers who in the past have not produced this crop, rather than an inhibition against them.

Mr. JOHNSON. Yes.

Mr. KING. It is not intended to legalize any efforts heretofore made by the Department of Agriculture with respect to the control of flaxseed production or the limitation of prices or anything of that kind.

Mr. JOHNSON. No. For instance, the design is, in States where flaxseed has been raised for a period of 2 or 3 or 4 years, to give them the benefits of the amendment as well as States where flaxseed has been raised for 10 years, the 10-year limitation being the one which is now used by the Department of Agriculture.

Mr. KING. I am in sympathy with the amendment, but should be glad to see the whole procedure eliminated.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from California to the amendment reported by the committee.

Mr. NYE. Mr. President, I wonder if the Senator from California would be willing to withhold his amendment until

my colleague [Mr. FRAZIER] reaches the Chamber? He is now on his way here and desires to say something with reference to the amendment.

Mr. JOHNSON. I am willing to do so, of course. I submitted the amendment to the Senator from Minnesota [Mr. SHIPSTEAD]. I was under the impression I had submitted it to the Senator from North Dakota [Mr. FRAZIER], although I may not have done so.

Mr. NYE. My thought is that under the amendment which the Senator from California has offered, the way is broken for a larger production of flaxseed than during the limited years when the plan has been operative as to flax.

Mr. JOHNSON. I think that is undoubtedly true.

Mr. NYE. I am sure my colleague is prepared to speak upon the amendment and that he will desire to be heard. I hope the Senator will withhold his amendment for the time being.

Mr. JOHNSON. Of course, if it is requested, I shall give the opportunity to any Senator to present such argument as he may desire.

Mr. McNARY. Mr. President, will the clerk be good enough to state the amendment again? I did not understand it clearly when it was first read.

The VICE PRESIDENT. The clerk will again state the amendment.

The LEGISLATIVE CLERK. It is proposed on page 38, line 13, to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

Mr. McNARY. It would appear to me that the major design of the amendment is to grant benefits up to the point where there is a surplus produced in this country and that thereafter the amendment shall not be operative. Is that correct?

Mr. JOHNSON. Yes; that is correct.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from California to the amendment reported by the committee.

Mr. JOHNSON. I agreed to withhold the amendment until the Senator from North Dakota [Mr. FRAZIER] may reach the Chamber.

The VICE PRESIDENT. Very well. The amendment is temporarily withheld.

Mr. SHIPSTEAD. Mr. President, I offer an amendment to the committee amendment, which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment offered by the Senator from Minnesota to the amendment reported by the committee.

The LEGISLATIVE CLERK. In the committee amendment it is proposed, on page 38, line 13, after the word "barley", to insert the following:

In the case of flaxseed the first marketing year shall be considered to be the period commencing October 1, 1935, and ending April 30, 1936. Subsequent marketing years shall commence on May 1 and end on April 30 of the succeeding year.

There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to flaxseed) (a) a processing tax on the first domestic processing of perilla seed at the rate equal to the per pound rate of the processing tax which is then in effect on flaxseed, and (b) a processing tax on the first domestic processing of hempseed at the rate of 84 percent of the per-pound rate of the processing tax which is then in effect on flaxseed.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee.

Mr. McNARY. Mr. President, from the reading of the amendment I do not understand it. Probably I would not anyway. I wish the Senator from Minnesota would explain definitely what he seeks to accomplish.

Mr. SHIPSTEAD. Mr. President, as I understand the bill, its purpose is to give a parity price to American agricultural products and to make the parity effective. That is the only

reason I can find for supporting any part of the bill—to make the American farmer a part of the economic system placed upon us by the high tariff. I did not vote for the Hawley-Smoot tariff, but if that is to be the policy—and it is the policy—the only excuse I can find for the bill is to put the farmer within the tariff system.

The parity price of flax is \$2.25 a bushel. We import 70 percent of the material for which flaxseed is used. The price of flax is \$1.52, while the parity price the farmer ought to receive is \$2.25.

The competitors of flaxseed, from which linseed oil is made, are particularly perilla oil and hempseed oil, imported products, which are admitted free of duty. Imports from 1930 to 1935 of perilla oil and seed have increased from 8,750,000 pounds to 34,800,000 pounds, something like 500 percent. The importation of hempseed oil, another competitor which comes in free and is sold against the American farmers' production of flaxseed, has increased 1,200 percent. The reason why the tariff on flax is not effective is because of the competition of these products which come in free. The amendment of the committee is worthless without the adoption of this perfecting amendment proposing to put a compensatory tax on the competitors of flaxseed and linseed oil, just as a compensatory tax is placed upon the competitors of soybeans and the other products which are included in this bill.

Mr. KING. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. Yes; I yield.

Mr. KING. The Senator undoubtedly is aware of the fact that linseed oil is indispensable in the manufacture of paints, and paints are indispensable to farmers. They must paint their houses and their barns.

Mr. SHIPSTEAD. Yes.

Mr. KING. It is an indispensable commodity in their economic life. Perilla oil is used extensively, as I recall, in the dressing and protection of various forms of leather used in the manufacture of shoes and boots, and so forth; and the other oils to which the Senator has referred, and which are coming into the United States, are used extensively in the manufacture of various commodities which enter into the lives not only of the farmers but of all classes of people.

If the amendment which the Senator has offered shall prevail, obviously it will materially increase the price of linseed oil, to the disadvantage of the farmers and the disadvantage of those who are now seeking, under the great housing drive, to build homes and to improve their homes. It will materially increase the price of leather to those who manufacture harnesses and shoes and all forms of leather goods, so that the prices to the American people will be substantially increased by reason of the adoption of this amendment.

Personally, if we are to enact legislation of this character, I should prefer to vote a direct subsidy to flaxseed producers and thus save the American people millions of dollars in the form of increased prices which would result from the triumph of the plan suggested by the able Senator from Minnesota.

Mr. SHIPSTEAD. I am glad to have the Senator's views. I have been familiar with his views for some time. However, both the Republican Party and the Democratic Party as such put over the Smoot-Hawley tariff bill. The argument which the Senator advances against the increase in cost of paint is well taken. That is the argument always used in arguing against the tariff.

I do not find people feeling sorry for the farmers who have to pay high prices for machinery because of the tariff on steel, and the additional tariff in the way of increased railroad transportation they have to pay. It is part of the system.

Here is a commodity which the American farmer raises. He desires, in self-defense, to get within the system under which he has been suffering ever since the Civil War; and I expect Senators who hold different views from those I entertain to be as consistent as I am. I make no apologies for putting the farmer into the system which has been forced upon him.

Mr. BAILEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from North Carolina?

Mr. SHIPSTEAD. I do.

Mr. BAILEY. I wish to propound an inquiry to the Senator. I share his view that since industry enjoys protection, and the farmer does not, he is entitled to compensation in order to equalize his economic situation.

The Senator has taken the view that the processing-tax is in the nature of a protective-tariff tax, has he not?

Mr. SHIPSTEAD. Indirectly, I should consider it so.

Mr. BAILEY. Let us see if it is indirectly or directly. The processing tax is a tax on the produce of the farmers of America.

Mr. SHIPSTEAD. Yes.

Mr. BAILEY. A tariff tax is a tax on the produce of the foreigner sold over here.

Mr. SHIPSTEAD. That is true.

Mr. BAILEY. I should like to have the Senator reconcile his statements in view of that fact.

Mr. SHIPSTEAD. It is a tax on what?

Mr. BAILEY. The protective tariff is a tax on the product of the foreigner, on goods sold here.

Mr. SHIPSTEAD. Yes; for the protection of the American industrialist.

Mr. BAILEY. Yes. The processing tax is a tax on the product of the American farmer.

Mr. SHIPSTEAD. Yes.

Mr. BAILEY. Wherein is there any analogy whatever between the protective-tariff tax and the processing tax? That is my question.

Mr. SHIPSTEAD. Because both are a tax on the consumer, and the consumer pays both. The objective in one case is achieved in one manner, and in the other case it is achieved in another manner. The objective of getting a better price for articles of domestic manufacture is achieved by taxing imports, but paid by consumer in higher prices. The objective of getting a better price for farm products is achieved by a tax upon the consumer for the benefit of the American producer.

Mr. BAILEY. Upon the domestic product; and it is not necessarily a tax upon the consumer. It may be a tax upon the produce of the farmer. It may be passed forward, and it may be passed backward. Is not that true?

Mr. SHIPSTEAD. Of course, that may be true. I do not care to argue that matter with the Senator. When the original Agricultural Adjustment Act was passed, it was decided by the Senate that the tax would be passed on to the consumer, just as the protective tariff tax is passed on to the consumer. So far as I can see, that was the only excuse for the legislation. This is only an incident in the legislation; and I hold that it is absolutely consistent with the legislation originally passed, and with the amendments which are proposed.

Mr. BAILEY. Certainly the protective tariff enables the American to sell his product in America as against the foreign competitor.

Mr. SHIPSTEAD. At a higher price.

Mr. BAILEY. Is there anything in this measure which will enable the American producer to sell his goods in America by way of protection as against any foreign competition? Is it not more proper to say that this is a bounty derived from the processing of the farmer's goods and returned to the farmer at the expense of the consumer, if possible? There is a question as to how, and how long, and under what circumstances it can be done; but is there an analogy? In other words does the processing tax in any way justify a protective tariff?

Mr. SHIPSTEAD. That is altogether another question. I hold that the processing tax and the benefit payments are a bounty to the American farmer in the same sense that the protective tariff is a bounty to the American industrialist. If we are going to have parity—and an essential of government is equality before the law—if we pass a law giving bounty to the American industrialist we must give a bounty to the American producer of the raw material, the food which feeds the people who work for the industrialist.

The farmer has fed this country for less than the cost of production. He has been exploited. Here is a product among

many others which he has been forced to produce for less than cost of production and for less than a parity price; and if the rest of the legislation is justified, this is justified. If the protective tariff is justified, this form of legislation is justified—I mean, as to its objective.

Mr. BAILEY. The Senator is now saying the processing tax is a bounty. My point is, can it be said that it is in the nature of a tariff? Does it have any analogy whatever with the protective tariff? That is my question. I will agree that it is a bounty, and it is a bounty derived from the product of the farmer, if we wish to give a bounty in that way.

Mr. SHIPSTEAD. It is a bounty assessed upon the consumer.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. In just a moment.

The farmer, under our protective-tariff system, has been in the position of a man selling cheap and buying dear. It is inevitable that he must sell cheap, because he is an exporter. He must sell on the world market. He must meet the competition of the world, and therefore he must sell cheap. When he pays a protective tariff on practically everything he buys, he buys dear, and he pays a penalty for the benefit of the industrialist. I fail to see how there is anything inconsistent between a benefit payment to the farmer taxed upon the consumer and a benefit payment collected by the industrialist and taxed upon the consumer.

Mr. BAILEY. I am not arguing the question of inconsistency; but I was very much struck by the Senator's statement that there is an analogy between the processing tax and the protective tariff. I cannot see the analogy between a tax on goods produced in Europe by others and shipped in here and a processing tax on produce grown by Americans and sold in America. I cannot see where the protection comes in. I can see where there is a bounty.

Mr. SHIPSTEAD. They are both bounties. The protective tariff is nothing but a bounty, and this is a bounty, too.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. LOGAN. Is it not true that a protective tariff imposes a tax, at least indirectly, upon the consuming public which constitutes a bounty to be paid to the manufacturer, and that the processing tax, if we call it that, also imposes a tax upon the consuming public for the benefit of the farmer, and that the two in operation are exactly the same, regardless of the names by which they are called? If we did not have a protective tariff, would there be any necessity for a processing tax such as we are discussing?

Mr. SHIPSTEAD. I do not think so.

Mr. LOGAN. That is the only way to equalize the condition of the farmer in the necessity to which he is put in dealing with manufacturers who are protected and receive a bounty. Is not that true?

Mr. SHIPSTEAD. Yes.

Mr. LOGAN. There is no other justification for it.

Mr. SHIPSTEAD. I can see no other justification.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the committee amendment.

Mr. KING. Mr. President, I should like to ask the Senator from Minnesota if he construes his amendment as continuing the provisions of the bill, so far as flaxseed is concerned, for an indefinite time. It mentions the fact that it is for the year beginning at a certain period and ending in 1936, and each succeeding year. Does he construe that as a declaration by Congress that the provision respecting flaxseed shall continue indefinitely until repealed by Congress? Or is it so intertwined with the A. A. A. act, which, as I understand, ceases to operate only when the President says the emergency has ended, that when he declared there was no emergency it would also affect the amendment which the Senator has offered, and terminate the benefits, if any benefits are to be derived under the amendment?

Mr. SHIPSTEAD. As I understand it, the pending bill is an amendment to the original act, and the original act provides for its termination; so I assume that carries with it all the amendments, and on the termination of the act all

the amendments to it will likewise cease to exist. At least that is my belief.

Mr. JOHNSON. Mr. President, inasmuch as the amendment I offered a few moments ago, which was a perfecting amendment, from our standpoint, has gone over, I should like to have the amendment of the Senator from Minnesota go over in the same fashion, so that the whole subject matter may be taken up at one time. I am now ready to proceed with my amendment, and proceed with the Senator's amendment as well, but I do not want one amendment adopted and another amendment left in the air. I want to know what the perfected amendment of the Senate is going to be in order to determine the action which ultimately shall be taken upon it. So I suggest to the Senator from Minnesota that his amendment lie over in the same fashion as the one I presented.

Mr. SHIPSTEAD. Mr. President, I think that is fair. Unless the amendment of the committee remains in the bill the Senator's amendment would be unnecessary. However, I am willing to withhold the amendment.

Mr. JOHNSON. I have no objection to the Senator's amendment, but I want to perfect the Senate committee amendment so that we may know exactly what it is, and then proceed with it as a whole.

Mr. SHIPSTEAD. That is satisfactory to me.

Mr. JOHNSON. The Senator from North Dakota [Mr. FRAZIER] is now present, and inasmuch as we delayed consideration of my amendment until his arrival, perhaps we may proceed with it. May I suggest, too, that the pending amendment is a Senate amendment, and the bill will have to go to conference upon the particular amendment, if upon nothing else, so the amendments to the amendment might be accepted with the understanding that in conference it will be taken up and the matters involved there considered.

Mr. MOORE. Mr. President, following the suggestion of the Senator from California, I, too, have an amendment which I should like to offer.

The PRESIDENT pro tempore. The parliamentary situation is that there is pending an amendment to the committee amendment. The Chair is not yet advised as to what action the Senator from Minnesota desires to have taken. In the meantime, there is an amendment presented by the Senator from New Jersey, which will take the same course, as the Chair understands, as that taken by the pending amendment of the Senator from Minnesota and the amendment of the Senator from California, which was passed over.

Mr. COPELAND. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. COPELAND. My plea was going to be to strike out the entire amendments, but now I assume that if the perfecting amendments are to have justice done them, there should not be any argument in favor of striking out all the language. It is only fair that the amendments to the amendment should first be presented.

Mr. SHIPSTEAD. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. SHIPSTEAD. Does not an amendment to perfect have precedence over a motion to strike?

The PRESIDENT pro tempore. It does.

Mr. SHIPSTEAD. Mr. President, will the Senator from New York yield?

Mr. COPELAND. If I may ask the Chair a question, I suppose that my amendment would be in order only after the amendments to the amendment have been disposed of, if by unanimous consent it is agreed to have the amendments considered?

Mr. NORRIS. Mr. President, may I interrupt the Senator from New York?

Mr. COPELAND. Certainly.

Mr. NORRIS. As I understand, the motion of the Senator from New York is to strike out the committee amendment. That is entirely unnecessary. The question will come on the adoption of the committee amendment, so there will be a vote on that anyway. Before we vote on that we must take up the amendments to the amendment.

Mr. COPELAND. I think I will wait until the amendments to the amendment shall have been considered.

Mr. JOHNSON. Mr. President, has the question on my amendment been put to the Senate?

The PRESIDENT pro tempore. Does the Senator from Minnesota withdraw his amendment for the purpose of allowing the amendment of the Senator from California to be considered?

Mr. SHIPSTEAD. Very well.

The PRESIDENT pro tempore. The amendment of the Senator from California to the committee amendment will be stated. The clerk at the desk advises the Chair that the amendment is not at the desk.

Mr. JOHNSON. The amendment was taken from the desk, I may say to the Presiding Officer, by one of the experts here, and I do not know what has been done with it.

Mr. SMITH. Mr. President, someone handed the amendment to one of the experts, and it will be brought to the Senate in just a moment.

Mr. GEORGE. Mr. President, I desire to offer an amendment, to come at the end of the section, which will not, I will say to the Senator from California and to the Senator from Minnesota, interfere, I think, with the amendments which they are proposing. I should like to have the amendment considered, unless we are ready to proceed with the amendment of the Senator from California.

The PRESIDENT pro tempore. The amendment of the Senator from California has now been handed to the clerk, and it will be stated.

The LEGISLATIVE CLERK. At the end of the committee amendment on page 38, line 13, it is proposed to add the following sentence:

During such time as the production of flaxseed in the United States is less than the domestic consumption thereof, there shall be no reduction of or limitation upon the acreage devoted to or to be hereafter devoted to the production of flaxseed or upon the quantity produced or to be hereafter produced within the United States, and no grower of flaxseed shall be denied participation in benefit payments by reason of the fact that such grower had not engaged in growing flaxseed in any preceding year.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from California to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, this is an amendment to the committee amendment on page 38, and has to do with flaxseed.

During the last session of Congress I succeeded in having adopted an amendment to the Agricultural Adjustment Act to include flaxseed, barley, and rye as basic commodities, but no action was taken by the Department to give the farmers producing those grains any benefit. In order to encourage the Department to take some action, and in order to get them started on it, I suggested this amendment in the committee, and I had included in it rye, along with barley and flax. I found from those representing the department before our Committee on Agriculture and Forestry that they had a paragraph prepared to cover rye, which appears on page 37, so rye was left out, but barley and flaxseed were included in this amendment.

The amendment simply authorizes a processing tax of 35 cents per bushel on flaxseed and 25 cents per bushel on barley. It seems to me the Senator from California is unduly worried over this matter, and I cannot see how it would affect the flax growers of his State. I know a considerable amount of flax has been raised in California during the past few years, and it was not my intention at all, in offering the amendment, to curtail those farmers in California in the least.

Ordinarily, during the past several years, until the drought struck us 3 or 4 years ago, North Dakota had produced more flaxseed than any other State of the Union, and the other States around North Dakota—Minnesota, Montana, and South Dakota particularly—have produced a considerable amount of flaxseed.

For years we have been selling our flax at prices below cost of production. We need some assistance. In the local market at Bismarck, N. Dak., on July 13 the price of no. 1

flax was \$1.24. The parity price, figured under the pending bill, is something over \$2; I have forgotten just the exact amount, but \$1.24 is away below the cost of production of flaxseed.

The farmers feel that if we are to have this agricultural adjustment program the ones who produce flax and barley and rye are entitled to some benefits, along with those who produce wheat and cotton and other farm products, and that is why I secured the adoption of an amendment to the original act to include them as basic commodities. They are important commodities, and we believe we are entitled to some benefit on them.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. VANDENBERG. I desire to ask the Senator from North Dakota for his judgment on one phase of the matter. I find that at the present time flaxseed is being imported in greater degree from abroad than at any previous time. What I desire to ask the Senator is, if by the addition of a processing tax to the price of flaxseed we increase the attractiveness of our flaxseed market will we not be overrun by still larger importations except as this proposal be offset by increased tariff protection?

Mr. FRAZIER. I do not understand what the Senator from Michigan means by an attractive market.

Mr. VANDENBERG. What I mean is that as our domestic price on flaxseed goes up, does that not make our market progressively more attractive to imports, and will it not multiply the import of flaxseed?

Mr. FRAZIER. The processing tax of 35 cents a bushel provided for in the committee amendment would be paid on all imports of flax before the flax is processed. All imports coming into this country for processing must pay the processing tax, and that would mean an additional 35 cents a bushel duty or tax.

Mr. VANDENBERG. That is what I inquired about.

Mr. FRAZIER. Instead of making the market attractive, that would make it less attractive to importers, because they would have to pay additional duties.

Mr. VANDENBERG. In view of the additional duties?

Mr. FRAZIER. Yes.

Mr. VANDENBERG. I was inquiring about the additional duty, which is almost absolutely necessary.

Mr. FRAZIER. No; I do not think we understand each other as yet.

Mr. VANDENBERG. Pardon me; I think we do. I am using the word "duty" and the word "tax" interchangeably.

Mr. FRAZIER. The processing tax of 35 cents a bushel, of course, would be paid on all imported flax.

Mr. NORRIS. Mr. President, will the Senator permit me to interrupt him?

Mr. FRAZIER. I yield.

Mr. NORRIS. I am in entire sympathy with what the Senator is trying to do by the amendment to the committee amendment, but, getting down to the exact question now before the Senate, what possible objection could there be to the amendment offered by the Senator from California [Mr. JOHNSON]? I do not see any objection to it if we assume, to begin with, that we want the committee amendment. I can see how a man would be opposed to this whole scheme and be against the committee amendment; but, speaking as one who expects to vote for the committee amendment, I should like to inquire of the Senator from North Dakota, or any other Senator for that matter, and I am doing it for information, what possible objection is there to the amendment which is offered by the Senator from California?

Mr. McNARY. Mr. President, I am not called upon to answer that question, but I wholly agree with the Senator from Nebraska. I cannot see why there should be any objection on the part of anyone to the amendment proposed by the Senator from California.

Mr. NORRIS. Neither can I. If there is any possible objection I should like to hear it stated.

Mr. KING. Mr. President, perhaps I can answer that question. The objection is that it would give a monopoly of the product to a couple of States. Perhaps we believe in such monopolies. If so, why not grant the monopoly?

Mr. NORRIS. No, Mr. President; I believe the amendment of the Senator from California relieves the bill of having any monopolistic tendency.

Mr. COPELAND. Mr. President, the Chamber is in disorder. There are some of us on this side of the aisle who are anxious to hear the debate. I raise the point of order that the Chamber is in disorder.

The PRESIDENT pro tempore. The point of order is well taken.

Mr. McNARY. Mr. President, may not the Senators who occupy seats on the floor preserve some order? I share the views of the Senator from New York. I am very much interested in what the Senator from Nebraska has said, and the reply of the Senator from North Dakota.

Mr. ASHURST. Mr. President, I have not heard a word of the debate on this particular subject this morning. It has been impossible to hear.

Mr. FRAZIER. In reply to the inquiry of the Senator from Nebraska I will say that personally I have no objection to the amendment of the Senator from California. I think, however, it would mean that the Department of Agriculture would take no action whatever in putting a processing tax on flax, or giving us any allotment payments, and for this reason: Since the amendment was adopted at the last session of Congress making flaxseed a basic commodity I have tried repeatedly to get the Department of Agriculture to take some action on the subject. Others from the Middle and Northwestern States, and especially representatives of the Farmers Union, who are interested in the production of flaxseed, have repeatedly tried to get the Department of Agriculture to take some action. The Department has not been able to work out any specific plan, or to take any action at least, but during the past winter, after several conferences, a representative of the Department of Agriculture, who had with him a draft of a proposed bill to take care of flaxseed, came to some of our offices and said that the only justification the Department had under the Agricultural Adjustment Act to put on a processing tax and pay a benefit payment was because of an adjustment which might be made in the production of that particular product. The Department had a bill worked out for flaxseed, which provided that the tariff should be reduced 50 percent approximately—cut from 65 cents down to about half of that amount—and that a 35-cent processing tax be put on flaxseed. The explanation was made that because we only produce about half of the amount of flax which we consume in this country, the 35-cent processing tax would more than offset the reduction in the tariff by making it possible for the Department to make a benefit payment of about 60 or 70 cents, and thus benefit the farmers who produced flaxseed. The Agricultural Adjustment Administration was to pay an allotment on flax based on the acreage of past years in the flax-producing States. Some sort of an agreement was to be signed up between the farmers and the Agricultural Adjustment Administration containing the provision that the farmers would not increase their acreage over what was termed a normal acreage during the past several years, and that if that agreement was signed, then the processing tax would be put on, and the benefit payments would be made.

The Senator from California thinks because California has only produced flax for the last 3 or 4 years that the farmers of California would not be included in this benefit payment. I do not know as to that. I do not think they would receive such payment under the bill which was introduced during the early part of the present session, but the provision now before us has nothing at all to do with that other bill. The pending provision simply sets the amount of the processing tax at 35 cents, and authorizes that amount. Then it would be up to the Secretary of Agriculture to say whether it would be placed into operation or not. According to the explanations made by representatives of the Department of Agriculture, if this amendment should be adopted, there would be no chance

of the flax growers, either in California or any place else, getting any benefit payments.

Mr. NORRIS. Mr. President, that, of course, may be true, but I am not able to see any reason whatever for it. We produce scarcely half of the flax which we consume. As I understand, if the production of flax should be expanded, it might be a good thing; but the person engaged in expanding it ought to be treated in the same way as the man who is now in the business. That would not hurt anyone. It would be a good thing if the production of flax were expanded.

Mr. President, I cannot understand the objection which is being raised. The Senator from North Dakota may be right about it, of course. I have never talked with the Department of Agriculture about the matter, but I cannot see any reason why they should refuse to take action on this basic commodity on account of what the Senator from California proposes.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. FRAZIER. I yield.

Mr. SHIPSTEAD. There can be no objection on the part of the farmers of Minnesota, North Dakota, and South Dakota to having more farmers produce more flax so long as there is no surplus.

Mr. NORRIS. That is true.

Mr. SHIPSTEAD. This amendment provides that there shall be no reduction in acreage until the domestic production shall have risen sufficiently high to take care of domestic consumption. When that time arrives then allocation for acreage will be made.

The PRESIDENT pro tempore. The time of the Senator from North Dakota on the amendment has expired. The question is on the adoption of the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the committee.

Mr. FRAZIER. Mr. President, then I will speak on the bill.

The PRESIDENT pro tempore. The Senator is recognized. He has 30 minutes on the bill.

Mr. FRAZIER. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. FRAZIER. Does the 30 minutes have to be taken all at one time?

The PRESIDENT pro tempore. Under the unanimous-consent agreement, one speech of not to exceed 30 minutes is allowed on the bill, and not to exceed 15 minutes is allowed on each amendment.

Mr. VANDENBERG. Mr. President, let me ask the Senator from North Dakota a question in my time. I am now speaking on the amendment. May I ask the Senator if this is not the crux of the situation, so far as the Department of Agriculture is concerned? They have a theory, or some officials of the Department have, that there should be a specific limitation upon certain crops which they call either "expensive" or "inefficient"—I have forgotten the exact word. It is precisely the same philosophy with which they have dealt with the production of sugar beets. They say, "this is an inefficient crop from an American production standpoint, and, therefore, although we are not on a surplus basis, and although we are raising only a quarter of our consumption, there should be a sharp limitation, and there should be no further domestic production." Now, may I ask the Senator from North Dakota, in my own time, if that is a comparable situation respecting their philosophy as to flax?

Mr. FRAZIER. Mr. President, I think flax is one of the so-called "inefficient" farm products produced here as to which it is desired to make international trade agreements with foreign countries and not to increase their production here in the United States. I think that is the situation.

Mr. VANDENBERG. Then, if we are defeating that sort of dictation by the Department of Agriculture by including this amendment in the amendment, it seems to me that is what we should do. Why is it not a good thing? The Senator from North Dakota does not believe in that philosophy of the Department of Agriculture, does he?

Mr. FRAZIER. Mr. President, will the Senator yield?

Mr. VANDENBERG. Yes.

Mr. FRAZIER. I surely do not believe in that policy at all.

Mr. VANDENBERG. Then why not defeat it in this bill?

Mr. FRAZIER. I have no objection to the amendment of the Senator from California.

When the tariff bill was up, I tried to secure on flaxseed a tariff of 72 cents a bushel; but it was cut down to 65 cents on the ground that we only produce half the amount of flax consumed here. I felt that there should be a higher price so that we could produce more, for there was plenty of room for expansion in the growing of flaxseed if we could obtain a price based on the cost of production.

Mr. VANDENBERG. That would be precisely my conception. The feature of the amendment offered by the Senator from California which appeals to me is that it asserts on behalf of the Congress that that type of restriction of a non-surplus crop ought at least not to be perpetrated in the present instance.

Mr. COPELAND. Will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from New York?

Mr. VANDENBERG. I yield.

Mr. COPELAND. I should like to ask the Senator from North Dakota does the tariff or the lack of a tariff have anything to do with the production of flax?

Mr. VANDENBERG. I would be very glad to have the Senator from North Dakota answer that question in my time.

Mr. COPELAND. I will repeat the question. Does the Senator from North Dakota believe that the tariff or the lack of a tariff has anything whatever to do with the decreased acreage of flax?

Mr. FRAZIER. Mr. President, I do not think there is any question but that the price of flaxseed governs, to a great extent, the quantity produced in the United States. The 65-cents-a-bushel tariff, I will admit, has not been effective to the full extent, but it has been effective probably to 60 or 70 percent. There may be some question as to just how much, but the tariff has had a tendency to increase the acreage of flax in normal years.

Mr. COPELAND. The tariff or the lack of it has nothing to do with the grasshoppers; it has nothing to do with the early frost.

Mr. FRAZIER. Of course not.

Mr. COPELAND. The Department of Agriculture states that the reason why there has been a marked decrease in the acreage of flax is because of the grasshoppers and the early frosts in the flax-producing region. It is stated in the report of the Department of Agriculture:

(a) Flax sensitive to heavy frost, which requires late planting, subjecting it to greater hazard from drought.
(b) Susceptible to grasshopper scourge.

So that the farmers, having discovered that, no longer plant flax. Am I correct in that statement?

Mr. FRAZIER. Of course, drought and grasshoppers would decrease the acreage of flax; there can be no question about that; but if the price can be raised, the acreage will come back very rapidly since the drought has been broken.

Mr. COPELAND. What will the price have to do with grasshoppers and frost?

Mr. FRAZIER. I am not trying to answer that part of the Senator's question. The grasshoppers have nothing to do with the price of flax. Normally one would think the price of flax would rise under a scarcity, but the price has not come up; it is lower now than it has been for years.

Mr. COPELAND. My judgment is, if I may rely at all upon the Department of Agriculture, that there are natural causes responsible for the failure of the flax crop and the profitable raising of flax and that we can do nothing by legislation to improve the situation.

Mr. BARBOUR. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from New Jersey?

Mr. VANDENBERG. I yield.

Mr. BARBOUR. I should like to ask the Senator from North Dakota or some other Senator who can answer the question definitely and specifically, either in my time or in his, whether the term "flax", which has constantly been employed by different Senators, refers to flaxseed only or to fiber flax? These two commodities are absolutely different and distinct. I wish to be clear in my own mind whether or not this reference or any reference is to fiber flax or just to flaxseed. And I want to be sure that other Senators understand this also, particularly those responsible for this phase of this legislation.

Mr. SHIPSTEAD. If I may answer the Senator in his time, having no more time on this amendment—

Mr. VANDENBERG. I yield to the Senator from Minnesota.

Mr. SHIPSTEAD. Flax is a different thing from flaxseed.

Mr. BARBOUR. I know that very well. That is the very point I want to make clear.

Mr. SHIPSTEAD. This amendment refers only to flaxseed; it does not refer to flax as such.

Mr. BARBOUR. Simply to flaxseed?

Mr. SHIPSTEAD. Simply to flaxseed.

Mr. BARBOUR. I thank the Senator.

Mr. VANDENBERG. I yield the floor.

Mr. KING. Mr. President, I suggested to the Senator from Nebraska [Mr. NORRIS] a moment ago, when he interrogated the Senator from North Dakota as to the reason why there should be any opposition to the amendment offered by the Senator from California, that it was desired to have a monopoly. It appears that two or three States have practically a monopoly of the production of flaxseed, and now, having obtained a high tariff, 65 cents a bushel, and having limited production in the United States, they want to deny to other persons the right to invade the flaxseed field and to produce flaxseed and to obtain a little of the benefits and bounties which will result from this proposed act and which accrue from the tariff. It seems to me if we are to give bounties and subsidies and that sort of thing, that the amendment offered by the Senator from California is one which is entitled to the support of the Senate as against the position of the Senator from North Dakota.

Mr. President, I recall, as a member of the Finance Committee, the appeals which were made for a tariff upon flaxseed. We granted a tariff of 65 cents a bushel, and the price of flaxseed has risen, as I recollect—I may be in error as to the figures, because I have not examined them for several years—from 20 cents a bushel up to 65 or 70 cents a bushel.

Mr. COPELAND. The price has risen to \$1.20 a bushel.

Mr. KING. The price has risen to \$1.20 a bushel, I am told; I was somewhat in error. Who is compelled to pay for this enormous increase in the price of flaxseed? The farmers themselves have to pay it in the increased cost of paint and other commodities which they use and which are indispensable and necessary to their activities. The linoleum in their houses is, in part, the product of flaxseed, and there are hundreds of other commodities entering into the lives of the people, farmers as well as the industrialists in the cities, which are affected by the price of flaxseed. From flaxseed are produced oils which are needed in the handling of leather and in preparing it for utilization in the manufacture of shoes and leather goods. It seems to me that this is an example of greed which is not justified.

A tariff of 65 cents a bushel has been levied on flaxseed; there has been an increase in the price perhaps of several hundred percent as the result of the tariff, and now there comes a demand for additional protection in order to prevent others from invading the field.

I shall vote for the amendment offered by the Senator from California; and then, if such a motion shall be made, I will vote to strike out the entire provision. I think it is wholly unjustified.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from California [Mr. JOHNSON] to the amendment reported by the committee.

The amendment to the amendment was agreed to.

The PRESIDENT pro tempore. The question recurs on the amendment offered by the Senator from Minnesota [Mr.

SHIPSTEAD] to the amendment of the committee. The amendment to the amendment will be stated.

The CHIEF CLERK. At the end of the committee amendment, on page 38, line 13, after the word "barley", it is proposed to insert the following:

In the case of flaxseed the first marketing year shall be considered to be the period commencing October 1, 1935, and ending April 30, 1936. Subsequent marketing years shall commence on May 1 and end on April 30 of the succeeding year.

There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to flaxseed) (a) a processing tax on the first domestic processing of perilla seed at the rate equal to the per pound rate of the processing tax which is then in effect on flaxseed, and (b) a processing tax on the first domestic processing of hempseed at the rate of 84 percent of the per pound rate of the processing tax which is then in effect on flaxseed.

Mr. COPELAND. Mr. President, is this the amendment of the Senator from Minnesota?

The PRESIDENT pro tempore. It is the amendment of the Senator from Minnesota.

Mr. COPELAND. It sets aside, I presume, the theory of the original act. If I remember the original Agricultural Adjustment Act correctly, a compensatory tax must be levied on products competing with basic commodities. Is that what the Senator has in mind?

Mr. SHIPSTEAD. There was so much noise in the Senate, I did not hear what the Senator said.

The PRESIDENT pro tempore. Let there be order in the Senate so that one Senator may hear another.

Mr. SHIPSTEAD. Will the Senator please restate his query?

Mr. COPELAND. May I first ask the Senator, in my time, as he has exhausted his, what is he proposing by this amendment—a compensatory tax on the products competing with a basic commodity?

Mr. SHIPSTEAD. Yes.

Mr. COPELAND. Is not that the law now? That is the law under the present act, as I understand.

Mr. McNARY. Mr. President, if I may obtrude at this point, let me say that in the original act a compensatory tax was placed on competing articles. At that time no specification was provided as to the amount of the processing tax, but it was based on a given period between 1907 and 1914, known as the "basic period."

In order to overcome the decision in the so-called "chicken case", it is attempted here to have Congress specify the amount of tax on flax; and consequently, to carry out that same parity theory, it is necessary to put a processing tax on the competitive products which are named in the amendment. That is the theory, as I gather it from reading the amendment and having a little knowledge of the original act.

I do not think it changes the theory or the principle at all, in carrying out the purposes of the amendment, in order to get around some of the constitutional objections found to the National Recovery Act, by specifying that Congress shall fix the amount of the tax rather than leaving it to the discretion of the Secretary of Agriculture. If we provide a yardstick for the domestic production of flax, we must provide a yardstick for the competitive agricultural commodity.

Mr. COPELAND. I know the explanation is correct. But what we are doing is still further to increase the cost of paint in this country, to say nothing of the cost of linoleum and other products. I am assured that if this provision without any amendment were to be adopted the cost of paint would be increased at least 35 cents a gallon. If the other drying oils—tung oil, perilla oil, and other oils—are also given the alleged benefit of further taxes, it would mean that every gallon and every quart of paint spread in America would be materially increased in price.

The question is whether we are willing to have that result, involving everybody, when the total acreage of flax in the country is less than a million acres. With a view to helping the owner of a million acres devoted to flax, we are asked to do a thing which would increase the cost of paints, linoleum, and other products containing these various oils.

Senators must decide. It is not difficult for me to decide, when I know there will be a material decline in the making

and sale of paints and increased unemployment by reason thereof.

I suppose Senators from interior States get tired of hearing me talk about unemployment in New York City and in the other cities of my State, but everything we are doing here has a tendency to increase unemployment in my community. We have in New York City the largest group of unemployed in America—2,000,000 in number. A lot of the people now employed in paint factories will be unemployed by reason of this tax, because with the increased cost of paint there will be a decline in demand for it. If any Member of the Senate has had occasion to buy paint, as I have during the past several years, and to note the distinction and difference in the price of paint now and what it was 5 years ago, he knows what added cost means.

This provision must result in a decreased use of paint. Yet in order to help 1,000,000 acres of flax out of the many millions of acres devoted to farm products in the country, we are asked to do a thing which would materially increase the cost of paint and which would affect farmers who have buildings upon their farms which I assume they desire to keep painted.

Here with one hand we are writing a bill to increase taxes upon these various products, and with the other hand, and at the same time, we are making the prices of articles made from them still higher. I think there must come a time when we will stop that sort of thing. Certainly so far as this particular program is concerned, if I am correct in my logic and in the information given me, we are making a great mistake in increasing the cost of essential products and thereby making for more unemployment.

Mr. SHIPSTEAD. Mr. President, did the Senator vote for the N. R. A. Act?

Mr. COPELAND. I think I did.

Mr. SHIPSTEAD. The N. R. A. increased the costs which he is mentioning.

Mr. COPELAND. I know it; and if I had it to do over again, I should not vote for the N. R. A. There are a lot of such things I am not going to vote for now. I do not care if I am the only Democrat, though I know I am not the only one, I am not going to vote for these various measures which in my judgment are doing much to retard progress in America and which are seeking to set aside all those economic laws which are essential to our well-being as a Nation. We cannot make people good by legislation. Neither can we make them prosperous by legislation.

This is my apology as regards my vote 2 years ago on N. R. A. There are a lot of things I know now that I did not know then, and every citizen in America who is a student of affairs has learned a lot now that he did not know then.

We hoped, through these various legislative acts and by the social program set up by them, that we might improve the welfare of America. We tried to prime the pump; we tried to lift ourselves by our bootstraps; but we failed to do those things. If we continue along paths which have been proven by our experience in the past 2 years to be mistaken paths, we are not using the common sense which God gave us and which in my judgment we should exercise.

Mr. SHIPSTEAD. Mr. President, the Senator has made the most excellent argument against protective tariffs and an excellent argument against the N. R. A.

The PRESIDENT pro tempore. Permit the Chair to remind the Senator from Minnesota that he has made one speech on the amendment.

Mr. SHIPSTEAD. No; I have not taken any time on the amendment.

The PRESIDENT pro tempore. The amendment of the Senator from Minnesota is pending and he has made one speech on the amendment.

Mr. SHIPSTEAD. I thought I spoke on the amendment of the Senator from California [Mr. JOHNSON].

Mr. McNARY. Mr. President, I think when the Senator from Minnesota had the floor he was speaking on the amendment of the Senator from California. I recall very clearly the Senator from California offered his amendment, and the Senator from Minnesota had his amendment read

at the desk, but it was not pending. The rule, therefore, does not apply to him because he was speaking on an entirely different amendment than his own. I submit that statement because I was present and know what occurred.

The PRESIDENT pro tempore. There was some misunderstanding about the amendments being considered together. If the Senator from Minnesota thinks he has not discussed his amendment, the Chair will so hold.

Mr. SHIPSTEAD. Have I some time?

The PRESIDENT pro tempore. The Senator has 15 minutes.

Mr. SHIPSTEAD. I shall take but 2 minutes. I repeat that the Senator from New York [Mr. COPELAND] has made an excellent argument against protective tariffs and an excellent argument against the N. R. A. I am not here to argue this matter, however.

This is the policy which is being formulated. In anticipation that that policy will be formulated in its completeness this amendment of mine is offered. Any man who does not believe in this policy has a right to vote against the final passage of the bill, but in fairness the formulation of the policy should be completed. This is only a part of the picture, a part of the policy, that the commodity, flaxseed, shall be included in order that the farmer may have for his flaxseed a parity price of \$2.25 instead of \$1.52 as at present.

Mr. BORAH. Mr. President, the remarks of the Senator from New York [Mr. COPELAND] are worthy of serious consideration. I think the constant increase of prices in this country is one of the things which is retarding recovery and enlarging the number of unemployed. In my judgment, about that there can be no doubt. But I think we ought to make sure that we have located the cause of the increase of prices in this country.

The increase of prices by reason of the increase of farm-product prices is almost infinitesimal by the time it reaches the ultimate consumer. The increase of the price of farm products has had comparatively little effect upon the price the Senator from New York and his constituents have to pay in New York City for agricultural commodities. These prices have been increased by reason of combinations in this country which are fixing prices for the American people.

Yesterday a long debate ensued on the question of the Government fixing prices, in which I do not believe. But I do know that prices are being fixed for a population of 120,000,000 by a comparatively small number of people in the United States. If that is to continue as a permanent policy, then it is better that prices be fixed by the Government. The prices of paints and of meats and of overalls and of practically everything the people must buy are not being fixed by reason of the increase of the price upon the farm, except in a comparatively very small degree, but by those who are in a position to sit around a table and fix the price for the American people. And the Government continues to connive at the great wrong.

Unless we are willing to deal with that question, unless we are willing to handle that proposition, we are not going to lower the price of products in this country; and unless we lower them, unless we prevent the artificial, arbitrary price fixed by arbitrary power, unemployment in this country is going to increase and additional hardship is going to be imposed on the American people. One of the great contributing causes of the depression was this power of a few to extort arbitrary prices from the great body of the people. So long as that power continues and that practice prevails there will be wide-spread poverty and constantly increasing unemployment. There is our problem, and not in the price of farm products.

Mr. KING. Mr. President, apropos of the observations made by the Senator from New York [Mr. COPELAND], I desire to read from a letter I have just received from Judge J. A. Howell, one of the distinguished citizens of my State.

It appears that a number of years ago a packing plant was established in the city of Ogden for the purpose of handling the meat products of Idaho, Utah, and the intermountain region. It was known as the American Packing & Provi-

sion Co. This plant continued its operations for several years but ultimately ceased its activities—largely due to the depression, as many other organizations did during the period referred to.

The corporation was reorganized by a number of the leading citizens of Ogden, among them Judge Howell. They were desirous of establishing and carrying on a modern packing plant, believing that it would prove of benefit to the State and furnish a market for the livestock industry of Utah and other Western States.

Judge Howell in his letter states:

It looked as if this venture would be one that would pay a reasonable return upon our money, and up until the time of the depression it did have fairly good prospects. Of course it suffered, as did all other business, during the depression; and then along came the floor tax and later the hog-processing tax under the Agricultural Adjustment Act, and it is the particular purpose of this letter to state to you what is the effect of that tax upon such a business as this. As I understand it, the purpose of the tax was to secure sufficient funds with which to compensate producers for the limiting of the production, with the ultimate purpose of raising the price of hogs to the producer. It is not the purpose of this letter to argue the economics of such a law, but rather to state the practical results. It was assumed, of course, that this processing tax could be passed along by the producer to the consumer, but this has absolutely not been the result, by reason of the fact that the additional processing tax has caused the price of pork, hams, and other hog products so to increase that the consuming public refuses to purchase them at the price, and the consequence has been that gradually the volume of business of our company has diminished to such an extent that each month the business is running behind at a rate which means that only a limited time can elapse until this business must necessarily close its doors. It may be that ultimately the big packers, even under this law, will be able to survive, but if the experience of the other small packers is similar to ours, and I know of no reason why it should not be, the final result will be to drive all small packers out of the business entirely, and the result right here locally will be, as I have already stated, to close this plant and throw 250 Ogden citizens out of employment, as this tax burden averages between \$15,000 and \$20,000 a month on this little business.

Now, notwithstanding there are many of us who believe that this sort of a so-called "tax" is but a method of transferring one person's property to another and for other reasons is unconstitutional, it is now proposed by H. R. 8492 to prevent the recovery back of the tax by those who have suffered it, even if it should be declared to be unconstitutional.

Mr. President, in my opinion, some of the legislation which has been enacted during the past few years for the purpose of improving economic and industrial conditions has failed in its purpose. In periods of economic maladjustment, or depression, demands are not infrequently made to enact laws and carry out policies at variance with sound political and economic policies, but justified upon the theory that departures from accepted standards will secure benefits to groups and sections of the population. It is needless to state that grievous disappointments have followed these unsound experiments. Many of the measures which have been urged and adopted to meet periods of depression were enactments and regulations limiting and controlling production, fixing prices, and surrounding producers and distributors, and, indeed, consumers, with drastic and oppressive restrictions.

Under the Agriculture Adjustment Act crops were destroyed, lands condemned to remain fallow, and regulations promulgated and enforced which interfered with the exercise of legitimate rights of individuals and materially retarded economic and industrial rehabilitation.

It is singular that the many lessons of history which emphasized the un wisdom of measures and policies such as I have indicated, should be so unimpressive upon the minds of the people. With hundreds of millions of people denied the necessities of life, and millions in our own country without employment, without adequate food and clothing and shelter, we have put into effect policies that made it more difficult to defeat the forces of depression, revive business, and restore prosperity to the people.

The Senator from Minnesota [Mr. SHIPSTEAD] is now urging that important products be brought under the provisions of the Agricultural Adjustment Act and subjected to the oppressive and restrictive regulations that have proven, in my opinion, so disadvantageous in respect to other commodities. He insists that perilla oil, tung oil, as well as other oils,

shall be subjected to the terms of the A. A. Act, as amended. He concedes, as all familiar with these oils will concede, that they are important in promoting and developing industries in our country. It is conceded that the inclusion of these products as well as others mentioned in the bill before us, will increase the prices of these commodities which must be borne by the consumers. It is conceded that the purpose of this bill and the purpose of the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] is to add to the costs of many commodities and to that extent increase the burdens which the people will have to bear.

Already there are complaints heard in various parts of our country against rising prices and particularly against the cost, by many, of the necessities of life. Doubtless it is true that the prices of some commodities are controlled, in part at least, by what might be denominated monopolies or combinations in restraint of trade. In such cases the anti-trust laws should be invoked and rigorously applied. Monopoly is hateful, and the monopolistic control of things indispensable to the welfare of the people cannot and should not be permitted. The antitrust laws are broad and comprehensive, and violations should bring punishment to offenders.

Mr. President, there is a fallacy indulged in by many that legislation can cure all of the ills to which humanity is subject. Demands are being made for more laws, more restrictive legislation, the application of policies which experience has demonstrated to be unwise; and it is hoped, if not believed, that important benefits will result therefrom. I think it is recognized that some of these demands do not rest upon the theory of equal and exact justice to all, but rather contemplate that benefits, bounties, and advantages to one group or class shall be paid for by other groups or classes.

Undoubtedly there are economic and political tendencies toward the centralization of authority in the Federal Government, thus weakening the States and interfering with the legitimate exercise of individual rights. In my opinion, if the interpretation placed upon the commerce clause of the Constitution by many is accepted as a guide for congressional and national policies, then the rights of individuals as well as the States will be impaired and the spirit, if not the letter, of the Constitution will be changed. I have said upon a number of occasions that there are movements on foot to increase the authority of the Federal Government far beyond the limits of the Constitution as it came from the fathers and as it was interpreted by them. Under this misinterpretation of the commerce clause substantially all transactions and activities would fall into the category of interstate, and the Federal Government would have the power to control the lives and conduct and activities of the people.

I confess to entertaining serious misgivings as to the future of our form of government if the currents of socialism and paternalism, which are so rampant today, shall continue unabated.

Attempts are being made to overload the Federal Government, to increase its power, and to give to it authority to assume responsibilities belonging to individuals, communities, and States. In the end, if such attempts are successful, the States will be but shadows and the machinery of the Federal Government dominant in every phase and branch of our political, economic, and industrial life.

Senators are familiar with the statement of John Fiske, who said:

If the day should ever arrive (which God forbid) when the people of the different parts of our country shall allow their local affairs to be administered by prefects sent from Washington, and when the self-government of the States shall have been so far lost as that of the departments of France, or even so closely limited as that of the counties of England—on that day the political career of the American people will have been robbed of its most interesting and valuable features, and the usefulness of this Nation will be lamentably impaired.

He adds:

Too much centralization is our danger today, as the weakness of the Federal tie was our danger a century ago.

Mr. President, an important decision was rendered yesterday by the Circuit Court of Appeals of the First Circuit, in the case of William M. Butler et al. against United States of America. It relates to the A. A. Act and holds that

certain of its provisions are unconstitutional. In the light of this decision, as well as other decisions by Federal courts, Congress should hesitate to give its approval to the pending measure because the infirmities of the A. A. Act are found in the pending bill. Indeed, it is believed by some that the measure before us has greater infirmities than the original act.

I desire to read a few excerpts from the opinion:

The power of Congress to regulate interstate commerce does not authorize it to do so by taking products, either of agriculture or industry, before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

It is clear, we think, that under the recent decision of the Supreme Court in the *Schechter Poultry Corporation* case decided on May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz, to control or regulate the production of agricultural products in the several States by the methods adopted in this act, is beyond the power of Congress.

The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose deemed by Congress in furtherance of the "general welfare" but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.

The Federal Government is a government of enumerated powers and Congress cannot delegate legislative powers to the executive department.

I may add, in passing, that that is sought to be done in the bill which is under consideration.

While the courts have always shown a desire to sustain, if possible, acts of Congress, they have recognized the limitations imposed on Congress in this respect under the Constitution.

The power to determine what the law shall be, what property shall be affected by taxation or regulations, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

The power to impose a tax and to determine what property shall bear the tax can only be determined by the legislative department of the Government.

The Secretary made no finding of facts as to why he selected the first list of basic commodities for reducing acreage or production and was not required to do so.

It cannot be said that the Secretary's judgment that his acts will tend to effectuate the general policy laid down by Congress can be called a finding, as his judgment merely involves his opinion as to the general effect of the agreements he executes, to equalize the purchasing power of the commodity in question with that of the 5-year pre-war period.

I may add in passing that greater discretion and latitude are permitted to the Secretary and to his assistants under the present bill than under the other act, and therefore this measure will be challenged with greater hope of success than the original A. A. Act itself.

If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress, or to foretell the future limitations of local self-government.

I ask permission to have the entire opinion of the circuit court of appeals inserted in the RECORD.

The PRESIDING OFFICER (Mr. POPE in the chair). Without objection, the opinion will be inserted in the RECORD.

The opinion is as follows:

[From the New York Times of July 17, 1935]

Following is the text of the Federal circuit court of appeals decision holding the A. A. A. processing and floor taxes illegal: *William M. Butler et al., receivers of Hoosac Mills Corporation, appellants, v. United States of America, claimant, appellee*. Appeal from the District Court of the United States for the District of Massachusetts. Before Bingham, Wilson, and Morris, JJ.

OPINION OF THE COURT

JULY 13, 1935.

Wilson, J.:

This is an appeal from a decree of the District Court of Massachusetts in the conduct of receivership proceedings against the Hoosac Mills Corporation, a Massachusetts corporation. The United States filed a claim with the receivers for processing and

floor taxes levied under sections 9 and 16 of the Agricultural Adjustment Act, chapter 25 (48 Stat. 31) (hereinafter referred to as the act), amounting in the aggregate to \$81,694.28, of which \$44,057.64 represented processing taxes and interest, and \$37,636.64 represented floor taxes and interest.

The receivers in their report to the district court recommended that the claims for these taxes be disallowed. The district court, however, found that the claims were valid and entered a decree ordering the claims to be paid.

COMPLAINTS OF ERROR PUT IN THREE GROUPS

The receivers appealed from the decree and filed numerous assignments of error, which may be grouped under three heads:

(1) The taxes imposed are not warranted under the Federal Constitution in that they were imposed for the unlawful purpose of regulating and restricting the production of cotton in the several States, which is an unwarranted interference with matters solely within the control of the respective States and is violative of the powers reserved to the States under the tenth amendment, and, therefore, does not constitute an exercise of any authority or power of taxation granted to Congress under section 8 of the Constitution.

(2) The delegation of the powers under sections 8 and 9 of the act to the Secretary of Agriculture to determine by agreement with the producers which of the basic commodities enumerated under section 11 of the act as amended shall be restricted as to production, to what extent the acreage devoted to the production of any of such basic commodities shall be limited to bring about the result sought to be gained by the act, to determine when rental or benefit payments shall be made and the amount, and the investing of power in the Secretary to determine when and what competing commodities should be taxed and to what extent, and to determine when such processing tax shall become effective or shall cease to be imposed, is an unwarranted delegation of the legislative power granted exclusively to Congress.

(3) That the processing and floor taxes imposed are direct taxes and are not apportioned as required under section 8 of the Constitution, or, if excise taxes, are not uniform throughout the United States and are therefore not authorized under the Constitution.

RULING INTERPRETS AIMS OF CONGRESS

We are not unmindful of the rules of construction that a presumption exists as to the validity of an act of Congress, or that if an act is susceptible of two interpretations that should be accepted which will uphold its validity.

It is clearly apparent, however, from the provisions of the act that the main purpose of Congress in its enactment was not to raise revenue but to control and regulate the production of what is termed the "basic products of agriculture", in order to establish and maintain a balance between the production and consumption of such commodities, which Congress realized could not in any event be accomplished by compulsory regulation of the production of agricultural products, and it sought to avoid the objection that it was interfering with matters solely within the control of the States themselves by making the restriction of production voluntary by basing the act on the power of Congress to regulate interstate commerce, on its power to tax to provide for the general welfare of the United States, and by declaring that in the acute economic emergency that exists transactions in agricultural commodities have become affected with a public interest.

Title I of the act opens with the following:

"Declaration of emergency: That the present acute economic emergency being in part the consequence of a severe and increasing disparity between the prices of agricultural and other commodities, which disparity has largely destroyed the purchasing power of the farmers for industrial products, has broken down the orderly exchange of commodities, and has seriously impaired the agricultural assets supporting the national credit structure, it is hereby declared that these conditions in the basic industry of agriculture have affected transactions in agricultural commodities with a national public interest, have burdened and obstructed the normal currents of commerce in such commodities, and render imperative the immediate enactment of title I of this act."

NEW CONGRESS POWERS ARE DENIED BY COURT

According to recent pronouncements of the Supreme Court, however, such a declaration grants no new powers to Congress, nor does a declaration by Congress that under certain conditions the industry of agriculture is affected with a public interest, or burdens and obstructs the normal flow of commerce, necessarily give to Congress the absolute power to control or regulate it by legislation.

The assignments of error are based on the provisions of the following sections:

"Sec. 2. It is hereby declared to be the policy of Congress—

"(1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power, with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco shall be the pre-war period August 1909-July 1914.

"In the case of tobacco, the base period shall be the post-war period August 1919-July 1929.

"(2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demands in domestic and foreign markets.

"(3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909–July 1914."

"Sec. 8. In order to effectuate the declared policy the Secretary of Agriculture shall have power—

"(1) To provide for reduction in the acreage or reduction in the production for market, or both, of any basic agricultural commodity, through agreements with producers or by other voluntary methods, and to provide for rental or benefit payments in connection therewith or upon that part of the production of any basic agricultural commodity required for domestic consumption, in such amounts as the Secretary deems fair and reasonable, to be paid out of any moneys available for such payments.

"Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored.

"In any such case such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing, but no deduction may be made for interest."

PROVISIONS OF ACT FOR COLLECTIONS QUOTED

"Sec. 9 (A). To obtain revenue for extraordinary expenses incurred by reason of the national economic emergency there shall be levied processing taxes as hereinafter provided. When the Secretary of Agriculture determines that rental or benefit payments are to be made with respect to any basic agricultural commodity he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation.

"The processing tax shall be levied, assessed, and collected upon the first domestic processing of the commodity, whether of domestic production or imported, and shall be paid by the processor. The rate of tax shall conform to the requirements of subsection (B). Such rate shall be determined by the Secretary of Agriculture as of the date the tax first takes effect, and the rate so determined shall, at such intervals as the Secretary finds necessary to effectuate the declared policy, be adjusted by him to conform to such requirements.

"The processing tax shall terminate at the end of the marketing year current at the time the Secretary proclaims that rental or benefit payments are to be discontinued with respect to such commodity. The marketing year for each commodity shall be ascertained and prescribed by regulations of the Secretary of Agriculture: *Provided*, That upon any article upon which a manufacturers' sales tax is levied under the authority of the Revenue Act of 1932 and which manufacturers' sales tax is computed on the basis of weight, such manufacturers' sales tax shall be computed on the basis of the weight of said finished article less the weight of the processed cotton contained therein on which a processing tax has been paid.

RATE OF THE TAX AS PROVIDED BY ACT

"(B) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity; except that if the Secretary has reason to believe that the tax at such rate will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties.

"If thereupon the Secretary finds that such result will occur, then the processing tax shall be at such rate as will prevent such accumulations of surplus stocks and depression of the farm prices of the commodity. In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.

"(C) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture."

REGULATIONS GET STATUS AND EFFECT OF LAW

"Sec. 10. (c) The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article processed therefrom, to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of \$100, as may be provided therein."

As originally enacted, section 11 read as follows:

"Sec. 11. As used in this title, the term 'basic agricultural commodity' means wheat, cotton, field corn, hogs, rice, tobacco, and milk and its products, and any regional or market classification,

type, or grade thereof; but the Secretary of Agriculture shall exclude from the operation of the provisions of this title, during any period, any such commodity or classification, type, or grade thereof if he finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that the conditions of production, marketing, and consumption are such that during such period this title cannot be effectively administered to the end of effectuating the declared policy with respect to such commodity or classification, type, or grade thereof.

"Sec. 12. (a) There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000, to be available to the Secretary of Agriculture for administrative expenses under this title and for rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title. Such sum shall remain available until expended.

ACT FIXES THE USES OF SUCH TAX INCOME

"(b) In addition to the foregoing, the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for expansion or markets and removal of surplus agricultural products, and the following purposes under part 2 of this title: Administrative expenses, rental and benefit payments, and refunds on taxes.

"The Secretary of Agriculture and the Secretary of the Treasury shall jointly estimate from time to time the amounts, in addition to any money available under subsection (a), currently required for such purposes; and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated.

"The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection."

"Sec. 15 (a). If the Secretary of Agriculture finds, upon investigation at any time and after due notice and opportunity for hearing to interested parties, that any class of products of any commodity is of such low value, compared with the quantity of the commodity used for their manufacture, that the imposition of the processing tax would prevent in whole or in large part the use of the commodity in the manufacture of such products and thereby substantially reduce consumption and increase the surplus of the commodity, then the Secretary of Agriculture shall so certify to the Secretary of the Treasury, and the Secretary of the Treasury shall abate or refund any processing tax assessed or paid after the date of such certification with respect to such amount of the commodity as is used in the manufacture of such products."

LAW MAKES PROVISION FOR FIXING OF RATES

"(d) The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof.

"If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary upon the basic agricultural commodity.

"Sec. 16. (a) Upon the sale or other disposition of any article processed wholly or in chief value from any commodity with respect to which a processing tax is to be levied, that on the date the tax first takes effect or wholly terminates with respect to the commodity, is held for sale or other disposition (including articles in transit) by any person, there shall be made a tax adjustment as follows:

"(1) Whenever the processing tax first takes effect there shall be levied, assessed, and collected a tax to be paid by such person equivalent to the amount of the processing tax which would be payable with respect to the commodity from which processed if the processing had occurred on such date.

"(2) Whenever the processing tax is wholly terminated there shall be refunded to such person a sum (or if it has not been paid, the tax shall be abated) in any amount equivalent to the processing tax with respect to the commodity from which processed."

POWER OF CONGRESS OVER PRODUCTION OF AGRICULTURAL COMMODITIES

It is clear from the above sections, together with the other sections of the act, that its main purpose is to control and regulate the production of the so-called "basic agricultural commodities" in the several States, through agreements with the producers and in consideration of what is termed "rental" or "benefit" payments, to reduce acreage or production for market sufficient to increase the current average price of such products to that elusive point where the returns to the farmer from the production of such commodities will purchase under present conditions the same amount of industrial products that the returns to the farmer from the same products would buy in the 5-year pre-war period from July 1909 to August 1914.

PURPOSE OF THE TAXES DECLARED OBVIOUS

The "processing" and "floor taxes", though ostensibly imposed for raising funds to meet extraordinary expenses incurred by reason of the national economic emergency, are obviously intended to provide funds for the rental and benefit payments authorized under section 8, as such taxes are not imposed except when the Secretary determines that rental or benefit payments are to be made, and the proceeds are expressly appropriated for the purpose.

It is urged by the receivers, and in a brief filed by one of the amici curiae, that the restriction of the production of agricultural products is entirely within the control of the several States, and Congress cannot control it directly or indirectly through the executive department, however great the emergency; that even if in a great emergency transactions in agricultural products become affected with a public interest, which is not met by concerted action by the States themselves, it does not lie within the power of Congress to regulate their production; that however wide-spread the public interest in a matter solely within the control of the States themselves, Congress has no power to control or regulate it, it being reserved to the States under the tenth amendment.

The power of Congress to regulate interstate commerce does not authorize it to do so by taking products either of agriculture or industry before they enter interstate commerce, or otherwise to control their production merely because their production may indirectly affect interstate commerce.

There is, of course, nothing new in this statement; see *Hammer v. Dagenhart* (247 U. S. 251); *Child Labor Tax Case* (259 U. S. 20); *Chassaniol v. City of Greenwood* (291 U. S. 534); *Kidd v. Pearson* (128 U. S. 1); *Keller v. United States* (213 U. S. 138, 145); *New York v. Miln* (11 Pet. 102, 139); *United Leather Workers International Union et al. v. Herkert* (265 U. S. 457); *United Mine Workers et al. v. Coronado Co.* (259 U. S. 344, 408); *Crescent Cotton Oil Co. v. Mississippi* (257 U. S. 129); *Champlin Refining Co. v. Corporation Commission of Oklahoma* (286 U. S. 210, 235); *United States v. Eason Oil Co.* (8 Fed. Sup. 365); *United States v. Weirton Steel Co.* (10 Fed. Sup. 55).

ESSENTIAL THAT STATES RULE LOCAL MATTERS

In *Hammer v. Dagenhart*, supra, page 275, the Court said:

"A statute must be judged by its natural and reasonable effect (*Collins v. New Hampshire* (171 U. S. 30, 33, 34)). The control by Congress over interstate commerce cannot authorize the exercise of authority not entrusted to it by the Constitution (*Pipe Line cases* (234 U. S. 548, 560)). The maintenance of the authority of the States over matters purely local is as essential to the preservation of our institutions as is the conservation of the supremacy of the Federal powers in all matters entrusted to the Nation by the Federal Constitution.

"In interpreting the Constitution it must never be forgotten that the Nation is made up of States to which are entrusted the powers of local government. And to them and to the people the powers not expressly delegated to the National Government are reserved (*Lane County v. Oregon* (7 Wall. 71, 76)). The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority is inherent and has never been surrendered to the General Government (*New York v. Miln* (11 Pet. 102, 139); *Slaughter House cases* (16 Wall. 36, 63); *Kidd v. Pearson*, supra).

"To sustain this statute would not be, in our judgment, a recognition of the lawful exertion of congressional authority over interstate commerce but would sanction an invasion by the Federal power of the control of a matter purely local in its character, and over which no authority has been delegated to Congress in conferring the power to regulate commerce among the States.

"We have neither authority nor disposition to question the motives of Congress in enacting this legislation. The purposes intended must be attained consistently within constitutional limitations and not by an invasion of the powers of the States. This court has no more important function than that which devolves upon it the obligation to preserve inviolate the constitutional limitations upon the exercise of authority, Federal and State, to the end that each may continue to discharge harmoniously with the other the duties entrusted to it by the Constitution."

POINTS TO DECISION IN SCHECHTER CASE

The Government contends that Congress does not seek by the act to interfere with the States' control over agriculture, inasmuch as the reduction of acreage and of production of either of the basic agricultural products depends on voluntary agreements by the producers and the processing and floor taxes depend on the execution of such agreements to reduce production, citing *Massachusetts v. Mellon* (262 U. S. 447); but it is clear, we think, that under the recent decision of the Supreme Court in the *Schechter Poultry Corporation* case, decided on May 27, 1935, that Congress at the outset has attempted to invade a field over which it has no control, since its obvious purpose, viz, to control or regulate the production of agricultural products in the several States by the methods adopted in this act is beyond the power of Congress (*Kansas v. Colorado*, 206 U. S. 46; *Flint v. Stone Tracy Co.*, 220 U. S. 107).

The processing and floor taxes are not dependent on the execution of agreements to reduce acreage or production alone, but on the determination by the Secretary, without any foundation other than his own opinion, that the existing economic emergency demands that to accomplish the declared purpose of the act rental or benefit payments shall be made. The imposing of the taxes automatically follows.

The issue is not, as the Government contends, whether Congress can appropriate funds raised by general taxation for any purpose

deemed by Congress in furtherance of the general welfare, but whether Congress has any power to control or regulate matters left to the States and lay a special tax for that purpose.

DELEGATION OF LEGISLATIVE POWERS

The issue of whether under the act there has been an unauthorized delegation by Congress of its legislative powers is decisive of the case before this court.

Except as a premise for the conclusions which follow, it is unnecessary to restate what has been so often reiterated by the courts, viz, that the Federal Government is a Government of enumerated powers, and Congress cannot delegate legislative powers to the executive department.

The line between grants of legislative powers and the authority to perform a purely administrative function as drawn in the decisions may at first blush appear wavy instead of straight, notwithstanding the rule has been often definitely stated.

The Supreme Court of Ohio in *Cincinnati, Wilmington, etc., R. R. v. Commissioners* (1 Ohio St. 77, 88), stated the rule in a form which has been approved by the Supreme Court of the United States (*Field v. Clark* (143 U. S. 649)), and again in the recent case of *Panama Refining Co. et al. v. Ryan et al.* (293 U. S. 388, 426):

"The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made."

The Supreme Court in the *Panama Refining Co.* case, supra, also said:

"The Congress manifestly is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. Undoubtedly legislation must often be adapted to complex conditions involving a host of details with which the National Legislature cannot deal directly. The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicability which will enable it to perform its function in laying down policies and establishing standards while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the Legislature is to apply. Without capacity to give authorizations of that sort, we should have the anomaly of a legislative power which in many circumstances calling for its exertion would be a futility."

PREVIOUS COURT RULINGS ARE QUOTED IN DECISION

The Court, however, added:

"But the constant recognition of the necessity and validity of such provisions, and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate if our constitutional system is to be maintained."

And in the case of *Wichita R. R. & Light Co. v. Public Utilities Commission* (260 U. S. 48, 59) the Court said:

"In creating such an administrative agency, the legislature, to prevent its being a pure delegation of legislative power, must enjoin upon it a certain course of procedure and certain rules of decision in the performance of its function."

It is the application of this principle to complex situations that sometimes makes it difficult to determine whether there has been a grant of legislative power to an administrative officer or merely administrative functions.

While the courts have always shown a desire to sustain, if possible, acts of Congress, they have recognized the limitations imposed on Congress in this respect under the Constitution.

In the leading case of *Field v. Clark*, supra, page 692, the court said that the rule "that Congress cannot delegate legislative powers to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution."

Under stress of circumstances we sometimes forget the reason for the division of our Government into three independent branches, which was expressed in the Constitution of Massachusetts by one of those instrumental in securing the adoption of the Federal Constitution:

"In the government of this Commonwealth, the executive department shall never exercise the legislative and judicial powers, or either of them; the judicial shall never exercise the legislative and executive powers, or either of them, to the end it may be a government of laws and not of men."

PAST COURT ACTIONS ON DELEGATION OF POWER

The extent to which the court has gone in upholding the acts of Congress upon the ground that Congress may select instrumentalities for the purpose of ascertaining the existence of facts upon which the operation of the law depends, and may properly give authority to administrative officers to determine certain facts, and by establishing primary standards devolve on others the duty to carry out the declared legislative policy in accordance therewith is shown in the following cases:

The Brig "Aurora" (7 Cr. 382); *Field v. Clark*, supra; *Buttfield v. Stranahan* (192 U. S. 470); *Union Bridge Co. v. United States* (204 U. S. 364); *United States v. Chemical Foundation* (272 U. S. 1); *Radio Commission v. Nelson Brothers Co.* (289 U. S. 266); *United States v. Grimaud* (220 U. S. 506); *Hampton & Co. v. United States* (276 U. S. 394); *Plymouth Coal Co. v. Pennsylvania* (232 U. S. 531); *United States v. Shreveport Grain & Elevator Co.* (287 U. S. 77); *Avent v. United States* (266 U. S. 127); *Williamsport Wire Rope Co. v. United States* (277 U. S. 551); *St. Louis & Iron Mountain Southern Railway Co. v. Taylor* (210 U. S. 281, 287).

But an examination of these decisions and others of the Supreme Court will also disclose that when an act of Congress of this nature has been sustained, either there has been clear direction to perform an administrative function or to add a tax of the same character to one already imposed by Congress—*Milliken v. United States* (283 U. S. 15, 24); *Patton v. Brady* (184 U. S. 608); or to grant relief from an excessive tax already imposed—*Williamsport Wire Rope Co. v. United States* (277 U. S. 551); *Heiner v. Diamond Alkali Co.* (288 U. S. 502); or a power to determine, after notice and hearing, certain facts upon which the operation of congressional edicts are made to depend, particularly when the determination of the facts are dependent on data not within the knowledge of Congress, or not readily accessible, and the ultimate facts on which the will of Congress depends can only be determined from evidentiary facts to be proved by evidence, which cannot be fairly weighed except by permanent and specially qualified officials, such as the Interstate Commerce Commission, the Commissioner of Internal Revenue, the Board of Tax Appeals, the Radio Commission, or the Tariff Commission, and from the findings of which commission judicial review is provided for—*Interstate Commerce Commission v. Louisville & Nashville Railroad Co.* (227 U. S. 88).

LAW-FIXING POWERS NOT ADMINISTRATIVE

The power to determine what the law shall be, what property shall be affected by taxation or regulation, and what standards shall govern the administrative officers in administering acts of Congress, has never been held to be an administrative function.

The power to impose a tax and to determine what property shall bear the tax can only be determined by the legislative department of the Government. If Congress undertakes to lay down a guide for an administrative officer to follow in carrying out its mandates, it must be by an intelligible and reasonably definite standard (*Adkins v. Children's Hospital*, 261 U. S. 525; *Hampton & Co. v. United States*, *supra*, p. 409).

The balance between production and consumption of certain commodities, or the equalizing of the purchasing power thereof between certain widely separated periods, alone forms no such standard.

Congress in the National Recovery Act authorized the President to prohibit the transmission of oil in interstate commerce in excess of the amount authorized by a State, which on its face might seem definite, but the Court said in the *Panama Refining Co.* case, *supra*, page 415:

"The question whether that transportation shall be prohibited by law is obviously one of legislative policy. Accordingly we look to the statute to see whether the Congress has declared a policy with respect to that subject; whether the Congress has set up a standard for the President's action; whether the Congress has required any finding by the President in the exercise of the authority to enact the prohibition. * * *

"Section 9 (c) does not state whether, or in what circumstances or under what conditions, the President is to prohibit the transportation of the amount of petroleum or petroleum products produced in excess of the State's permission. It establishes no criterion to govern the President's course. It does not require any finding by the President as a condition of his action."

RULING ON THE N. R. A. ALSO IS RECALLED

The Court found no standard in the act by which the President's action was to be governed except a general declaration in section 1 of a policy even broader than that contained in section 2 of this act. The Court said of section 1 of the Recovery Act, page 417:

"This general outline of policy contains nothing as to the circumstances or conditions in which transportation of petroleum or petroleum products should be prohibited—nothing as to the policy of prohibiting or not prohibiting the transportation or production exceeding that the States allow. * * * It is manifest that this broad outline is simply an introduction of the act, leaving the legislative policy as to particular subjects to be declared and defined, if at all, by the subsequent sections."

If Congress has the power to control or regulate the production of agricultural products within the several States and assess a tax on their processing or sale for that purpose, it is obviously legislative in character. Quercy, then, has Congress set up any definite standard for the Secretary's action in making rental or benefit payments to producers and thereby imposing a processing tax?

We find no definite, intelligible standard set up in the act for determining when the Secretary shall pay rental or benefit payments in order to reduce production of any particular commodity except his own judgment as to what will effectuate the purpose of the act.

The declaration of emergency in the Agricultural Adjustment Act contains no such standard for the Secretary of Agriculture to follow in entering into restrictive agreements with producers of agricultural products. It is merely a statement of conditions which in the judgment of Congress warranted legislative action.

Section 2 of the act declaring the policy of Congress in enacting the legislation contains no more than a statement of the objects Congress had in view in passing the act, viz., "To establish and maintain a balance between the consumption and production of agricultural commodities and such marketing conditions therefor as will reestablish prices to farmers at such a level as will give agricultural commodities a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of agricultural commodities during the 5-year pre-war period from July 1909 to August 1914."

We can conceive of no goal that can be more elusive and difficult of attainment.

FINDS BENEFIT GRANTS LEFT TO SECRETARY

Without requiring any findings to warrant his action, Congress has empowered him, in conjunction with the producers, to determine when a reduction of acreage or production of any one of the agricultural commodities which it has termed basic, should be resorted to to accomplish the purpose of the act, when rental or benefit payments are to be made and in what amounts, and thereby to determine through the initiation of the benefit payments or rentals the consequent imposition of a tax.

The making of benefit payments, therefore, rests upon, and the consequent imposition of the tax is vested in the discretion of the Secretary, in conjunction, of course, with the producers, governed by no other consideration than the general purpose of Congress to equalize the purchasing power of certain agricultural products.

The carrying out of the policy stated by Congress in section 2 is no more definite as a standard by which the acts of the Secretary are determined than the policy expressed in the National Recovery Act as to transportation of oil and the power vested in the President to prescribe industrial business codes governing the conduct of business.

PRESENT CASE LIKENED TO RULING ON THE N. R. A.

What the Supreme Court said of section 9 (c) of the National Recovery Act in the *Panama Refining Co.* case may likewise be said of section 2 and section 8 of the Agricultural Adjustment Act. Neither section 2 nor section 8 of this act states whether or under what circumstances the Secretary shall enter into agreements to limit production of basic agricultural commodities.

Action by the Secretary is not mandatory, and the act establishes no criterion to govern his course of action. It requires no finding by him as a condition of his action, nor is any provision for judicial review provided in the act in case of a finding that such standard in fact exists.

It is true that the facts in this case are different from those in the *Panama Refining Co.* case and in the *Schechter poultry* case, but the provisions defining the acts of the Secretary differ from those authorizing the acts of the President in those cases only in the general terms employed. The principle involved is the same.

The indefiniteness of the standard by which the Secretary of Agriculture is to proceed is at once apparent and was recognized by Congress in paragraphs (2) and (3) of section 2, in which it was provided that the approach to such equality of purchasing power must be by a gradual correction of the present inequalities at as rapid a rate as is deemed feasible by the Secretary in view of the current consumptive demand in the domestic and foreign markets, and further by protecting the consumers' interest by readjusting farm production at such a level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities which is returned to the farmer above that returned to him during the 5-year pre-war period.

As originally enacted Congress enumerated in section 11 seven products which it termed basic, and later by amendment added rye, flax, barley, grain, sorghum, sugar beets, sugarcane, peanuts, and rice. Benefit payments under the act have been made with respect to wheat, cotton, tobacco, hogs, field corn, and peanuts, but none with respect to barley, cattle, flax, grain, sorghum, milk, or rye.

Congress has not specifically directed that payments should be made to the producers of any one of them except the producers of sugar, or that the processing of any one of these products should be taxed except rice, but as to each of the other commodities enumerated, has left it to the Secretary of Agriculture to determine by agreements with the producers themselves which ones, if any, should receive benefit or rental payments and in what amounts.

FINDINGS OF FACTS HELD TO BE LACKING

The Secretary made no finding of facts as to why he selected the first list of basic commodities for reducing acreage or production, and was not required to do so. He simply made a proclamation that "rental and/or benefit payments are to be made with respect to cotton", and a processing tax automatically followed.

It cannot be said that the Secretary's judgment that his acts will tend to effectuate the general policy laid down by Congress can be called a finding, as his judgment involves merely his opinion as to the general effect of the agreements he executes to equalize the purchasing power of the commodity in question with that of the 5-year pre-war period.

Only when he undertakes to readjust taxes is he supposed to make findings, but in that case it amounts to no more, as the Court said in the *Schechter Poultry Corporation* case of the President's code-making powers under the National Recovery Act, than his opinion as to its effect in promoting the general policy outlined by Congress in the act itself.

To quote from the opinion in the *Schechter Poultry Corporation* case, decided May 27, 1935:

"But would it be seriously contended that Congress could delegate its legislative authority to trade or industrial associations or groups so as to empower them to enact the laws they deem to be wise and beneficent for the rehabilitation and expansion of their trade or industries? Could trade or industrial associations or groups be constituted legislative bodies for that purpose because such associations or groups are familiar with the problems of their enterprises?"

"And could an effort of that sort be made valid by such a preface of generalities as to permissible aims as we find in section

1 of title I? The answer is obvious. Such a delegation of legislative power is unknown to our law and is utterly inconsistent with the constitutional prerogatives and duties of Congress."

DENIES CONGRESS MAY GRANT POWERS

Because the proposed reduction of acreage and of production of the so-called "basic agricultural commodities" is to be secured through voluntary agreements, the Government also contends that Congress has not delegated legislative powers to the Secretary; but can Congress, in order to effectuate the general policy expressed in section 2 of the act, lawfully delegate to the Secretary the power to determine whether, in consideration of rental or benefit payments to the producers, the production of any one of such basic agricultural commodities shall be reduced and to what extent reduced, without a finding by the Secretary that facts exist requiring a reduction of the acreage and of production of such agricultural commodity, or without some standard fixed by Congress by which action by the Secretary shall be determined; and further provide that upon his determination to pay such rental or benefit payments a tax shall be automatically imposed on the processing of such commodity for the purpose of providing revenue for such rental or benefit payments? We think not.

While the amount of the reduction of acreage or production of any basic commodity under this act is done by agreements and not by a code, the purpose and result is the same, viz: The control and regulation of a great intrastate industry, and the Secretary, with the approval of the President, is authorized to make regulations for carrying out powers vested in him and imposing a penalty for their violation.

If Congress can take over the control of any intrastate business by a declaration of an economic emergency and a public interest in its regulation, it would be difficult to define the limits of the powers of Congress or to foretell the future limitations of local self-government.

OTHER POWERS FOUND VESTED IN SECRETARY

But these are not the only powers vested in the Secretary under the act. When a tax shall first be imposed on processing of such commodity depends on the joint action of both the Secretary and the producer, but if the Secretary finds or has reason to believe that a tax determined in accordance with the statistics in the Agricultural Department as to the purchasing power of such commodities in the two contrasting periods will cause such a reduction in the quantity of the commodity or products thereof domestically consumed as to result in an accumulation of surplus stocks of the commodity and in the depression of the farm price of the commodity, and if he finds, after hearings, that such result has occurred, he may make a new rate that will prevent an accumulation of such commodity or a depression of farm prices.

In readjusting the rate of tax there is no mathematical formula or standard provided in the act to guide the Secretary except the indefinite one of preventing an accumulation of surplus stock of any of the basic commodities or a depression in farm prices.

A finding or conclusion by the Secretary, after hearing, that the readjustment of the tax would carry out the congressional policy by preventing the accumulation of a surplus of the commodity amounts to no more than an expression of his opinion.

If it could be urged that there is a standard set up in section 9 of the act for determining the amount of the processing tax, viz, the equalizing of the purchasing power of the basic commodities with the pre-war period, it requires readjustments to such an extent as to render the standard so indefinite as to leave it entirely in the discretion of the Secretary what the amount shall be to accomplish that purpose.

He is also given authority to impose what is termed "compensating taxes"; that is, if the Secretary, after notice and hearing, finds that any competing commodity will cause the processors disadvantage from such competition by reason of excessive shifts in consumption between such commodities or the products thereof, he may specify the competing commodity and a compensating processing tax on the competing commodity necessary to prevent such disadvantage.

No standard or guide is here laid down to determine how the compensating tax shall be fixed or what elements shall be taken into consideration in determining the amount, except that it shall be determined by the amount necessary to prevent such disadvantage in competition.

We find no decision of the Supreme Court authorizing such a delegation of power to an administrative officer. On the contrary, the recent decision in the Panama Refining Co. case and the Schechter Poultry Corporation case, we think, clearly condemns it as unwarranted under the Constitution.

It is not contended that the receivers have been adversely affected by these last two provisions, and is adverted to for the purpose of showing the extent to which Congress has attempted to vest legislative power in the Secretary.

It is not difficult to understand, after studying the act, why the district court concluded that "it must * * * be conceded that legislative functions are conferred upon administrative officers by the act", or that "the Agricultural Adjustment Act indubitably authorizes an executive to exercise powers of a legislative character."

The district court, however, hesitated to hold the authority vested in the Secretary was an unlawful delegation of legislative power, because no decision of the Supreme Court at the time of his decision had held any of the recent acts of Congress unconstitutional on this ground. Since that time, however, the case of Panama Refining Co. and the Schechter Poultry Corporation case have been decided.

PROCESSING AND FLOOR TAXES

Upon determining that benefit payments are to be made to the producers, the Secretary is further vested with the power to fix the amount of the processing tax on any commodity provided for in section 16 and at a rate that will equal the difference between the current average farm price for the commodity and its fair exchange value during the 5-year pre-war period, which fair exchange value is to be determined by him from statistics in the Department of Agriculture.

If the district court, however, understood the receivers as agreeing that the Secretary had correctly followed the mandate of Congress in fixing the tax in the first instance, or as waiving any claim that he had in this respect acted outside the powers vested in him under the act, then, although he appears for some reason outside of what is termed a "mathematical formula" based on the statistics of the Agricultural Department, to have fixed a tax of 4.2 cents per pound, when the mathematical application of the statistics in the Agricultural Department would establish the rate of the tax at 4.34 cents per pound, the error cannot be taken advantage of in this court.

If Congress has invaded a field over which it has no control under the Constitution, or the Secretary has been unlawfully vested with legislative powers, the exercise of which has affected these appellants, it is not necessary to consider whether the processing and floor taxes are direct taxes or, if excise taxes, are not uniformly laid.

The decree of the district court is reversed, and the case is remanded to that court with directions to enter a decree for the appellants.

Mr. FRAZIER. Mr. President, a few moments ago, when the Senator from New York [Mr. COPELAND] was speaking, he implied that the amount of the tariff had nothing to do with the price of flax, or something of the kind. I desire to say that, in my opinion, the amount of the tariff has nothing to do with the price of paint, either. The price of paint for a number of years has been, it seems to me, unreasonably high compared with the price of flaxseed or the price of linseed oil, which goes into the paint.

I find from the 1935 yearbook, which has just come out, that the average price of flaxseed to the farmer in 1932-33 was 88.1 cents. The year preceding that, 1931-32, the average price was \$1.16 per bushel; but the price of the best grades of paint using linseed oil has been consistently, I think, about \$4 a gallon. I believe the N. R. A. code put up the price of the best grades a little higher than that.

In my opinion, however, the amount of the tariff has very little to do with the price of paint; and if we are going to protect flaxseed, we should also have a compensatory tax on the substitutes which come in here and take the place of flaxseed—perilla seed, hempseed, and things of that kind.

So I hope the amendment of the Senator from Minnesota will prevail, as we need protection for our linseed oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee. [Putting the question.] The ayes appear to have it.

Mr. KING. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	King	Radcliffe
Ashurst	Copeland	La Follette	Reynolds
Austin	Costigan	Lewis	Robinson
Bachman	Davis	Logan	Russell
Bailey	Dickinson	Lonergan	Schall
Bankhead	Dieterich	McAdoo	Schwellenbach
Barbour	Donahey	McCarran	Sheppard
Barkley	Duffy	McGill	Shipstead
Bilbo	Fletcher	McKeller	Smith
Black	Frazier	McNary	Steiver
Bone	George	Maloney	Thomas, Okla.
Borah	Gerry	Metcalf	Townsend
Brown	Gibson	Minton	Trammell
Bulkey	Glass	Moore	Truman
Bulow	Gore	Murphy	Tydings
Burke	Guffey	Murray	Vandenberg
Byrd	Hale	Neely	Van Nuys
Eyres	Harrison	Norbeck	Wagner
Capper	Hastings	Norris	Walsh
Caraway	Hatch	Nye	Wheeler
Carey	Hayden	O'Mahoney	White
Chavez	Holt	Overton	
Clark	Johnson	Pittman	
Connally	Keyes	Pope	

The PRESIDING OFFICER. Ninety-three Senators having answered to their names, there is a quorum present.

The question is on agreeing to the amendment offered by the Senator from Minnesota [Mr. SHIPSTEAD] to the amendment reported by the committee.

Mr. KING. Mr. President, I shall not ask for a record vote, but I should like to have a division.

On a division, the amendment to the amendment was agreed to.

Mr. GEORGE. Mr. President, I have sent an amendment to the desk, which I ask to have read.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. In the committee amendment on page 38, following the amendment of Mr. SHIPSTEAD, just agreed to, it is proposed to insert the following:

No tax shall be imposed under section 15 (d) of the Agricultural Adjustment Act, as amended, upon tung seed or their products, including tung oil.

Mr. GEORGE. Mr. President, I do not believe there is opposition to this amendment, but, since it may be thought that tung oil is competitive with linseed oil, it seems to me desirable to have the amendment included in the bill, because the production of tung oil is a new industry. The planting of tung trees, which commenced about 1923 in the States of Florida, Georgia, and around the Gulf coast of Texas, has now reached considerable proportions.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. SHIPSTEAD. My information is that the amendment is not objectionable. That is my opinion from the information I have as to the competitive qualities of tung oil. I can see no objection to the amendment.

Mr. McNARY. May I ask the Senator whether he specifies the amount of the tax?

Mr. GEORGE. I may say to the Senator from Oregon that the amendment would prevent the Secretary of Agriculture from putting a compensatory or equalizing tax on tung oil.

Mr. McNARY. I thank the Senator. I thought this was to provide a compensatory tax, not specifying the amount.

Mr. GEORGE. No; it is to relieve this new domestic industry from the possibility of an equalizing tax.

Mr. JOHNSON. I should like to have the amendment again stated.

The PRESIDING OFFICER. The clerk will again state the amendment.

The CHIEF CLERK. In the committee amendment, on page 38, following the amendment of Mr. SHIPSTEAD, just agreed to, it is proposed to insert the following:

No tax shall be imposed under section 15 (d) of the Agricultural Adjustment Act, as amended, upon tung seed or their products, including tung oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Georgia to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. MOORE] has offered an amendment to the amendment, which will be stated.

The CHIEF CLERK. On page 38, line 4, in the committee amendment it is proposed to strike out the words "flaxseed, or"; in lines 8 and 9, to strike out the words "in the case of flaxseed at the rate of 35 cents per bushel of 56 pounds"; and in line 13, to strike out the words "flaxseed and".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New Jersey.

Mr. MOORE. Mr. President, the purpose of the amendment may be briefly stated. In New Jersey there are a number of large linoleum manufacturers. There are also many paint manufacturers and many varnish manufacturers. Those manufacturers employ thousands of workers. If the committee amendment as it now stands should be enacted into law these companies would necessarily have to throw thousands of people out of employment. There is already a tariff of 65 cents a bushel on imported flaxseed and 4½ cents a pound on imported linseed oil.

Linseed oil is the drying oil used in the manufacture of linoleum; it is used in the manufacture of varnish and in the manufacture of paint. The tariff duty is 100 percent effective and, as a result, flaxseed generally sells for 65 cents

a bushel higher in the United States than in the world markets, while linseed oil today sells from 8½ to 9 cents a pound in the American market, whereas in the European market it sells for 4 cents a pound.

Notwithstanding the high tariff, the domestic production of flaxseed, which has never been quite sufficient to supply half of our requirements in America, has dwindled during the last 5 years, so that it has become necessary to import nearly three-quarters of our requirements.

The proposed processing tax would, in effect, raise the protection to the domestic producer from 65 cents to \$1 a bushel. It would mean a processing tax of 1½ cents a pound on linseed oil, increasing the price on the commodity by that amount. As linseed oil is the chief raw material used in the manufacture of linoleum and also in paints and in varnishes, it would virtually make it impossible for the domestic linoleum and paint industry to compete in the world market with the British and Netherlands manufacturers. It would place a burden of \$5,000,000 annually on the consumers of drying oils in America.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee.

Mr. FRAZIER. Mr. President, I have before me the Agricultural Year Book for 1935, which just has been issued, and I find that the average production of flaxseed per acre for the 10-year period from 1922 to 1931—that was before the drought—was 7.3 bushels per acre, and at the prices which ranged at that time the farmers were not getting cost of production for their flaxseed.

The average production declined during the years 1933 and 1934 because of the drought throughout a large part of the flaxseed-producing area. The average yield in 1933 was only 5.2 bushels per acre, and in 1934 it was 5.4 bushels per acre. The average price for flaxseed, according to the same Agricultural Year Book, in 1931–32 was \$1.16½ per bushel to the farmers, and the average price in 1932–33 was only 88.1 cents per bushel, in spite of the fact that there was a 65-cent duty on flaxseed. So the amount of the duty is not fully effective, and according to the Department of Agriculture, has not been at any time since the duty was put on.

As I previously stated, I am satisfied that the amount of the duty has little to do with the prices of paint or the prices of linoleum. They are regulated by the manufacturers, who apparently make a mighty good profit. The farmers are producing their product at a loss. The farmers are entitled to more protection. This bill, dealing with agriculture, is for the benefit of the farmers and not for the benefit of the manufacturers.

Mr. President, I trust that the amendment of the Senator from New Jersey will not be agreed to.

Mr. COPELAND. Mr. President, I hope the amendment of the Senator from New Jersey will prevail. Here is an item, inserted in this bill without any hearing, without any notice, which affects a great industry, and which comes to them as a surprise. As I said a little while ago, undoubtedly it will serve to hamper legitimate enterprises now employing thousands of men and, as I view it, it is immoral and indecent to attempt to help an industry where there is no surplus, where there are natural reasons for the decline, as pointed out by the Secretary of Agriculture. So, all in all, I hope the amendment offered by the able Senator from New Jersey will be accepted by the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee. [Putting the question.] The ayes seem to have it.

Mr. NORBECK. I ask for a division.

Mr. NYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Bilbo	Byrd	Coolidge
Austin	Borah	Byrnes	Copeland
Bachman	Brown	Capper	Davis
Bailey	Bulkley	Caraway	Dickinson
Bankhead	Bulow	Carey	Dieterich
Barbour	Burke	Chavez	Donahay

Duffy	Keyes	Murray	Shipstead
Fletcher	King	Neely	Smith
Frazier	La Follette	Norbeck	Steiner
Gerry	Logan	Norris	Thomas, Okla.
Gibson	Loneragan	Nye	Townsend
Glass	McAdoo	O'Mahoney	Trammell
Gore	McCarran	Overton	Truman
Guffey	McGill	Pittman	Tydings
Hale	McKeller	Pope	Vandenberg
Harrison	McNary	Radcliffe	Wagner
Hastings	Maloney	Reynolds	Walsh
Hatch	Metcalf	Robinson	Wheeler
Hayden	Minton	Schall	White
Holt	Moore	Schwellenbach	
Johnson	Murphy	Sheppard	

The VICE PRESIDENT. Eighty-two Senators have answered to their names. A quorum is present. The question is on the amendment of the Senator from New Jersey [Mr. MOORE] to the amendment reported by the committee.

Mr. NYE. On that question I ask for the yeas and nays. The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. ROBINSON. I desire to announce the unavoidable absence of the Senator from Arizona [Mr. ASHURST], the Senator from Kentucky [Mr. BARKLEY], the Senator from Alabama [Mr. BLACK], the Senator from Washington [Mr. BONE], the Senator from Missouri [Mr. CLARK], the Senator from Texas [Mr. CONNALLY], the Senator from Colorado [Mr. COSTIGAN], the senior Senator from Georgia [Mr. GEORGE], the Senator from Illinois [Mr. LEWIS], the Senator from Louisiana [Mr. LONG], the junior Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS].

The result was announced—yeas 49, nays 33, as follows:

YEAS—49

Adams	Copeland	Hatch	Reynolds
Austin	Davis	Keyes	Schwellenbach
Bachman	Dickinson	King	Steiner
Bailey	Dieterich	Loneragan	Townsend
Barbour	Donahay	McCarran	Trammell
Brown	Duffy	McNary	Tydings
Bulkley	Gerry	Maloney	Vandenberg
Burke	Gibson	Metcalf	Wagner
Byrd	Glass	Minton	Walsh
Byrnes	Gore	Moore	White
Carey	Guffey	O'Mahoney	
Chavez	Hale	Overton	
Coolidge	Hastings	Radcliffe	

NAYS—33

Bankhead	Hayden	Murray	Sheppard
Bilbo	Holt	Neely	Shipstead
Borah	Johnson	Norbeck	Smith
Bulow	La Follette	Norris	Thomas, Okla.
Capper	Logan	Nye	Truman
Caraway	McAdoo	Pittman	Wheeler
Fletcher	McGill	Pope	
Frazier	McKellar	Robinson	
Harrison	Murphy	Schall	

NOT VOTING—14

Ashurst	Clark	George	Thomas, Utah
Barkley	Connally	Lewis	Van Nuys
Black	Costigan	Long	
Bone	Couzens	Russell	

So Mr. MOORE's amendment to the committee amendment was agreed to.

Mr. GUFFEY. Mr. President, to the committee amendment I offer the amendment which I send to the desk and ask to have read.

The VICE PRESIDENT. The amendment offered by the Senator from Pennsylvania to the amendment reported by the committee will be stated.

The CHIEF CLERK. In the amendment of the committee, on page 38, line 4, it is proposed to strike out "and in the case of barley at the rate of 25 cents per bushel of 48 pounds"; on page 38, line 13, to strike out "and barley"; and on page 38, at the end of section 12 (b) 5, to insert the following: "Amend section 6 of the Agricultural Adjustment Act, as amended, by eliminating therefrom the word 'barley.'"

Mr. GUFFEY obtained the floor.

Mr. FRAZIER. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. FRAZIER. Mr. President, in the committee amendment barley is the only thing left, and I cannot see any need of this amendment.

The VICE PRESIDENT. If the Senate should amend the amendment as the Senator from Pennsylvania suggests, there would not be anything left in the amendment.

Mr. GUFFEY. Mr. President, if it should be adopted, the effect of the proposed amendment would be to eliminate barley from the list of articles on which the Secretary of Agriculture may impose processing taxes. A very large portion of the barley crop is used for feed, which under the law would not in any event be subject to processing taxes. The bulk of the barley which would be subject to processing taxes under the bill is that used in the manufacture of beer, a product already so highly taxed that no additional tax should be placed on the raw material.

Mr. FRAZIER. Mr. President, it is true that a good deal of barley is used for feed, which would not come under this provision if it should go into effect. The bulk of the barley which would be affected is that which is used by brewers in the manufacture of beer. I do not know what is the price of a barrel of beer, but I talked with a man who said he had been connected with the operation of a brewery a few years ago and was very familiar with the prices and the amount of ingredients that went into the manufacture of a barrel of 31 gallons of beer. He said there were about 1 pound of hops, 5 pounds of barley, and a little yeast, the rest being water. Five pounds of barley, at the present price, would be less than 5 cents; the yeast, I presume, would be probably 1 or 2 cents; and I do not know how much hops are a pound, but not very much.

If the Senator from Pennsylvania is more interested in having reduced the cost of beer to the brewers than he is having a fair price afforded the farmers who produce the barley, his amendment is all right.

Mr. NORBECK. Mr. President, does the Senator think if the price of barley were cut 5 cents that beer would be any cheaper?

Mr. FRAZIER. I doubt it. Certainly this little tax on barley which might raise the price to 50 or 60 cents a bushel would not affect the price of beer, because the cost of the 5 pounds of barley which go into the manufacture of a barrel of beer is infinitesimal as compared to the sale price of the beer; and, of course, when divided up into the glass or bottle it is so small as to be, if possible, less than infinitesimal.

I was greatly disappointed by the vote as to flaxseed. About a dozen States in the Union raise flaxseed. A majority of the Senate struck flaxseed out of the bill by almost a 2-to-1 vote in order to protect the manufacturers of linoleum and paints, to the detriment of the farmers who produce flaxseed in a dozen States of this Nation. That is all right, if that is the attitude the Senate wants to take; but, Mr. President, unless something shall be done to increase the prices of products raised by the American farmer so as to give him a price that will return him the cost of production for his product, not only the farmers will go broke but the remainder of the people along with the farmers will also go broke. So if the Senate wants the Nation, including the manufacturers of the raw materials of agriculture, to go broke, they may strike from the bill the agricultural products which we are trying to protect, barley among the rest.

The PRESIDING OFFICER (Mr. McKELLAR in the chair). The question is on the amendment offered by the Senator from Pennsylvania [Mr. GUFFEY] to the amendment reported by the committee. [Putting the question.] The Chair is in doubt.

Mr. WALSH and Mr. FRAZIER asked for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. KING (after having voted in the affirmative). I have a general pair with the junior Senator from California [Mr. McAdoo]. In his absence I withdraw my vote.

Mr. AUSTIN. The Senator from Delaware [Mr. HASTINGS] is unavoidably detained. If present, he would vote "yea." He has a general pair with the Senator from Utah [Mr. THOMAS].

Mr. LEWIS. I desire to announce the unavoidable absence of the Senator from Kentucky [Mr. BARKLEY], the Senator from Washington [Mr. BONE], the Senator from Virginia [Mr. BYRD], the Senator from Nevada [Mr. PITTMAN], the Senator from Wisconsin [Mr. DUFFY], the Senator from Louisiana [Mr. LONG], the Senator from Califor-

nina [Mr. McAdoo], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Montana [Mr. WHEELER].

The result was announced—yeas 40, nays 42, as follows:

YEAS—40

Ashurst	Copeland	Keyes	Reynolds
Austin	Davis	Lewis	Sheppard
Bachman	Dickinson	Loneragan	Steiwer
Barbour	Dieterich	McCarran	Trammel
Bulkeley	Donahay	McNary	Tydings
Burke	Gerry	Maloney	Vandenburg
Carey	Gibson	Metcalf	Van Nuys
Chavez	Gore	Moore	Wagner
Clark	Guffey	O'Mahoney	Walsh
Coolidge	Hale	Radcliffe	White

NAYS—42

Adams	Connally	La Follette	Overton
Bailey	Costigan	Logan	Pope
Bankhead	Fletcher	McGill	Robinson
Bilbo	Frazier	McKellar	Schall
Black	George	Minton	Schwellenbach
Borah	Glass	Murphy	Shipstead
Brown	Harrison	Murray	Smith
Bulow	Hatch	Neely	Thomas, Okla.
Byrnes	Hayden	Norbeck	Truman
Capper	Holt	Norris	
Caraway	Johnson	Nye	

NOT VOTING—14

Barkley	Duffy	McAdoo	Townsend
Bone	Hastings	Pittman	Wheeler
Byrd	King	Russell	
Couzens	Long	Thomas, Utah	

So Mr. GUFFEY's amendment to the amendment, reported by the committee, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The amendment as amended was agreed to.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. WALSH. Mr. President, I move to reconsider the vote by which the Senate adopted the committee amendment, inserting paragraph (G), on page 18, after line 20. This amendment was adopted by two votes. Many Senators, including myself, were absent at the time. The debate was extended, and I think there is no need for further discussion. I ask for the yeas and nays on my motion.

The PRESIDING OFFICER. The Senator from Massachusetts moves to reconsider the vote by which the committee amendment on page 18, after line 20, was adopted. The amendment will be stated.

The CHIEF CLERK. The committee amendment, as adopted, inserts, on page 18, after line 20, the following:

"(G) Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof: *Provided*, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers, or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. WALSH. I renew my request for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the roll.

Mr. LEWIS. I wish to announce the necessary absence of the Senator from Washington [Mr. BONE], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Louisiana [Mr. LONG], and the Senator from Utah [Mr. THOMAS].

The result was announced—yeas 48, nays 43, as follows:

YEAS—48

Adams	Coolidge	Hale	Overton
Ashurst	Copeland	Hastings	Radcliffe
Bachman	Davis	Hatch	Schall
Bailey	Dickinson	Keyes	Schwellenbach
Barbour	Dieterich	King	Steiwer
Borah	Donahay	Loneragan	Townsend
Bulkeley	Duffy	McAdoo	Trammel
Burke	Fletcher	McCarran	Tydings
Byrd	George	McNary	Vandenberg
Carey	Gerry	Maloney	Wagner
Clark	Glass	Metcalf	Walsh
Connally	Gore	Moore	White

NAYS—43

Austin	Frazier	McKellar	Reynolds
Bankhead	Gibson	Minton	Robinson
Barkley	Guffey	Murphy	Russell
Bilbo	Harrison	Murray	Sheppard
Black	Hayden	Neely	Shipstead
Brown	Holt	Norbeck	Smith
Bulow	Johnson	Norris	Thomas, Okla.
Byrnes	La Follette	Nye	Truman
Capper	Lewis	O'Mahoney	Van Nuys
Caraway	Logan	Pittman	Wheeler
Costigan	McGill	Pope	

NOT VOTING—5

Bone	Couzens	Long	Thomas, Utah
Chavez			

So Mr. WALSH's motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the committee known as paragraph (G).

Mr. WALSH. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk called the name of Mr. ADAMS.

Mr. SMITH. Mr. President, before the vote is taken I wish to remind the Senate of the fact that yesterday afternoon this question was debated at length. The vote upon it has now been reconsidered. All I desire to say about the matter is that those who are familiar with the bill know that this is the one attempt in the bill to give those who produce the raw material—the farmers—an opportunity, when they secure control of at least 50 percent of any given commodity which comes under the bill, to agree upon a minimum price for it.

All those who desire to deny the farmer the privilege, through the agency of the Government, of having something like an organization to offset the organizations from which he buys, may vote against the amendment.

Mr. GEORGE. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from South Carolina yield to the Senator from Georgia?

Mr. SMITH. I do.

Mr. GLASS. Mr. President, I make the point of order that a roll call was ordered, and the Senator from Colorado [Mr. ADAMS] answered to his name.

Mr. SMITH. No; I was on my feet addressing the Chair before the roll call began.

The PRESIDING OFFICER. The clerk did not hear the response of the Senator from Colorado.

Mr. SMITH. But, in any event, the Senator from South Carolina was on his feet.

The PRESIDING OFFICER. That is correct.

Mr. GEORGE. Mr. President, I now desire to ask the Senator if this provision does not leave it to the handlers or distributors to fix the price.

Mr. SMITH. No. If the Senator will read the provision which is in italics, he will see just what it means.

Mr. GEORGE. I have it before me, Mr. President. It says:

Fixing, or providing methods for fixing, minimum prices at which any such commodity or product thereof, or any grade, size, or quality thereof, shall be sold by the first handler thereof—

That is the distributor selling to the consumer.

Mr. SMITH. Yes.

Mr. GEORGE. It continues:

Provided, That no such minimum prices shall be fixed, unless not less than 50 percent of the volume of such commodity or product is sold by an association or associations of producers—

That is cooperatives, I presume—

or otherwise for the account of producers, and/or by producers who are also handlers.

Mr. SMITH. All through the cooperation of the producers.

Mr. GEORGE. Will the Senator explain to me what paragraph (F) means?

Mr. SMITH. Paragraph (F) means that the minimum resale price is there fixed for the handler. After the minimum price of the producer is fixed, that is the resale price.

Mr. GEORGE. That is what I am getting at; so that the amendment we are voting on deals with the resale price to the consumer?

Mr. SMITH. No. Paragraph (F) deals with the resale price, and the Senate added paragraph (G), printed in italics—that the producer, or his agent, or an association handling 50 percent of the volume of the commodity, shall fix the first minimum price to the producer. The first paragraph provides that the producers shall have a resale price, so that some outsiders may not come in and chisel in on them.

Mr. GEORGE. So the price to the handler would be fixed, and the price at which the handler or producer must offer the commodity to the public would also be fixed.

Mr. SMITH. The minimum price.

Mr. GEORGE. Yes; the minimum price.

Mr. BARKLEY. Mr. President, will the Senator from South Carolina yield to me?

Mr. SMITH. I yield.

Mr. BARKLEY. For years Congress has been attempting to encourage cooperative marketing among farmers in order to give them an advantage which would offset their disadvantage through the organization of almost all others from whom they buy their necessities.

Mr. SMITH. Yes.

Mr. BARKLEY. We thought so well of that that we incorporated in the Clayton Act a provision that no such organization should be regarded as a violation of the anti-trust law.

Mr. SMITH. Exactly.

Mr. BARKLEY. From time to time there have been organized all over the country farmers' cooperative marketing associations. We have had them in Kentucky affecting tobacco. There have been such organizations in Virginia and North Carolina. They have also been formed in other parts of the country with respect to different farm products in order that, by cooperation, the farmers might be able to sell their own products through such associations and have some voice in the fixing of the prices received by them.

If I understand the amendment, it simply sanctions and legalizes in this proposed act what Congress and the people for years have been attempting to do through the organization of farm cooperative marketing associations.

Mr. SMITH. Mr. President, let me call the attention of the Senator to the fact that the reason why the cooperatives have heretofore failed has been because they never could get control of a sufficient amount of a given commodity to enable them to establish a price. This is an attempt, with the cooperation of the Government, to enable them to get control of at least 50 percent, and then let them agree upon what they think is a reasonable price.

Mr. NEELY and Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield; and if so, to whom?

Mr. SMITH. I yield to the Senator from West Virginia.

Mr. NEELY. Mr. President, I should like to read a telegram which I have just received, and I should like to have the views of the chairman of the committee with regard to it. The telegram is from Parkersburg, W. Va., and is as follows:

Fruit growers of our State threatened with domination by more powerful Western States if price-fixing section of A. A. A. becomes law. This section allows bureaucratic control of prices on perishable fruits, which will probably be ruinous instead of helpful to West Virginia growers.

Does the chairman of the committee believe there is any basis for the fear expressed in this telegram?

Mr. SMITH. I do not, for the reason I have just stated. This amendment largely affects the two parties to the first process, the producer, and the first handler. Under this provision the producers, having control of 50 percent of the produce, will name a minimum price. Then the minimum resale price will be agreed upon by those who sell.

In addition to that, the bill provides for regional processing and marketing so that, as in the case of citrus fruits, for example, as I explained, Florida is to itself and can agree upon what it pleases. A majority of the producers of citrus fruits will determine what they shall do or whether they shall do anything. The same is true of the Rio Grande region and of California. So that these regions will be enabled to protect themselves in their marketing agreements.

The regions will be established according to the will of those who consider that they are in a homogeneous section.

Mr. NEELY. Mr. President, if the Senator will yield for one more question, is it not a fact, then, that the fruit growers of West Virginia and those in the region of which they are a part would themselves determine the price in the first instance instead of the price being determined on the Pacific coast?

Mr. SMITH. Yes.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. BYRD. I cannot permit that statement to go unchallenged.

Mr. SMITH. I think the Senator has challenged nearly every statement the chairman of the committee has made.

Mr. BYRD. This colloquy sustains what I have been contending. The Senator from South Carolina has frequently said that no marketing agreement can be promulgated without the consent of the producer, when his own bill gives the power to 50 percent of the handlers to promulgate such agreements.

I wish to refer, however, to what the Senator from West Virginia has said. There is no requirement in the bill that the marketing agreements shall be regional. In the discretion of the Secretary they may be Nation-wide, if he chooses. Therefore, the question asked by the Senator from West Virginia is whether the fruit growers of the West could impose minimum prices on the fruit growers of the East.

Mr. SMITH. Can the Senator point out in the bill a provision under which the Secretary may disregard regional agreements and have a Nation-wide set-up to suit himself?

Mr. BYRD. Mr. President, will the Senator point out a provision under which the Secretary of Agriculture is compelled to have regional agreements?

Mr. SMITH. I will read what is in the bill.

Mr. BYRD. Very well. From what page is the Senator about to read?

Mr. SMITH. Page 23. It reads:

REGIONAL APPLICATION

No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

Mr. BYRD. That is the very point I make, that regional agreements are not required; they are simply discretionary with the Secretary of Agriculture. What the Senator has read sustains exactly what I said.

Mr. SMITH. When he finds that in any particular case the regional set-up does not effectuate the purposes of the act.

Mr. BYRD. Mr. President, the Senator made the positive statement that marketing agreements could not be made except by regions. I submit to the Senator that he has made a mistake in making that statement, because the bill provides that they shall only be regional to effectuate the declared policy of the act, and if they do not effectuate the declared policy of the act, they may be Nation-wide.

Mr. SMITH. But the agreements will be regional after it is discovered that as to any one product or commodity the object of the measure, which is to get a better price for the farm products, cannot be more effectually carried out.

Mr. BYRD. But that is in the discretion of the Secretary.

Mr. SMITH. The discretion of the Secretary would be limited by the first part of this provision, which would still leave it within the hands of the producers to determine whether or not a regional set-up was more satisfactory to them than one covering the entire scope.

Mr. BYRD. I submit to any Member of the Senate who will read the section just read by the Senator that it is left in the hands of the Secretary.

Mr. BORAH. Mr. President, I should like to know definitely what commodities this price-fixing provision will cover.

Mr. SMITH. I will state to the Senator from Idaho that if he will turn to page 16, he will find that it covers the products named in subsection (6), and Senators are familiar with what was stricken out yesterday.

Mr. BORAH. Let us read it. There was a great deal of dispute yesterday about what it covered.

Mr. SMITH. As I recall, the bill will read:

In the case of fruits (including pecans and walnuts but not including apples and their products, tobacco and its products, vegetables, not including vegetables for canning) and their products.

"Soybeans", I understand, is still in the bill. "Hops" is out. Bees went out through Virginia. [Laughter.] "Poultry" is out.

Mr. BORAH. In other words, it covers fruits, not including apples—

Mr. SMITH. Yes; and not including fruits for canning.

Mr. BORAH. And tobacco and its products, vegetables and their products, and then it covers soybeans.

Mr. SMITH. And naval stores.

Mr. BORAH. That is all the price-fixing proposition would cover?

Mr. SMITH. Yes.

Mr. BARKLEY. Mr. President, I understand that paragraph (F) of the House text is a part of the bill.

Mr. SMITH. Yes.

Mr. BARKLEY. Assuming, for the sake of the argument, or for any other purpose, that paragraph (F) permits the handlers of certain of these commodities, if 50 percent of the total quantity of the commodity or product covered by such order is controlled, to fix a minimum price—

Mr. SMITH. For resale.

Mr. BARKLEY. For resale.

Mr. SMITH. Yes.

Mr. BARKLEY. Assuming that to be true, and it is in the bill as it passed the House, and unless stricken out by the Senate will be in the bill as it is enacted, if paragraph (G) is not agreed to the result will be that the handlers of these products, if they control 50 percent, may fix a minimum price for resale, while the producers themselves will have no voice and no power in the fixing of the price at which they sell a given product to the handlers.

Mr. SMITH. That was the reason for the Senate committee amendment, to make it entirely clear. It was rather an implication that the Department would through its dealings with the farmers about marketing agreements take care of them in the first place; and the bill was so drawn as to leave it open to the criticism that there was being put into the hands of the handlers through the bill the power of fixing the price, proceeding upon the assumption that in the original text they would through the marketing agreements deal first with the farmers, and in these agreements the handlers were included. But the Senate, to make it perfectly clear, adopted this amendment. There is another place in the bill where a similar provision occurs, and an amendment will be offered to include that so as to make it conform in this text to what is provided in the original act.

Mr. BAILEY. Before the Senator takes his seat, may I ask him if my understanding is correct that we are creating a system of marketing areas within which one may sell and one may not sell?

Mr. SMITH. Oh, no.

Mr. BAILEY. What is the object of the area?

Mr. SMITH. The object of the area is more conveniently to ascertain just what the opinion is, just as we did in connection with citrus fruits in California.

Mr. BAILEY. Does the Senator mean that the opinion in such an area would govern?

Mr. SMITH. Yes, sir; in such an area; but it would not keep anyone else from coming in.

Mr. BAILEY. Very well. There is another matter about which I have some trouble. Am I to understand that paragraph (G), which we are now considering, provides that an association or cooperative marketing organization having control of 50 percent of the volume of a commodity may determine the price at which the first handler shall sell it—

not the price at which it sells it to the handler but the price at which the first handler shall sell it?

Mr. SMITH. No, Mr. President; that provision is contained in paragraph (F). Paragraph (G) fixes the price at which the producer shall sell it; and in paragraph (F), which precedes it, there is provision that the handlers handling 50 percent may determine the resale price.

The PRESIDING OFFICER. The time of the Senator from South Carolina on the amendment has expired.

Mr. GEORGE. Mr. President, I wish to ask the Senator from South Carolina a question. If the bill does not fix the areas, or if they may not be fixed under its provisions, how is it that the price may be fixed within a given area, and how is it that a uniform price would not exist throughout the country?

Mr. SMITH. Mr. President, a uniform price does not now exist throughout the country.

Mr. GEORGE. I know; but I am asking why it would not exist if we should establish it by law.

Mr. SMITH. Then we shall merely be conforming to the regions where perhaps the prices now differ.

Mr. GEORGE. If the bill does not establish regions, how does it follow that there can be established a price which would be nonuniform throughout the country? If one should be permitted to ship freely from one region into another, how would he be affected by the price in the region into which he was shipping his product?

Mr. SMITH. Under the terms of the bill, if he ships into a certain region he will conform to the price in that region.

Mr. GEORGE. Then the bill does establish regions?

Mr. SMITH. It does establish regions and regional prices. I did not say it did not.

Mr. GEORGE. Exactly. That is what I wanted the Senator to come to—that there cannot be a regional price without establishing regions.

Mr. SMITH. That is true.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 18, paragraph (G). On that question the yeas and nays have been demanded and ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS (when his name was called). On this question I have a pair with the Senator from Alabama [Mr. BLACK], who is detained from the Senate by committee duties. I therefore withhold my vote. If the Senator from Alabama were present, he would vote "yea." If I were at liberty to vote, I should vote "nay."

Mr. BYRD. Mr. President, a parliamentary inquiry. If a Senator desires to vote to agree to the committee amendment, he should vote "yea," and if he desires to vote to reject the committee amendment he should vote "nay"?

The PRESIDING OFFICER. That is correct.

Mr. MOORE (when his name was called). On this question I have a pair with the junior Senator from Pennsylvania [Mr. GUFFEY], and therefore withhold my vote. If the Senator from Pennsylvania were present, he would vote "yea." If I were at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. LEWIS. I wish to announce that the Senator from Alabama [Mr. BLACK], the Senator from Indiana [Mr. MINTON], and the Senator from Washington [Mr. SCHWELLENBACH] are detained by a meeting of the Lobby Committee.

I also wish to announce the necessary absence from the Senate of the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Louisiana [Mr. LONG], the Senator from California [Mr. McADOO], the Senator from Nevada [Mr. PITTMAN], and the Senator from Utah [Mr. THOMAS].

I desire further to announce a general pair between the Senator from Utah [Mr. THOMAS] and the Senator from California [Mr. McADOO]. I wish further to announce that the junior Senator from Washington [Mr. SCHWELLENBACH] is paired with the junior Senator from Indiana [Mr. MINTON]. If present and voting, the Senator from Washington would vote "nay", and the Senator from Indiana would vote "yea."

The result was announced—yeas 41, nays 44, as follows:

YEAS—41

Austin	Frazier	Murphy	Sheppard
Bankhead	Gibson	Murray	Shipstead
Barkley	Harrison	Neely	Smith
Bilbo	Hayden	Norbeck	Thomas, Okla.
Bone	Holt	Norris	Trammell
Brown	Johnson	Nye	Truman
Bulow	La Follette	O'Mahoney	Van Nuys
Byrnes	Lewis	Pope	Wheeler
Capper	Logan	Reynolds	
Caraway	McGill	Robinson	
Costigan	McKellar	Russell	

NAYS—44

Ashurst	Connally	Glass	Metcalf
Bachman	Coolidge	Gore	Overton
Bailey	Copeland	Hale	Radcliffe
Barbour	Davis	Hastings	Schall
Borah	Dickinson	Hatch	Steiwer
Bulkeley	Dieterich	Keyes	Townsend
Burke	Donahay	King	Tydings
Byrd	Duffy	Loneragan	Vandenberg
Carey	Fletcher	McCarran	Wagner
Chavez	George	McNary	Walsh
Clark	Gerry	Maloney	White

NOT VOTING—11

Adams	Guffey	Minton	Schwellenbach
Black	Long	Moore	Thomas, Utah
Couzens	McAdoo	Pittman	

So the committee amendment on page 18, being paragraph (G), was rejected.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, and that the House insisted upon its disagreement to the amendments of the Senate numbered 17, 67, 68, 83, and 84 to the bill.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 8632) to amend an act entitled "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes", approved May 18, 1933, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. McSWAIN, Mr. HILL of Alabama, Mr. MONTET, Mr. McLEAN, and Mr. PLUMLEY were appointed managers on the part of the House at the conference.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. TYDINGS. Mr. President, the amendment which was just rejected by the Senate, as I understand, proposed the insertion in the bill of paragraph (G) on page 18.

The VICE PRESIDENT. The Senator is correct.

Mr. TYDINGS. That being true, I ask the chairman of the committee whether he proposes to leave in the bill paragraph (F), to which paragraph (G) is a clarifying amendment and in the nature of a tie-in with paragraph (F)? If paragraph (G) goes out, certainly paragraph (F) ought to go out.

Mr. ROBINSON. Paragraph (F) is in the House text, and it is entirely independent of the amendment which was just voted on.

Mr. SMITH. Whatever action the Senate may take on paragraph (F) will come after the conclusion of the consideration of the committee amendments.

The VICE PRESIDENT. It is not in order now to move to strike out section (F) except by unanimous consent. The next amendment which has been passed over will be stated.

The CHIEF CLERK. On page 45, after line 16, it is proposed to insert a new section, as follows:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn or the products thereof."

Mr. COPELAND. Mr. President, there has been considerable discussion both on and off the floor regarding this amendment, which relates to rayon. Of course, personally, I should like to see it eliminated entirely from the bill, because it is very apparent to those of us who are interested in the rayon industry that it will be very sadly crippled if this amendment shall be adopted.

Mr. MURPHY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. MURPHY. Will the Chair state what is under consideration at the moment? There has been so much confusion it has been impossible to understand.

The VICE PRESIDENT. Senators will kindly refrain from conversation to enable the clerk once more to read the amendment, so that Senators may know what is before the Senate.

The Chief Clerk again stated the amendment, on page 45, after line 16, to insert section 15.

Mr. COPELAND. Mr. President, we have discussed various ways of dealing with this problem. I do not think anyone is disposed to hurt the cotton industry, if that can be avoided; but we are equally anxious in our section of the country that the rayon industry be not injured. It is our contention that rayon does not compete with cotton in price, and it is very doubtful if it competes in style or use. I think this is so well understood by those who have studied the question that we may well decide whether we are going to eliminate the committee amendment entirely or whether we are going to accept the amendment which has been worked out by the committee.

Mr. BYRNES. Mr. President, will the Senator yield to me?

Mr. COPELAND. I yield.

Mr. BYRNES. I wish to state to the Senator that I desire to offer an amendment as a substitute, of which I think the Senator will approve, and which would include silk as well as rayon. I wanted to ask the members of the committee if, after the reading of the amendment and an explanation of it, they will not agree to it and let it be voted on; and if it should be adopted, then, if the Senator from New York is opposed to the entire section, he may vote against the committee amendment, as amended.

Mr. COPELAND. I am very glad to yield to the Senator from South Carolina for the purpose of presenting his amendment.

Mr. BYRNES. To the committee amendment, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The LEGISLATIVE CLERK. In lieu of the amendment reported by the committee, on page 45, beginning on line 17, it is proposed to insert the following:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsections:

"(g) There shall be levied, assessed, collected, and paid a processing tax, on the first domestic processing of any material which results in the production of rayon or other synthetic yarn suitable for commercial winding, at the rate of 5 cents per pound standard weight thereof.

"(1) The tax shall be measured by the yield in pounds of rayon or other synthetic yarn suitable for commercial winding.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn suitable for commercial winding' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where such yarn is in form either to be packaged and/or sold as such or to be used in further manufacturing.

"(3) Rayon and other synthetic fiber waste, staple fiber, ropes of more than 500 filaments, monofilaments, and the products thereof, shall be exempt from the processing tax imposed by subsection (g) of this section 9.

"(h) During any period after the date of the adoption of this amendment when a processing tax is in effect with respect to any material which results in the production of rayon or other synthetic yarn there shall be levied, assessed, collected, and paid:

"(1) Upon raw silk in which the sericin content exceeds 15 percent, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 10 cents per pound standard weight thereof;

"(2) Upon raw silk in which the sericin content is 15 percent or less, and upon silk advanced in manufacture to and including yarn, thread, and fabrics, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 12 cents per pound standard weight of silk (not including other textile fibers);

"(3) Upon wearing apparel and other manufactured products wholly or in chief value of silk, imported into the United States or any possession thereof to which this title applies, from any foreign country or from any possession of the United States to which this title does not apply, a compensating tax at the rate of 15 cents per pound standard weight of silk (not including other textile fibers);

"(4) Pierced cocoons, frisons, and other silk waste shall be exempt from any tax imposed by this section 9.

"(i) In lieu of the refunds or credits authorized to be made with respect to rayon or the products thereof and silk or the products thereof, under subsection (c) of section 15 and section 17 of this title, upon the delivery to any organization for charitable distribution or use, including any State or Federal welfare organization for its use, or upon the exportation to any foreign country and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, or the island of Guam, of any rayon or silk, or any product thereof, there shall be paid out of the amounts appropriated and made available by section 12 of this title, or there shall be credited, under rules and regulations to be made by the Secretary of Agriculture and the Secretary of the Treasury, an amount of money (1) in the case of rayon, equivalent to the amount of tax which would be payable with respect thereto under subsection (g) of this section 9 and (2) in the case of silk, based upon the quantity of silk by standard weight contained therein multiplied by the applicable rate of tax specified in subsection (h) of this section 9.

"(j) General provisions:

"(1) The taxes imposed by subsections (g) and (h) of this section 9 shall be at the rates fixed therein and shall not be altered by the Secretary of Agriculture, regardless of the rate of the processing tax in effect on cotton. If at any time the processing tax on cotton is wholly terminated, or if for any reason the provisions of subsections (g), (h), or (j) of this section 9 are held invalid or become inoperative, the provisions of subsections (g) to (j), inclusive, of this section 9 shall thereupon simultaneously cease to be in effect.

"(2) The provisions of section 8, subsection (d) of section 15, and paragraph (1) of subsection (a) of section 16 of this title shall not apply in the case of rayon, or other synthetic yarn, or silk, or the products thereof.

"(3) The provisions of subsections (g), (h), (i), and (j) of this section 9 shall become effective at 12:01 a. m. eastern standard time of the day following the date of the adoption of this amendment.

"(4) For silk and products thereof the term 'standard weight' means the moisture-free weight plus 11-percent moisture regain thereon.

"(5) The term 'moisture-free weight' means the total weight (other than moisture) of dry clean fiber plus sericin, oil, sizing, and/or loading or weighting.

"(6) For rayon or other synthetic yarn the term 'standard weight' means the dry clean fiber weight plus 11-percent moisture regain thereon in the case of synthetic products of cellulose base, or the dry clean fiber weight plus 7.5-percent moisture regain in the case of synthetic products of cellulose ester base."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from South Carolina to the amendment reported by the committee.

Mr. McNARY. Mr. President—

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Oregon?

Mr. BYRNES. I yield.

Mr. McNARY. Is the amendment just read an amendment to the bill?

The VICE PRESIDENT. It is an amendment, in the form of a substitute, for the committee amendment on page 45, ending at line 20, on page 46.

Mr. BYRNES. It is an amendment, by way of a substitute, for the committee amendment.

Mr. McNARY. Then I understand the language proposed to be inserted by the committee is to be stricken entirely out of the bill and the language suggested by the Senator from South Carolina is to be inserted in the bill?

Mr. BYRNES. That is correct.

Mr. McNARY. Will the Senator explain his amendment?

Mr. BYRNES. Yes; I desire to do so.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. BYRNES. I yield.

Mr. HASTINGS. May I inquire if the Senator expects action upon the amendment at this time without any Senator having an opportunity to read or consider it?

Mr. BYRNES. The amendment was printed and is on the Senator's desk, and I assumed he had read it. I think I can explain it.

Under the existing law the Department has held hearings at the request of cotton manufacturers in order to determine whether rayon is a competitive commodity upon which the processing tax should be levied in accordance with the authority given to the Secretary of Agriculture. The act, however, provided that the competitive tax should be levied only when there was an excessive shifting of the purchasing power to the competitive commodity, in this instance to rayon. Because of the construction placed upon the words "excessive shifting", no tax was ever levied on rayon.

The cotton manufacturers have contended that they have been subjected to unfair competition because the processing tax necessarily increased the price of their commodity and they were forced to compete with rayon.

The position of the rayon manufacturers is, of course, that they would prefer not to have any processing tax levied upon their commodity, but if a tax is to be levied, they believe it should be levied in accordance with the provisions contained in the amendment which I have offered and not in accordance with the provisions of the committee amendment.

The amendment which I have offered has been prepared as a result of conferences between representatives of the rayon industry and representatives of the Department of Agriculture and of the Internal Revenue Bureau.

Mr. BYRD. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Virginia?

Mr. BYRNES. I yield.

Mr. BYRD. I may not have heard the Senator correctly, but I understood him to say the amendment is satisfactory to the manufacturers of rayon. Virginia produces one-half of the rayon produced in the United States, and our manufacturers are bitterly opposed to it.

Mr. BYRNES. The last words I uttered before the Senator rose were that the position of the rayon industry, as I understand, is that they do not want any processing tax levied, but if a processing is to be levied, they prefer that it be levied in accordance with the provisions of the amendment which I have offered, instead of the amendment which was reported by the committee. I also stated that the amendment had been prepared as a result of conferences between representatives of the rayon industry and representatives of the Department of Agriculture and of the Internal Revenue Bureau.

Mr. BYRD. Has the Senator a copy of his amendment?

Mr. BYRNES. It was printed, and a copy of it should be on the desk of the Senator.

Mr. McNARY. Mr. President, may I inquire if this proposal was ever submitted to the Committee on Agriculture and Forestry?

Mr. BYRNES. No. The amendment, with the change resulting from the conference referred to, was agreed upon only yesterday when I tendered the amendment and asked to have it printed.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BYRNES. Certainly.

Mr. WAGNER. Would the Senator care to state what particular individuals representing the rayon industry were present at the conference?

Mr. BYRNES. I shall be glad to state that. My information from the representatives of the Department is that Mr. Little, vice president of the Franklin Rayon Corporation, of Providence, R. I., who has been connected with the code authorities on this subject as well as retaining his position as vice president of the Franklin Rayon Corporation, and others were present, but that Mr. Little was the active participant in the discussions with reference to the amendment.

Mr. WAGNER. Did he have authority to speak for the rayon manufacturers?

Mr. BYRNES. I do not know, and, therefore, I cannot say that he did. I have no information that he represented himself as representing all and authorized to speak for all of the rayon producers.

Mr. WAGNER. Is it not a fact that the rayon industry generally is not satisfied with this particular proposal?

Mr. BYRNES. I think the Senator misunderstood me. What I said was that my information is that, if there is to be a tax, the rayon producers prefer the tax provided for in the amendment which I have tendered rather than the provisions contained in the amendment reported by the committee. I desire to explain the amendment which has been presented, and with the Senator's knowledge of the situation, he can then determine whether or not it is justified.

Mr. WAGNER. My knowledge is inferior to that of the Senator from South Carolina, but what I am trying to ascertain is who was able to speak for the industry with sufficient authority to say that this amendment would be acceptable generally to the rayon industry.

Mr. BYRNES. I again think the Senator misunderstood my statement because I would not go as far as that. I say that their position, as presented to me—

Mr. WAGNER. Whose position?

Mr. BYRNES. The position of the rayon producers as represented by Mr. Little and some other gentlemen interested in the industry, whose names I do not recall, is that they prefer the amendment which I have tendered rather than the committee amendment which is contained in the bill, and that is all. I would not go further.

Mr. WAGNER. Has the Senator any information as to the extent to which Mr. Little speaks for the industry?

Mr. BYRNES. No.

Mr. WAGNER. Or what percentage of the industry he speaks for?

Mr. BYRNES. No; I have said I do not know and I would not have anything I have said to be understood to mean anything more than I have actually stated as having been stated by him.

I desire to point out the differences between the committee amendment and the amendment which I have offered.

Mr. GLASS. Mr. President, will the Senator submit to an interruption?

Mr. BYRNES. Certainly.

Mr. GLASS. I have frequently had occasion to call attention to the fact that nobody, as it seems to me, ever rises in the Senate and speaks for the consumer. I should like to inquire if there were any representatives of the consumers of these products at the conference, and why it should be assumed that the wearers of rayon and of silk would want to be taxed out of existence?

I am not speaking alone for the rayon industry. I am speaking for the poorer people who cannot wear silk, but who can buy rayon. It seems to me that unless they were represented at the conference referred to their interest was entirely ignored.

It is true that Virginia produces about one-half of the rayon manufactured in this country. In that State it has come to be a great industry, employing many thousands of people. But I am not speaking altogether for the rayon industry. I am concerned about the people who wear rayon.

I do not think it should be so highly taxed as that it would be a burden upon them to buy it.

Mr. BYRNES. Let me say to the Senator from Virginia that, of course, I know he represents the consumers, as every other Senator on the floor represents consumers. I am not in position to answer whether any consumer of silk or rayon or cotton was present. I mentioned that matter solely because of the technical language used in the amendment, and I would not want it to carry any significance other than my words would justify as to the attitude of the rayon manufacturer who was participating in the framing of the amendment.

Mr. GLASS. Mr. President, will the Senator pardon me if I ask one further question?

Mr. BYRNES. Certainly.

Mr. GLASS. If it is not expected to pass the bill this afternoon, would the Senator be willing to have his amendment go over until tomorrow, so that those of us who are interested in both the industry and the consumers may have an opportunity to make some inquiry about it?

Mr. BYRNES. I have no objection at all; but, of course, I say that subject to the approval of the Senator in charge of the bill. I should like, however, to proceed to point out the differences, because thus far I have not been able to get beyond the mere statement as to the preparation of the amendment.

Mr. ROBINSON. The Senator had better use his time.

Mr. BARBOUR and Mr. WAGNER addressed the Chair.

The VICE PRESIDENT. Does the Senator from South Carolina yield; and if so, to whom?

Mr. BYRNES. I yield first to the Senator from New Jersey, who first rose.

Mr. BARBOUR. Mr. President, I am reluctant to interrupt the Senator. I realize that he has been interrupted a number of times; but in the early part of his remarks he made reference to the competition of rayon with cotton. Do I understand that in the Department of Agriculture, as a result of their investigations, it is contended by that Department that rayon competes in any direct sense with cotton? Because, as one who has been in the textile business a great many years before I resigned and came to the Senate, I assure the distinguished Senator from South Carolina that rayon actually competes with silk, and not with cotton.

Mr. BYRNES. Mr. President, the difficulty is that it is impossible to find a manufacturer of cotton in the United States of America who would agree with the Senator from New Jersey as to that.

Mr. BARBOUR. With all due respect, I say that that is not a correct statement.

Mr. BYRNES. The manufacturers of cotton have more than once appealed to the Department of Agriculture to levy a compensatory tax upon rayon because of the belief that rayon has competed with cotton and has done great injury to the cotton manufacturers.

Mr. BARBOUR. Mr. President, I do not desire to pursue the subject too far; but I can assure the Senator that in many instances—and I know it is an unwitting mistake—the Senator's statement is not correct.

Mr. BYRNES. I know that there is a difference of opinion; that every man interested in rayon has contended that it does not compete with cotton, and that every manufacturer of cotton in South Carolina—and I think I know them all—takes the other view. If the Senator from New Jersey should undertake to convince them that rayon does not compete with cotton, he would have a splendid time for the rest of his natural life in that endeavor; and I assume that the rayon manufacturers are just as strong in their position. That matter has been discussed in the Department, and they have had hearings consuming days. Lawyers have represented the rayon interests; the cotton manufacturers have appeared; and they became dissatisfied because the tax was not levied, and attribute much of their trouble to the failure of the Department to levy it.

Mr. BARBOUR. As I have said, Mr. President, I do not want to pursue this question too persistently; so let me

conclude, if I may, by saying that I am correct to this extent: The company with which I was connected for 25 years before I came to the Senate uses a great deal of cotton and it uses no rayon and uses no silk. We know, from experience in our own case, that rayon competes with silk and not with cotton, except in a very remote, theoretical degree. I will admit, however, in the final sense, so to speak, it can be said that all textiles compete with one another.

Mr. GLASS. Mr. President, rayon competes with cotton only in the same sense that cotton competes with any wearing textile.

Mr. BARBOUR. That is what I say; in a remote or theoretical sense it can, of course, be said that any textile may be considered as competing with any other textile. But in the sense that I take it, we are all viewing competition in this whole general connection; rayon certainly competes with silk and not in the same sense at all with cotton.

Mr. WAGNER. Mr. President—

Mr. BYRNES. I yield to the Senator from New York.

Mr. WAGNER. I desire to ask the Senator a question which may somewhat clarify the situation. It is true, is it not, that under the present law the Agricultural Adjustment Administration has power to impose a compensatory tax in the event it is satisfied that there is competition existing between the basic commodity and the other commodity, namely, rayon?

Mr. BYRNES. Mr. President, I prefaced my remarks by making the statement, first, that that was the existing law, and that the compensatory tax could be levied only where it could be proved to the satisfaction of the administrator that there was an excessive shifting of the purchasing power to the other commodity.

Mr. WAGNER. Of course, Mr. President—

Mr. BYRNES. As I understand, there is a time limit on speeches, and my 15 minutes is liable to be exhausted in answering the questions of Senators, without my ever being able to explain the difference between these amendments.

Mr. WAGNER. The Senator may have my time.

Mr. BYRNES. The committee amendment provides for a tax upon rayon, but by its terms it limits that tax to what, for lack of a better word, I call the "lower grades" of rayon. The rayon producers believe this would be difficult for them to handle, because it would cause some of the grades of rayon now selling cheaply, by reason of the processing tax, to demand a higher price than the finer grades of rayon.

The VICE PRESIDENT. The time of the Senator from South Carolina on the amendment has expired.

Mr. BYRNES. Mr. President, I desire to speak on the bill.

Mr. COPELAND. Mr. President, I may say to the Senator that I intended to give him my time in which to answer.

Mr. BYRNES. I thank the Senator from New York.

Mr. COPELAND. While I am on my feet I should like to say that I think the wise thing for those of us whose constituents are interested in the rayon business is to accept this amendment. Then we can fight out the matter on the general question of whether or not we are going to have anything on the subject in the bill. So I am sympathetic with what the Senator is trying to do.

Mr. BYRNES. Mr. President, I desired to submit that suggestion to the Senate later; but at this time I wish to proceed with my remarks.

The rayon producers, very wisely, in my opinion, have considered that it would be difficult to adjust their business to the provisions of this measure; and what they would prefer is to have a flat rate, such as is provided in the amendment, because it would be easy for the manufacturers to adjust their business to the flat rate.

Mr. BYRD. Mr. President—

Mr. BYRNES. I am sorry I cannot yield. My time was exhausted on the amendment, and I now have no time except upon the bill.

Mr. BYRD. The Senator has 30 minutes on the bill.

Mr. BYRNES. The rayon producers state that unless there is a tax levied upon silk they would be injured, and I

agree with them; and, because I agree with them, my amendment provides for a tax upon silk which would be equivalent to the tax which is levied upon rayon, and, so far as the rayon producers are concerned, would preserve their status as to competition with silk. They further state that imposing the tax as provided in the amendment, amounting to 125 percent above the rate upon cotton, would create uncertainty in the business; that the consumer of rayon goods would hesitate to purchase at this time, believing that 6 months or 3 months later there might be a reduction of the processing tax upon cotton, and, as a result, a reduction in the processing tax upon rayon; that it would have a tendency to cause small purchases, hand-to-mouth buying, and thereby injure their business. They believe that the levy of the flat rate provided in this amendment—not based upon any fluctuating tax upon cotton—would protect their interests so long as the same character of tax is levied upon silk, their chief competitor.

Mr. BARBOUR. Mr. President—

Mr. BYRNES. So this amendment seeks to accomplish that objective. In doing so, necessarily the so-called "experts" upon these matters have had to include many technical phrases. The phrases which are contained in the amendment are the trade language and the trade definitions. I should like to explain some of them.

Mr. BARBOUR. Mr. President, will the Senator yield, in my time, just for a question?

Mr. BYRNES. Very well. Then I will yield to the Senator from Virginia [Mr. BYRD].

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Jersey?

Mr. BYRNES. I do.

Mr. BARBOUR. The Senator spoke about including silk within the purview of this amendment.

Mr. BYRNES. It is included.

Mr. BARBOUR. The Senator included it because he felt it was fair in respect to what he wishes to do in connection with rayon?

Mr. BYRNES. I think so.

Mr. BARBOUR. Was anybody in the silk industry consulted?

Mr. BYRNES. No. I think I was unfortunate in making the statement that as to these technical phrases the experts of the Department permitted a representative of the rayon industry to discuss with them these trade definitions, because my language has been construed as referring to a conference to which consumers should have been invited, and to which all manner of competitors should have been invited. I regret greatly that I mentioned it. I mentioned it only to explain the presence in the amendment offered by me of technical phrases, with which I knew Senators would know I was not familiar and could not possibly be familiar.

Mr. BARBOUR. Mr. President, assuming that I am consuming my own time, and not that of the distinguished Senator from South Carolina, I simply desire to make clear to the Senate that so far as I know—and I think I speak for one of the largest silk-producing centers and States in the United States—no one had any knowledge at all that this amendment was going to be forthcoming, except, as the Senator says, that it has been printed and was on the desks of Senators for the first time this morning. I do not know how many Senators saw it. I certainly did not.

Mr. BYRNES. I cannot say of my own knowledge that anyone engaged in the business knew this; but I do say that I am informed that those who are chiefly interested in the matter, the Japanese interests, have been better advised, then, than have Members of the Senate, because they have been advised; they have discussed it with officials of the Department, and have been exceedingly active in that connection.

Mr. BARBOUR. I am not speaking in terms of the interests of the Japanese. I am speaking in terms of the interests of the American manufacturers.

Mr. BYRNES. I am saying that I know the Japanese interests have been advised of it, and I know that on the floor of the Senate I have heard it said for several days that

in case rayon should be included in the processing-tax section, silk should be included, and I believe it should be.

Mr. BARBOUR. The Senator and the Japanese may agree, but I do not.

Mr. BYRNES. The Senator from New Jersey is not going to agree with me in any respect about anything connected with this amendment, and I will announce that understanding now. [Laughter.] Just on that line, I am handed an amendment which has been pending for many days, presented by the Senator from Alabama [Mr. BANKHEAD], which proposes to include silk; and I think there is one other amendment here which proposes to include silk.

Mr. BYRD. Mr. President, in my own time, may I ask a question of the Senator?

Mr. BYRNES. I yield to the Senator from Virginia.

Mr. BYRD. The Senator from South Carolina stated that the representatives of the rayon industry—

Mr. BYRNES. I said one representative, and some other gentlemen I did not know.

Mr. BYRD. One representative had agreed to this amendment, providing that if any taxation is placed upon rayon—

Mr. BYRNES. No, Mr. President; I corrected the Senator before.

Mr. BYRD. In other words, they prefer this amendment to the one in the bill?

Mr. BYRNES. That is what I have said.

Mr. BYRD. Mr. President, this is a very complicated amendment. It so happens that Virginia produces one-half of the rayon produced in America. We have five large plants. The manufacturers of my State have not advised me that they are willing to accept this amendment in the event that any tax is imposed as provided by the bill. I desire to ask the Senator from South Carolina if it would not be agreeable to defer the presentation of the amendment until I may consult the manufacturers of my State.

Mr. BYRNES. I have already stated to the senior Senator from Virginia [Mr. GLASS] that it will be entirely satisfactory to me to do that, provided the chairman of the committee, in charge of the bill, has no objection. It is satisfactory to me.

Mr. BYRD. How much time, then, shall I have?

Mr. BYRNES. The Senator from Virginia knows that as well as I do, because I have not consulted the Senator in charge of the bill. I am occupying the floor. If the Senator consults him, I am satisfied to have that course taken.

Mr. BYRD. I simply wish to confirm what the Senator has said as to the amendment meeting with the approval of the manufacturers of Virginia.

Mr. BYRNES. I repeat, I have not made that statement, and I would not want the Senator to be under that impression. The only statement made to me was that the representatives of the rayon industry who were in conference said that they would much prefer this amendment, which levies a tax upon silk at a flat rate, to the language of the bill.

Mr. BYRD. That was only one representative?

Mr. BYRNES. Yes.

Mr. BYRD. There is no intention on the part of the Senator to press for immediate consideration?

Mr. BYRNES. I have said that I do not intend to do so, and it will be entirely satisfactory to me to let the amendment go over.

Mr. WAGNER. Mr. President, will the Senator yield to me in my time?

Mr. BYRNES. I yield; I am collecting a lot of time.

Mr. WAGNER. The Senator can have my time, because I want to have this matter made perfectly clear.

The Senator is asking us now to accept an amendment imposing a tax upon an industry which represents an investment of \$250,000,000, at least, and employs about 200,000 men, without giving that industry, before the committee originally or since, except as to one representative, a chance even to be heard upon the imposition of the tax. I think that is an extraordinary situation. I have never known such a one to exist before in this body.

Mr. BYRNES. Mr. President, that is a most extraordinary statement of the Senator; evidently he has not been following the subject. The question of a tax upon rayon was heard before the committee. It was presented in the committee report, in any event.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BYRNES. I yield.

Mr. WAGNER. The chairman of the committee, the Senator from South Carolina, and the Senator from Alabama conceded to me upon the floor that the rayon industry had not been heard before the committee, and that this amendment was agreed to by the committee without giving that large industry even a chance to be heard as to whether the tax proposed was just or unjust.

Mr. BYRNES. If that be the fact, then my statement was erroneous.

Mr. WAGNER. I have followed the matter closer than the Senator thought.

Mr. BYRNES. If the Senator will permit me, I will show him to what I had reference. I am not a member of the committee, and I assumed there had been some hearing and some consideration. But I think a most extraordinary attitude is taken by those who say they are interested in the rayon industry, when they have before them a bill which provides for a tax upon rayon and no tax upon silk, which is the committee amendment, a tax upon rayon which is unsatisfactory to the rayon producers.

The amendment I have offered is a substitute for the committee amendment, and provides for a tax upon rayon, a tax which has been prepared carefully, and which is more satisfactory, I know, to anyone who has studied the question, than is the tax upon rayon proposed by the bill. In addition, with the tax upon silk, it certainly is more acceptable to the rayon producer.

If it were adopted, then the question would come upon the adoption of the committee amendment as amended, and the Senator from New York and any other Senator who feels as he does about it, if not satisfied with the tax upon rayon in connection with the tax upon silk, would have an opportunity to vote against that, with the knowledge that if he lost he would at least have the protection granted by the tax upon silk. If this amendment is not adopted and he votes upon the adoption of the committee amendment without the tax upon silk and loses, then he has no compensatory tax for the competitor who he says is a cheap competitor, the silk manufacturer.

I think it ought to be clear that anyone who is interested in rayon producers, when confronted with the choice of having to vote for the committee amendment without any tax on silk, or my substitute, ought to vote for the substitute, which seeks to protect them. They should vote for this amendment, and then, on the next vote, which will be on the adoption of the committee amendment, they can vote against the entire proposal if they see fit to do so.

Mr. President, I do not wish to consume any more time in detailed explanation of the amendment. Because it is indicated that a number of Senators desire that this amendment go over, instead of consuming the time, I ask permission to have printed in the RECORD a statement that I have which will give a detailed explanation of the various sections of the amendment.

Mr. WHITE. Mr. President, will the Senator yield for a question?

Mr. BYRNES. I yield.

Mr. WHITE. Is the compensatory tax on rayon, proposed in what I will call the Senator's amendment, the same as the tax on rayon carried in the bill? I am disregarding the compensatory tax on silk for the moment.

Mr. BYRNES. No. The tax on rayon in the bill—

Mr. WHITE. Is 125 percent of the cotton tax?

Mr. BYRNES. Yes; and is objected to by the rayon manufacturers for the reason that it is levied only on some grades, which would disturb their entire price structure, and for the further reason that it is based upon 125 percent of the tax levied upon cotton. They fear that if that were

adopted there would be uncertainty in the trade as to what the tax would be, and purchasers would withhold purchases from month to month, hoping that there would be a reduction in the processing tax upon cotton, which would be followed by a reduction in the processing tax upon rayon. They believe that with the certainty of a rate which is the equivalent of the tax now levied upon cotton, and with the knowledge that it will continue so long as there is a tax levied upon cotton, it would be advantageous to their industry.

No one interested in the cotton manufacturing industry desires to hurt the rayon manufacturers, and it is only because I believe it is fair to them, because I am convinced that it is a wise thing to do, that I am offering the amendment.

Mr. WHITE. Let me see if I understand it. The Senator's contention is that the compensatory tax proposed in the committee amendment is an uncertain amount, while the tax proposed by him in the amendment we are now considering is of a definite amount?

Mr. BYRNES. That is exactly the point, and because it is of a definite amount it would be of great advantage to those engaged in the industry, in addition to the further fact I have mentioned, that in the committee amendment the tax is levied only upon certain grades, and the processing tax is levied upon those grades, which necessarily will increase the price, so that they will have to sell for a higher price than grades now selling in the market in excess of those lower grades. That was the other point.

Mr. WAGNER. Mr. President, will the Senator yield to give me some information?

Mr. BYRNES. I yield.

Mr. WAGNER. Under the law as it is now, if there is any commodity which is a competitor with a basic commodity, the Agricultural Adjustment Administration has the right and the power to impose a compensatory tax.

Mr. BYRNES. That is correct, and, as I have said, the position of the cotton industry is that because the requirement is that the proof shall show an excessive shift, the department has been overcautious, because it involves the levying of a tax, and in its interpretation of the word "excessive" it has refrained from levying a tax, even though those charged with the decision were of the opinion that the competition was such as to justify the levying of a tax.

Mr. WAGNER. But compensatory taxes have been levied upon other commodities, have they not, when the Department of Agriculture or the Administration have discovered that there is a competitive condition?

Mr. BYRNES. I know of one instance.

Mr. WAGNER. Why is it that in this case cotton is picked out to be treated in a method different from that applied to every other basic commodity under the Adjustment Act?

Mr. BYRNES. I do not know as to what other commodities there have been hearings and where the question has been raised. In respect to that I know only what I have heretofore stated; that the cotton industry of New England and of the South, according to every manufacturer from whom I have heard during the last year, has contended in the hearings that, because of the interpretation placed upon the word "excessive" in connection with the shifting, the tax has not been levied; and that rayon, certainly of the lower grades, has been doing great injury and great harm to the cotton industry. I know that is a most controversial point; there is no question about it being so.

The purpose of my amendment, and what I hope to do, is to perfect the committee amendment.

Mr. WAGNER. I rather take the view of the Senator from Virginia that if there is no justification under the A. A. A. for imposing this tax, we are simply adding a burden on the consumers of the country.

Does it not amount to this, that we are asked to impose this compensatory tax because the Agricultural Adjustment Administration has refused to impose a tax, after a hearing lasting a year, where all of the facts were presented? Indeed, without any knowledge of the subject, without any hearing before a committee, we are asked to substitute our judgment, blindfolded, as it were, because we cannot know the subject,

for the judgment of the Agricultural Adjustment Administration, and impose this tax.

I think we ought to stand by the law as it now is. Then if, after a proper hearing, where all the facts are presented to the Agricultural Adjustment Administration, they are satisfied that there is a competitive condition which requires a compensatory tax, then it ought to be imposed; but I do not think we ought to be asked to act blindly in this way and impose a tax upon the consumers of the country when there may not be any justification for it.

Mr. BYRNES. I do not think it could be said that we would be acting blindly. I think the Senator knows just as well as I do that rayon is a competitor of the finer grades of cotton goods.

Mr. WAGNER. No; I have been examining the records and the statistics, and I think the Senator is mistaken about that.

Mr. BYRNES. Then the Senator and I cannot agree on that point. All the evidence which has been presented to me by the manufacturers of cotton is to the contrary. They may be wrong. I have been convinced, however, that they are right; and, therefore, I do not think that by reason of the attitude of the Department and its interpretation of the burden of proof which is required in order to establish excessive shifting the cotton manufacturer should be denied the relief which would be granted by levying an equivalent tax on rayon.

Mr. President, I ask unanimous consent to have inserted in the RECORD at this point a short statement in explanation of the pending amendment.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The statement is as follows:

DISCUSSION OF PROPOSED SECTION 15 OF H. R. 8492, AMENDING SECTION 9 OF THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

The significant differences are as follows: The amendment as reported out by the Senate committee imposed a tax on rayon at the rate of 125 percent of the cotton-processing tax rate which at present would be 5.25 cents per pound. The difference between a rate of 5.25 cents per pound on rayon and the rate of 4.2 cents per pound net weight of cotton is an allowance for waste occurring in the production of cotton yarn. In other words, a rate of 5.25 cents per pound on rayon yarn is essentially the same as the amount of tax paid on the amount of raw cotton required in the manufacture of a pound of cotton yarn of the type most nearly comparable to rayon yarn. In this amendment the rate of tax on rayon is rounded to 5 cents per pound and is not to be altered on the basis of variations in the cotton-processing tax rate.

In both drafts of subsection (g) the rayon tax was to be measured by the yield in pounds of rayon or other synthetic yarn suitable for commercial winding. By the Senate committee draft, however, the tax would be confined to the coarser rayon yarns, and the finer rayon yarns would be exempted from the tax. The coarser rayon yarns as defined in the Senate committee draft would include about two-thirds to three-fourths of all the rayon yarn produced, and would include those sizes of rayon yarns which may be considered as being most highly competitive with cotton, although there is no definite line of demarcation between that rayon which is competitive with cotton and that which is competitive with silk. The amendment would tax all rayon yarns. If silk is to be taxed, obviously all sizes of rayon yarns should be taxed.

Paragraph 3, subsection (g), of the attached proposed draft of section 15 lists the synthetic products and byproducts which would not be subject to the processing tax on rayon. Rayon and other synthetic fiber waste would include waste occurring in the production of rayon and in the production of rayon products. Staple fiber is rayon filaments which have been cut up into uniform lengths, usually less than 2 inches, and is used in manufacturing spun rayon, which in turn is used largely in conjunction with or in substitution for woolen and worsted yarns. Ropes are the filaments from which staple fiber is produced. Monofilaments include such products as artificial horsehair and artificial straw, which are used in the millinery trade and which apparently do not compete with cotton.

Subsection (h) of section 15 would impose an import tax on silk and silk products to compensate for the tax on rayon. The proposed rate of tax on raw silk with sericin content or gum content in excess of 15 percent is 10 cents per pound. This is twice the rate on rayon and takes into consideration the fact that a pound of silk will go farther than a pound of rayon in producing cloth and textile articles. For example, a hundred yards of a given rayon fabric might weigh 20 pounds, whereas a competing silk fabric, before being degummed, loaded, or weighted with tin, might only weigh 10 pounds per 100 yards.

On raw silk with a sericin or gum content of 15 percent or less, and upon thread yarns and fabrics the proposed rate of tax is 12 cents per pound, standard weight of silk. Nearly all of the raw

silk coming into the United States has a sericin or gum content in excess of 15 percent. A higher rate of tax on silk having a sericin content of 15 percent or less would tend to prevent removal of part of the sericin before importation as a means of minimizing tax payments. By fixing the rate of tax on yarns, threads, and fabrics as provided in the amendment it would be possible to eliminate most of the complexities and uncertainties that would be met in formulating regulations and conversion factors for silk products. In manufacturing silk the gum content is removed and loading or weighting is added. The amount of this loading or weighting may vary from a negligible percentage up to 100 or 150 percent of the original weight of raw silk. Figures are not available as to the average amount of weighting, but in the case of silk products imported from Japan it is said to be low. Since the average gum content is around 20 percent, the removal of all the gum and the failure to add any weighting or loading would make necessary a compensatory tax from this factor of 12.5 cents per pound on fabric in order to fully compensate 10 cents per pound on raw silk. In addition there is some loss in manufacture up to the cloth stage. The proposed rate of 12 cents per pound on yarns, threads, and fabrics would be slightly low for such products if they contain little or no weighting. In the case of heavily loaded fabrics, however, a tax at the rate of 12 cents per pound would be somewhat greater than the amount of tax that would be paid on raw silk required in their manufacture. While there would be some slight inequities, it appears that a rate of 12 cents per pound would be a reasonable average.

Because of cutting losses in manufacturing garments and other fabricated products a compensating rate of tax at the rate of 15 cents per pound is suggested for these products.

By making a compensating tax on silk and silk products apply at the time of importation rather than at the time of the first domestic processing, the collection of the tax would be greatly simplified.

No tax will be imposed under subsection (h) on silk waste defined in paragraph 4 as pierced cocoons, frisons, and other silk waste. Pierced cocoons are damaged, unwindable cocoons, which are considered as waste. Frisons are brushings or tangled, unwindable silk filaments, considered as waste.

Subsection (i) specifies the rates at which refund payments would be made on silk and silk products exported from the United States or delivered to an organization for charitable distribution or use. These payments would be made on any such articles exported or delivered to organizations for charitable distribution or use after the effective date of this amendment, even though a compensatory import tax had not been paid thereon. This would avoid the confusion which would be involved in determining at the time of exportation or delivery to such an organization whether a tax had been actually paid with respect to a particular product. In the absence of the provisions of subsection (i), it would be several months after the effective date of the compensatory import tax on silk before all or the major part of the silk products exported or delivered to a charitable organization would be subject to refund payments. During this long period of adjustment some articles would be subject to refund payments and others would not. The rates of refund payments provided for in subsection (i) are the same as the rates of compensatory import taxes imposed by subsection (h).

The proposed subsection (j) contains general provisions that are consistent with the compensatory tax aspects of the proposed amendment.

The most important of these general provisions are as follows:

It is provided that no adjustment be made in the rates of tax on rayon and silk and silk products irrespective of any changes that may be made in the rate of tax on cotton except that when the cotton tax is wholly terminated the taxes on rayon and silk will terminate also.

It is also provided that in the event that the tax on either rayon or silk or the general provisions of subsection (j) become inoperative the taxes on both rayon and silk and silk products will cease simultaneously.

The general provisions contain definitions applicable to the weight of rayon and silk which are in conformity with trade practice and would therefore appear to be beneficial in the administration of the proposed taxes.

In connection with the definition of standard weight of rayon it might be noted that the synthetic products of cellulose base are those which are produced by the viscose and the cuprammonium processes of rayon manufacture. Synthetic products of a cellulose ester base are those made by the cellulose acetate process of rayon manufacture.

The proposed amendments appear to be satisfactory as compensatory tax provisions applicable to rayon and silk. The benefits of simplicity obtained by fixing the rates of tax on semimanufactured and manufactured silk products should greatly outweigh the benefits of more precise equivalents that could be arrived at only through cumbersome and complex conversion factors. In this connection it should be kept in mind that for commodities of high value, such as silk and its products, variations of a fraction of a cent in the rate of tax would have little importance from the standpoint of protecting cotton or rayon or influencing the course of trade in silk products. Therefore, it is highly desirable that impractical refinements be eliminated for the sake of simplicity and certainty.

Mr. GLASS. Mr. President, I am indebted to the Senator from South Carolina [Mr. BYRNES] for agreeing to let this particular amendment go over. The more I have heard him

speak on the subject the more nonplused I have become. Of course, South Carolina is a great cotton-manufacturing State. Virginia also is to some extent. I think we have in Virginia the largest cotton mill in the world.

It was not my purpose to imply that the Senator from South Carolina had not very clearly stated the case from his point of view; but what puzzles me is that I have not heard from a single cotton mill in Virginia, and, as I said, I think we have in Virginia the largest cotton mill in the world. I have not received from them a single communication on this subject. There has been no complaint whatsoever that rayon is in competition with their product; and if such competition is so clearly established, it seems almost incredible that the Virginia cotton mills should not have communicated with either one of the Virginia Senators about a problem which so greatly interests them.

For that reason I am obliged to the Senator from South Carolina [Mr. BYRNES] for letting the amendment go over until we may make some inquiry about it.

Mr. SMITH. Mr. President, of course, the bill came to us from the House. In the Senate committee we had no communication from the Department on this subject, and, so far as I know, the House had no communication from the Department. However, prior to the time the bill came over from the House there was complaint as to the encroachments of certain rayon manufactured goods upon the marketing of certain cotton goods. When the parties interested—namely, the cotton manufacturers—made that complaint, it was suggested to them that they prepare an amendment which in their opinion would meet the situation. They did so, and that was the one which was presented to the committee and was adopted by the committee. To what actual extent articles composed of rayon affect the cotton market I have no way of knowing, except through the complaint of the cotton manufacturers.

When the amendment was adopted by the Senate committee and the bill was reported to the Senate, certain of those interested in rayon appeared; and, as the result seems to be, they, in conjunction with certain cotton manufacturers, have prepared the substitute amendment which my colleague has here presented.

There is language in the original text of the bill which I desire to call to the attention of the Senate. It has been referred to; but, after reading it, I cannot understand why the Department of Agriculture has not availed itself of the complaints of the cotton manufacturers and ascertained what are the facts.

I desire to read the provision to which I refer. It is found on page 21 of the compilation of the Agricultural Adjustment Act, as amended, as of June 29, 1934. It reads as follows:

The Secretary of Agriculture shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing, or will cause, to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition.

As I see it, that is an ample provision, and under it if there is a question as to competition existing to the disadvantage of the taxed article, or it is likely to exist to the disadvantage of the taxed article, then, after due hearing and the ascertainment of the facts, if the Secretary finds that this menace exists, or is likely to exist, he shall put a compensating tax on the competing article to the point where the disadvantage will disappear.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McKELLAR. Is it not true that the Department of Agriculture has held hearings in accordance with the provisions of this act, and has certified that there is no competition in this instance, and has refused to impose the tax provided for in the amendment?

Mr. SMITH. Mr. President, I think the real fact is that the relation to cotton of rayon and rayon yarns and the

commodities into which they are converted is so complex, and there are so many uses to which the rayon and rayon yarns are put, that I do not think it really could be decided definitely whether they were invading the domain of cotton or whether they were competing with silk.

Mr. McKELLAR. Has the Department acted in this matter? I have not been advised, and I ask the Senator whether he has been advised on that point?

Mr. SMITH. The Department has not acted in this matter.

Mr. McKELLAR. They were instructed to act in the matter, and undoubtedly they held hearings; and if they have not acted, it seems to me the present law is complete in that behalf; so I see no reason for an amendment of any kind.

Mr. SMITH. As I stated, the cotton interests have complained, and complained bitterly.

Mr. McKELLAR. They had a forum to which they could go. They have gone before the Department of Agriculture, and evidently the Department of Agriculture has not sustained them. After leaving it to the hearing and decision of the Department of Agriculture, and the Department not having imposed the tax, why, in that situation, should the Congress step in and impose a tax, anyway?

Mr. SMITH. There is an implication in the complaint of the cotton manufacturers that they have not been fairly dealt with by the Department.

Mr. McKELLAR. Was there testimony to that effect before the Senate committee?

Mr. SMITH. The committee did not hold a hearing on this matter. The committee members have received communications upon the subject, as have, perhaps, the Senator from Tennessee and other Senators. The complaint has continued for more than a year.

Just to what extent the Department of Agriculture went into the matter, and to what extent they thought the complaint was justified or not justified, I am not in a position to state. However, I was amazed when the cotton manufacturers said that nothing had been done, when they complained so bitterly about the competition and brought to my attention certain articles and compared those which were made out of cotton with those which were made out of rayon, and showed how the price of rayon was now under the selling price of cotton with respect to articles used for the same purpose, being certain articles of clothing and underclothing. They said: "We pay a tax, and by reason of that tax we are excluded from the market which has been entered by rayon, which does not pay a tax." I asked if they had applied for a compensatory tax, and they said they had.

Mr. McKELLAR. Mr. President, I may say, as the Senator from Virginia [Mr. GLASS] said a few minutes ago, that there are a great many cotton mills in my State, and I have not received a communication from a single cotton mill complaining that they were being discriminated against in this matter. On the other hand, there are a number of rayon mills in my State, and they are complaining very greatly because of the proposed tax, for they say they are not in competition with cotton, but are in competition with silk.

Mr. SMITH. Personally I have had quite a number of complaints from cotton mills located not only in my State but in other States that the competition is very severe. One manufacturer, I remember, came in and showed me the articles to which I have just referred.

Mr. McKELLAR. Mr. President, I call the Senator's attention to the further fact as to cotton linters, which is, of course, a form of cotton, and quite a valuable form, as it now turns out, that 15 percent of all the cotton linters, or about 75,000,000 pounds, is used every year in the manufacture of rayon.

That largely has brought about the increased price of linters from about one-half cent a pound to something like 5½ cents a pound. In other words, as it seems to me from the standpoint of the cotton grower, to take away this market for linters might work a very great hardship on the producer of cotton. I hope it will not.

I have made a study of the matter in the last few days, and I believe there is no great degree of competition between cotton and rayon. I expect to vote against the amendment, but if we cannot get that much, manifestly the next best thing is to accept the amendment of the junior Senator from South Carolina [Mr. BYRNES] or something along that line, because in the absence of striking out the committee amendment the next best position for the rayon manufacturers is to accept that amendment with a compensating tax.

Mr. SMITH. I call the Senator's attention to the fact that the use of linters in rayon is of no benefit to the cotton producer at all. That is the short fiber taken off the seed after the farmer has had his lint taken off. When he sells his seed and they are delinted by the oil mills, that is something which goes to the benefit of the mills and not to the benefit of the farmer.

Mr. McKELLAR. I regret to have to differ in any form with such high authority on cotton as is the Senator from South Carolina, but in my section of the country the cash crop of the colored people is the seed cotton. The increased price of linters has largely influenced the increased price of cottonseed. Just 2 or 3 years ago cottonseed sold on the market for something like \$11 a ton. Today it is selling for more than \$40 a ton. It seems to me we ought not to do anything to destroy or to endanger the market for linters and for cottonseed, which is of very great importance to our section of the country, as the Senator knows.

Mr. SMITH. The price of the seed resulted from the extremely low production of cotton. Only 9,000,000 bales were produced, as against 15,000,000 bales previously.

Mr. McKELLAR. That is one of the factors.

Mr. SMITH. Some of the seed buyers will deduct from the seed in proportion as they seem not to be closely ginned, for the reason that they say they have to go through a double ginning on a very fine machine which takes the lint from the seed. In any event, I have never known the seed to be influenced in the slightest degree by the linters that are on them, because the quantity of linters depends upon whether or not the breast of the gin is open or shut. Some gins gin very closely and others gin not so closely, but the price of the seed has nothing to do with the amount of linters on the seed.

Mr. McKELLAR. Under the old philosophy that "the proof of the pudding is in the eating" we know that linters have gone up in price with seed. Cottonseed has increased more than four times and linters have increased a little more than that. They go up and down together.

The VICE PRESIDENT. The time of the Senator from South Carolina on the amendment has expired.

SOCIAL SECURITY—CONFERENCE REPORT

Mr. HARRISON submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment-compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 3, 6, 7, 8, 10, 11, 12, 13, 14, 15, 18, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 61, 65, 70, 75, 76, 77, 78, 79, 80, 81, 86, 90, 92, 105, and 108.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 9, 16, 20, 21, 28, 39, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 60, 62, 63, 64, 66, 69, 71, 72, 82, 88, 89, 93, 94, 95, 96, 97, 98, 102, 103, and 109, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: " : Provided, That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937 by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is

prevented by its Constitution from providing such financial participation"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: On page 8 of the Senate engrossed amendments strike out line 12 and insert in lieu thereof the following: "welfare services (hereinafter in this section referred to as 'child-welfare services') for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent" and a comma; and the Senate agree to the same.

Amendment numbered 73: That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid"; and the Senate agree to the same.

Amendment numbered 74: That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department"; and the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "EIGHT"; and the Senate agree to the same.

Amendment numbered 87: That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or such other agencies as the Board may approve"; and the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "eight"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"APPROPRIATION

"SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the condition in such State, to needy individuals who are blind, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of \$3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"STATE PLANS FOR AID TO THE BLIND

"SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be furnished any individual under

the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

"(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

"(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

"(2) Any citizenship requirement which excludes any citizen of the United States."

And the Senate agree to the same.

Amendment numbered 101: That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with the following amendments: On page 24 of the Senate engrossed amendments, line 19, strike out "permanently", and on page 25 of the Senate engrossed amendments line 16, strike out "permanently"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"DEFINITION

"SEC. 1006. When used in this title the term 'aid to the blind' means money payments to blind individuals."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "XI"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1101"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "1102"; and the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1103"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1104"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following "1105"; and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The committee of conference have not agreed on the following amendments: Amendments numbered 17, 67, 68, 83, and 84.

PAT HARRISON,
WILLIAM H. KING,
WALTER F. GEORGE,
HENRY W. KEYES,
ROBERT M. LA FOLLETTE, Jr.,
Managers on the part of the Senate.

R. L. DOUGHTON,
SAM B. HILL,
THOS. H. CULLEN,
ALLEN T. TREADWAT,
ISAAC BACHARACH,
Managers on the part of the House.

Mr. McNARY. Mr. President, I think it would be quite worth while and informative if the Senator would discuss the conference report.

Mr. HARRISON. Mr. President, I was about to make a statement with reference to it. The conferees on the social-security bill have reached an agreement on all differences except the so-called "Clark and Black amendments." The Black amendment went with the Clark amendment—providing for continuation of private pension plans. The conferees were unable to agree on that matter.

The conferees met many times, I think having more than a dozen meetings. Throughout the Senate conferees tried to carry out the wishes of the Senate as required by the record vote on the so-called "Clark amendment." The House conferees were adamant as to the Clark amendment, though

they were able to agree on all the other differences between the House and the Senate. As soon as this part of the report shall be adopted, as I hope it may be, I expect to ask that the Senate further insist upon the so-called "Clark and Black amendments" and that a further conference be had with the House on those matters.

I may say in that connection, however, that when the House conferees reported today the report was overwhelmingly adopted and the House disagreed to the Clark amendment by a vote of 269 to 77.

There were several amendments of some importance on which we were able to agree. The so-called "Russell amendment", for instance, which was designed to take care of those States which, because of constitutional inhibitions, would be unable to participate in the matter of old-age assistance, was modified to some extent, but will carry out the general purposes of the original amendment, in that the States may participate without appropriations of funds by the State. The aggregate of amounts the political subdivisions of each State put up for old-age assistance plans will be matched by the Federal Government, just as if the State were financially participating. The objective of the Russell amendment was thus achieved in substance, and the House has agreed to it.

The House receded on the so-called "La Follette amendment", on which the sentiment of the Senate was practically unanimous. That was an amendment giving the option to States to adopt various plans with reference to unemployment insurance, whether the pool system or the separate reserve system, and permitting additional credit against the Federal tax where State contributions are reduced because of stabilization. The wishes of the Senate prevailed in that matter.

Mr. WALSH. Mr. President—

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Massachusetts?

Mr. HARRISON. I do.

Mr. WALSH. May I ask the Senator what was done about the amendment in which I was interested, which was proposed and adopted when the bill was before the Senate, relating to noninterference by Federal officials with parental control of children?

Mr. HARRISON. That was taken care of. The House receded on part of the Senator's amendment, and the Senate receded on the other part. Of course, the Senator will recall that we invited him before the conference committee to explain the amendment, and I think the wishes of the Senate largely prevailed in that matter.

The Senator from South Dakota [Mr. NORBECK] had an amendment with reference to pensions for Indians. I may say that the Senate conferees fought valiantly in behalf of the amendment offered by the Senator from South Dakota, but our wishes did not prevail, and at the very last moment the Senate conferees finally yielded on that amendment.

Mr. NORBECK. Mr. President, does the Senator feel that if the Senate should take a definite stand for a pension for Indians the House might go along in regard to it?

Mr. HARRISON. The Senate conferees did take a definite stand.

Mr. NORBECK. No; I mean, if the Senate, by vote of the Senate, should take such a stand, does the Senator feel that that would have any influence on the situation in the House?

Mr. HARRISON. If we were to take a vote now?

Mr. NORBECK. Yes.

Mr. HARRISON. Of course, the Senator is fully cognizant of the rules of the Senate, because he has been here a long time, and has handled many bills. In order to do that, we should have to vote down the entire report; and while I share the sympathy which the Senator has for the Indians, I hope we shall not have to go to the extreme measure of voting down the entire report in order to secure another vote on that one amendment.

Mr. NORBECK. The Senator thinks the Senate amendment would be rejected in the House even if we should do that?

Mr. HARRISON. Yes; I feel sure that there is no way to put the amendment in this bill after what has occurred.

Mr. NORBECK. I very much regret, indeed, the way we treat the Indians, because they are so helpless. Whole families of them have been living on a dollar a week. We have now begun to recognize that we took away their lands from them without just compensation and have passed 80 or 90 statutes providing that they may sue. One statute, affecting a certain tribe of Indians, was passed during the Wilson administration. The case has not as yet been tried; but the House, in handling an appropriation bill last week, put in a proviso that the suits might be started all over again. That is, they provided that different counterclaims might be made, but they did not make any distinction between suits which permitted counterclaims and those which did not. In fact, the representative of the Department of Justice said there were 24 of these cases where the act was broad enough to admit all counterclaims.

I am pleased to say that the Senate Appropriations Committee did not take the view of the House; but we know that the House is going to insist on its proviso. The Senate committee felt that it was legislation on an appropriation bill, and therefore improper. They felt that it was entirely too broad, too unfair in its basis, so the proviso was stricken from the appropriation bill by the Senate committee. Whether or not we are going to yield on that, too, I do not know; but I hope that even the Indians may be given a little consideration. The older Indians, who have lost their hunting grounds and their opportunity to make a living by agriculture, and who are living on reservations that do not produce, have simply been told to starve; and even now in this bill they are simply told, "We shall take care of everybody else but not of the Indians."

I regret that the Senate had to yield on this amendment.

Mr. HARRISON. Mr. President, the Senate conferees were in sympathy with the views of the Senator from South Dakota.

Mr. LA FOLLETTE. Mr. President, will the Senator from Mississippi yield?

Mr. HARRISON. I yield.

Mr. LA FOLLETTE. I should like to say, for the benefit of the Senator from South Dakota, that as one of the Senate conferees I was very much interested in his amendment. My interest was not only because of the fact that the Senator from South Dakota had sponsored the amendment, but because as a member of the Senate Committee on Indian Affairs I was somewhat familiar with the problem which the Senator's amendment tried to reach; and I was very much in sympathy with its objective.

I desire to say, in support of what the chairman of the Senate conferees has had to say, that it is my opinion that we could not prevail upon the House conferees to accept that amendment even if we should vote down the conference report and have another conference. The House conferees were absolutely adamant upon the subject. I also desire to assure the Senator from South Dakota that I shall be glad, as one Member of the Senate, to help him in attempting to have this matter taken care of in a separate piece of legislation.

Mr. NORBECK. I thank the Senator.

Mr. HARRISON. Mr. President, there are just two other matters I wish to mention which were in difference between the two Houses.

One of these was whether the Social Security Board should be an independent agency or under the Department of Labor. It will be recalled that the Senate placed it under the Department of Labor. The Senate was forced to yield on that matter.

As to the other matter, the amendment to take care of the blind, the Senate's views on that subject prevailed, with an amendment.

I shall be glad to answer any further questions in regard to the conference report.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives on certain amendments in disagreement, which was read, as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
July 17, 1935.

Resolved, That the House insist upon its disagreement to the amendments of the Senate nos. 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Mr. HARRISON. Mr. President, on the four or five amendments still in disagreement, I move that the Senate insist upon its amendments and ask for a further conference with the House, and that the Chair appoint the conferees on the part of the Senate.

The VICE PRESIDENT. The question is on the motion of the Senator from Mississippi.

The motion was agreed to; and the Vice President appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE conferees on the part of the Senate at the further conference with the House of Representatives.

Mr. CONNALLY. Mr. President, is it the purpose of the conferees to have a vote in the Senate on the Clark amendment?

Mr. HARRISON. That amendment has gone back to conference.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. COPELAND. Mr. President, I desire to say just a word about this amendment.

I am very much distressed over the situation. The rayon people of my State are opposed to any legislation relating to the subject of rayon; but, if there must be legislation on the subject, they prefer the amendment which was offered by the Senator from South Carolina [Mr. BYRNES].

It will be unfortunate for us if we have any division of sentiment in this matter, or division as regards procedure. My own thought is that we might better accept the amendment offered by the Senator from South Carolina, and then do our best to defeat the amendment as amended. There is a difference of opinion here, however, among those of us whose States are interested in the rayon business; and I am only sounding a note of warning, hoping that overnight we may reach some conclusion as to strategy.

Once more, however, I desire to say that so far as I am concerned, I think the best strategy is to accept the amendment of the Senator from South Carolina, and then do the best we can to throw the amendment as amended out of the window.

Mr. WALSH. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. COPELAND. I do.

Mr. WALSH. Does the Senator from New York find any sentiment among the industrialists in his State in favor of levying a processing tax upon rayon because it is an injustice to the cotton industry to have a processing tax on cotton without one on rayon, which is in competition with cotton?

Mr. COPELAND. There is no desire in my State to have any such legislation enacted here.

Mr. WALSH. Is the reason why there is now agitation for a processing tax on rayon because there is such a tax on cotton goods, and because it is not fair to the cotton industry to have a processing tax on cotton without having one on rayon, with which it has to compete?

Mr. COPELAND. Yes.

Mr. WALSH. Very well. Now, the rayon manufacturer asserts, "If you are going to put a processing tax on us, we want one on silk." Is not that true?

Mr. COPELAND. That is true.

Mr. WALSH. "Because it is an injustice to the rayon industry to have a tax on rayon unless there is one on silk."

Mr. COPELAND. That is true.

Mr. WALSH. To what absurdity does such taxing power go? What further proof do we desire to be convinced of the unsoundness of this proposed legislation. If we adopt this measure, we shall be for all time adding new taxes to help remove injustices which processing taxes bring to a particular product upon which such a tax is levied.

Mr. COPELAND. Of course, I am 100 percent with the Senator in what he says.

Mr. NORRIS. Mr. President, will the Senator yield there?

Mr. COPELAND. I yield.

Mr. NORRIS. I am very much impressed by the questions of the Senator from Massachusetts; but we had the same predicament about fruits and canned fruits. We have already established the precedent. This amendment seeks to continue that precedent in uniform fashion throughout the bill. We included fruits and left canned fruits out. Would not that be just the same as leaving one of these products in and the other out, even though they do compete with each other? The Senate has already done that.

Mr. BARBOUR. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. BARBOUR. I should like to ask unanimous consent to strike out on page 49 section 19, beginning in line 19, so as to make the bill conform with an amendment already agreed to, offered by my colleague, the junior Senator from New Jersey [Mr. MOORE], which eliminated from the bill on page 38 the section beginning with line 3, affecting flaxseed.

The VICE PRESIDENT. When that is reached, the Senate will have a chance to vote upon it. Does the Senator ask unanimous consent for the present consideration of the amendment?

Mr. JOHNSON. Mr. President, I should object to unanimous consent, because the Senator from North Dakota [Mr. FRAZIER] called my attention to this, and he has been called out to a committee meeting, and would like to have it await his return.

Mr. BARBOUR. That is perfectly agreeable.

Mr. TYDINGS. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. TYDINGS. In placing a processing tax upon cotton, it is done upon the theory that the producers of cotton are to be benefited by the proceeds of the tax. Why in the world the producers of rayon should be taxed to help the producers of cotton, as the Senator from New York says, is beyond understanding. Certainly rayon is a separate thing from cotton.

I should like to ask the Senator if he knows upon what ground the committee has attempted to tax some product which has nothing to do with cotton in order to pay a particular benefit to the cotton farmers?

Mr. CONNALLY. Mr. President, will the Senator from New York yield to me to answer?

Mr. COPELAND. The Senator from Texas covets the opportunity to make the answer.

Mr. CONNALLY. I do not covet it, but I knew the Senator from New York was not going to answer, and I thought I would answer the question for him.

Let me say to the Senator from Maryland that, as I understand, one of the components of rayon is low-grade cotton, and it is a competitor of cotton. The man who makes the cotton cloth in New York and Massachusetts has to pay the processing tax because he manufactures cotton. The rayon man, on the other hand, pays no processing tax on his rayon.

Mr. TYDINGS. If he had cotton in the rayon, he would certainly pay a processing tax on it.

Mr. CONNALLY. The Senator from South Carolina says he does not.

Mr. TYDINGS. The Senator from South Carolina, with all due respect, must be misinformed on that subject.

Mr. SMITH. No; it was brought out, in the absence of the Senator, if the Senator from New York will allow me, that what they use in the manufacture of rayon is what is

called "linters", and that is not produced when the cotton is ginned for the farmer. It is short lint taken off the seed after the ginning.

Mr. CONNALLY. But it is cotton just the same.

Mr. SMITH. It is cotton, but it is that which does not go into cotton manufacture. It goes into explosives, and it is the base of cellulose, but it does not go into the ordinary manufacture of cotton. Therefore it does not pay any processing tax.

Mr. CONNALLY. Yet it goes into an article which competes with cotton, to wit, rayon.

Mr. TYDINGS. The point I wished to make, and to which I addressed myself, was that we do not tax rayon on the quantity of cotton in the rayon, but we treat the whole rayon as if it were made out of cotton.

Mr. SMITH. I should like to call attention to the act that was passed 2 years ago, which provided:

In the case of cotton, the term "processing" means the spinning, manufacturing, and other processing, except ginning, of cotton, and the term "cotton" shall not include cotton linters.

That is in the act, and, therefore, no processing tax is paid.

Mr. TYDINGS. Mr. President, will the Senator from New York yield further?

Mr. COPELAND. I yield.

Mr. TYDINGS. What I am complaining about is that the amount of cotton in rayon is not taxed. The proposal is to tax the rayon as if it were all cotton.

Mr. SMITH. Mr. President, will the Senator allow me?

Mr. TYDINGS. I yield.

Mr. SMITH. It is not upon the ground that we are taxing rayon for the benefit of cotton; we are taxing rayon because we have taxed cotton; and rayon is competing in the textile market; and the goods made out of rayon are coming in without a tax and taking the place of similar cotton goods which cannot go in on account of the tax.

Mr. TYDINGS. Mr. President, the Senator from South Carolina in his answer has been very frank, and I wish to thank him. In other words, we are not taxing rayon because of the amount of cotton in rayon.

Mr. SMITH. No.

Mr. TYDINGS. We are taxing rayon because having taxed cotton for the benefit of the cotton farmer we cannot afford to have something else which might compete go untaxed, and therefore, though it is in no respect cotton whatsoever, we are to tax that product, not for the benefit of rayon, not for the benefit of anyone connected with the operation of producing rayon, but to take this remote quantity, tax it, and then turn part of that tax back to the cotton farmer. If that is government, and if that is the policy of taxation that is to be introduced in this body, I think the sooner we adjourn and go home and get a good night's sleep and come back and learn how to levy taxes the better off the Nation will be.

Mr. SMITH. Under that doctrine we should have adjourned when the Hamiltonian idea of high protection came in, for we have been taxing with a compensatory tax everything that competes in the market with the thing that has the blessing of the high protective tariff.

Mr. BORAH. In view of the fact that the Jeffersonian party is now in power, why not repeal the Hamiltonian policy?

Mr. SMITH. I will vote "aye."

Mr. BORAH. I know the Senator will, but he will be very much alone. [Laughter.]

Mr. SMITH. Yes; very much alone; that is true.

Mr. TYDINGS. Mr. President, will the Senator from New York yield again?

Mr. COPELAND. I yield.

Mr. TYDINGS. I do not think the analogy of tariff taxes is a good one. The idea of taxing one product for the benefit of another may at times avail to help the other, but basically, as I understand, back of the tariff is the idea of protecting the standards of labor and standards of living generally. In this case, however, there is no effort to protect rayon, which is certainly a commodity indigenous to the

United States. We might at least say, through a compensatory duty, that the purpose back of levying the duty is to protect all of the industries of the United States equally, but in this case the proposal is to tax, for the benefit of cotton, something which has nothing to do with cotton.

Mr. President, I have often heard the farmer complain that he had to sell his goods in the world market, where the tariff does not apply, and pay taxes on everything else that he has to buy; but, lo and behold! at last we have the good old farmer right here in the United States Senate doing the very thing of which he complained. Such is principle.

Mr. ASHURST. Mr. President—

The PRESIDING OFFICER (Mr. HAYDEN in the chair). Does the Senator from Maryland yield to the Senator from Arizona?

Mr. TYDINGS. I yield.

Mr. ASHURST. In the interest of historical accuracy, I wish to say that Thomas Jefferson was a high-tariff man. Read his 16 unanswerable letters urging a high tariff. He was one of the great leaders of the high protective tariff. He was in Washington's Cabinet. We know that Washington was a protectionist. We know that James Madison piloted through the House of Representatives the first tariff bill ever passed in the United States. In its preamble it declared for the protection of infant industries of the United States. When Jefferson became President he appointed the same Madison Secretary of State. Nearly all the protagonists of the high protective tariff in the West used the 16 letters of Thomas Jefferson to prove that he was a protectionist.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. ASHURST. I yield to the Senator from Virginia.

Mr. GLASS. Will not the Senator from Arizona state in that connection the background of those letters? Does the Senator recall the fact that this was then an infant Nation and that the proposal was to protect infant industries in order not to be dependent upon European industries?

Mr. ASHURST. Yes.

Mr. GLASS. Are there any longer any infant industries in this country except rayon?

Mr. ASHURST. Yes; Mr. President, during the depression nearly all of them have been reduced to the status of infants.

Regarding the background, it will be remembered that when James G. Blaine was preparing his book, *Twenty Years in Congress*, America waited with some degree of impatience to read what that brilliant man would say about the tariff, knowing that he was the great champion of a protective-tariff system. He simply wrote that all that could be said and all that ever would be said in behalf of the protective tariff was said in the House of Representatives in 1789 when James Madison piloted through the House the protective-tariff bill. Blaine almost dismisses the subject with those words.

Mr. BORAH. Mr. President, is there now, or has there ever been, any difference between political parties in the United States on the tariff question?

Mr. ASHURST. In theory; no.

Mr. BORAH. In practice, then?

Mr. ASHURST. Yes. Mr. President, for a while our southern brethren followed the leadership of John C. Calhoun, who himself began his public life as a high-tariff advocate.

Mr. GORE. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. GORE. I have just entered the Senate Chamber. Did the Senator state the rates of duties proposed in the first tariff act of 1789?

Mr. ASHURST. The rates varied. There were ad valorem rates and specific duties, if I remember correctly. It has been some years since I have read that law. There was also a preferential allowed to importers who brought goods into the United States in American bottoms, which I heartily approve.

Mr. GORE. But those were regarded as protective rates. Does the Senator think they would be acceptable now?

Mr. ASHURST. Those rates might not be particularly acceptable at this time.

I wish to make the point that in the House of Representatives in 1789 they were protecting the United States against the cheap, forced, slave, and underpaid labor of certain foreign countries. The real reason why I believe in a protective tariff is not because the founder of the Democratic Party believed in it. That is not my real reason for believing in it, but it is a reason. I believe that the United States will not survive as against the cheap, the forced, and the underpaid labor of certain foreign countries. I do not, for example, believe that the mills of New England or of any other industrial State will long survive in competition with the cheap labor of Europe. I know—I do not guess, but I know—that the copper, the manganese, and other enterprises, for example, will not survive as against the cheap, the forced, and the underpaid labor of certain foreign countries, which is paid some 40 or 50 cents a day, and works 12 hours a day. This I say with particular reference to copper producing.

It is useless to resort to our old prejudices and predilections. I came to the Senate a flaming low-tariff man. I stood for years and hurled my delicate, fine, and exquisite porcelain theories against a solid, hard, concrete wall of fact; and it was only my porcelain which was shattered—never the wall of fact. I became tired of throwing porcelain against that adamant wall.

The free-trade, low-tariff idea is the most beautiful, symmetrical theory in the world. Low tariffs will not function in this brass-tack, matter-of-fact, workaday world, if we expect our workmen to live and subsist as becomes the dignity of an American workman.

I beg the Senate's pardon for introducing the tariff question into this subject; but Senators know that the stoutest apostle of a faith is the convert. Whether his zeal arises from a feeling that he should be apologizing for past errors or he is enthused by the light which has come upon him I do not know; but I do know that the stoutest apostle of a doctrine anywhere is a man who has been converted from the opposite side. That is the position I occupy on the tariff.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. ASHURST. I yield.

Mr. HASTINGS. My recollection is that the tariff issue in recent years was raised in about the year 1887. President Cleveland was urged to send a message to the Congress in December 1887 proposing a reduction in the tariff; and to me the curious thing about it is that the real reason for urging it was that the Democratic Party did not know what to do with the surplus which was being created by the tariff rates. It seems to me they had a different condition in 1887 than that which they have today.

I merely desired to call attention to the fact that what brought on in 1887 the effort of the Democrats to reduce the tariff was the fact that they did not know what to do with the surplus. However, I take it that the Democratic Party during the present administration would know what to do with a surplus if they could find one.

Mr. ASHURST. Mr. President, I have no remark to make in answer to the production of the pungent intellect of my friend from Delaware.

Daniel Webster went to Congress from New Hampshire a pronounced free-trader. It is known to every Senator that he became a great protective-tariff champion, a tower of protection in New England, because he found, forsooth, that his constituency could not exist without a protective tariff. John C. Calhoun, educated in Yale or Harvard—I forget which; my friend from South Carolina knows—

Mr. GORE. Yale.

Mr. ASHURST. Calhoun began his public life as a protectionist. He found that his section at that time would be better served by low tariffs or free trade. We draw our opinions—and it is not to our disgrace that we do—and we derive many of our ideas from our environment, from our experience in life, and usually from the sections whence we come. It was natural, proper, and logical that John C. Calhoun should swing over from the position of a high-tariff advocate to that of a low-tariff advocate, a free-trader. It was natural that Daniel Webster—he of the imperial intellect, the expounder of the Constitution, whose voice boomed like a golden bell

hung in the canopy of the skies—it was natural that he should turn from a low-tariff, free-trade man to become a high protective-tariff advocate.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. ASHURST. Certainly. I am always glad to yield to my able friend from Tennessee.

Mr. McKELLAR. With reference to the background, does not the Senator believe, from reading the history of both Calhoun and Webster, that one of the principal reasons for their change was Andrew Jackson, of Tennessee?

Mr. ASHURST. Yes. The able Senator from Tennessee is quite correct. In the old Senate Chamber, which is to be a repository of memorials of past greatness, Jackson and Van Buren sat side by side as Senators. Jackson had not as yet been stung by the Presidential bee. That was probably in 1822 or 1823. Jackson sat side by side with Van Buren, the low-tariff advocate, and their friendship became very close. The circumstance is so well known to history that it is not necessary to descant upon it.

However, they had a serious dispute over the tariff. Van Buren was for low tariff and Jackson for high tariff; and when Clay, great leader of the protective-tariff system, asked Jackson what, in the mind of Clay, was an embarrassing question, how high a tariff ought to be, Jackson replied, "It ought to be a judicious tariff." This answer angered Clay, so that he replied with an oath, "Well, by ———, I am for a tariff, judicious or injudicious."

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. ASHURST. I yield the floor to the able Senator from Tennessee.

Mr. McKELLAR. Mr. President, I should like to make a suggestion. The Senator from Arizona in his historical summary is correct with one exception. He is exactly correct about Mr. Jackson and Mr. Van Buren sitting side by side in the Senate and becoming great friends, which friendship lasted all their lives; but Andrew Jackson came to the Senate in 1822 for the very purpose of furthering his Presidential candidacy.

Mr. ASHURST. Mr. President, I would not presume to question the historical accuracy of the statement of the Senator from Tennessee. I have learned to depend upon the Senator from Tennessee for historical information, particularly with reference to Tennessee. But let me say to the Senator from Tennessee that it was not Tennessee which first proposed Jackson for the Presidency, though doubtless many of his friends in Tennessee thought he would be a good candidate. It was the high protective State of Pennsylvania which first seriously proposed Andrew Jackson for the Presidency.

Mr. McKELLAR. The Senator is entirely correct in that statement.

Mr. GLASS. Mr. President, in the detailed historical recital the Senator from Arizona has omitted to say whether the bee which stung Andrew Jackson was a "queen" bee or some other kind of a bee. [Laughter.]

Mr. President, I am concerned for the reputation of Thomas Jefferson, who was a Virginian. In his maturer life he wrote one sentence which has been more vividly remembered and oftener repeated than anything that was ever written in his so-called "tariff letter", which advocated a species of retaliation against Great Britain. The sentence was this: He declared for "equal rights to every man and special privileges to none." How anybody can get a high protective tariff out of that declaration is beyond my conception.

Moreover, I challenge any Senator here to point to a single platform declaration of the Democratic Party since the end of the Civil War that even so much as squinted at a high protective tariff, except the one in 1928 at Houston. We went from one end of the country to the other in the campaign of 1932 denouncing the Smoot-Hawley bill and declaring for its abrogation or modification. If there ever was a time on the face of God's earth when the Democratic Party had an opportunity to adopt a Democratic tariff bill, it has been since 1932 when it had a two-thirds majority in both Houses of Congress and had the President as well.

Mr. ASHURST. Mr. President, will the Senator grant me a moment to reply to his question?

Mr. GLASS. My question about the queen bee? [Laughter.]

Mr. ASHURST. If I had an hour granted to me I would not make myself so ridiculously presumptuous as to attempt to engage in a debate with the able Senator from Virginia [Mr. GLASS] regarding Thomas Jefferson more than to say that what the Senator said is probably true. But after the fever and sensation and heat of the forum had subsided and after he retired from the Presidency, Thomas Jefferson became a contemplative philosopher and no longer an active statesman. No doubt Jefferson, as I hope we all shall do when we reach that stage, became more or less of a philosopher.

Notwithstanding the justly recognized scholarship and learning of the Senator from Virginia, I assert here and elsewhere that during the time when Thomas Jefferson was a responsible statesman, charged with responsibility for the destiny of the young Republic, grasping the nettles of fact daily, he was a protectionist.

Mr. SMITH. Mr. President, I wonder if the Senate recalls the fact that we barely escaped a civil war in 1828 and in 1832, when my State, led by Calhoun, matchless in his logic and interpretation of the Constitution, rebelled against the tariff of 1828. How anyone in this body with the facts of history so tragically written can forget that fact is beyond me. Had it not been for Clay, doubtless at that time we would have been in the war which subsequently came, precipitated by Calhoun's declaration, "You have no constitutional right to do this", namely, to pass a protective tariff. He said, "We might pass a tariff for revenue, but no one can find constitutional authority to pass a tariff for the special benefit of one class as against another class." Hence we had the ordinance of nullification. Subsequently the very same principle precipitated us into a civil war.

Mr. McKELLAR. Mr. President, the Senator from South Carolina said that Mr. Clay prevented that catastrophe at that time. My recollection of history is very different. The man who prevented the catastrophe at that time was again Andrew Jackson.

Mr. SMITH. No. If Andrew Jackson had had his way he would have hanged Calhoun and plunged us into civil war, but Clay came in and through a series of amendments brought about a reduction of tariff over a period of time which would ultimately bring the tariff back to where it would be tolerable.

Mr. BORAH. Mr. President, the series of amendments which Clay offered and which were accepted still left the tariff a protective tariff.

Mr. SMITH. It did leave it a protective tariff, but brought it back to a point where it was not the enormously intolerable thing it was at that time. Of course it was very mild compared to what we have now. As the Senator from Virginia [Mr. GLASS] has said, we wrote our platform denouncing that which unquestionably was one of the causes of the catastrophe into which we have been plunged, and yet here we are, Democrats, so called, and not a word either here or at the other end of the Avenue suggesting that we should carry out the pledges which we solemnly made to the people.

Mr. GLASS. Mr. President, with the exception of myself, the Senator from South Carolina [Mr. SMITH] has the best tariff record of any Democrat in the Senate. That will be attested by the Vice President, who reminded me of the fact a while ago. But now the Senator from South Carolina is departing from the philosophy of Calhoun and is so rabid that he wants to levy a compensating tariff duty to keep rayon from its alleged competition with cotton. [Laughter.]

Mr. SMITH. Mr. President, as chairman of the Committee on Agriculture and Forestry, I am carrying out the edict of my committee and following the example of the distinguished Senator from Virginia who sat right here and swallowed his own words in relation to another bill, or at least turned it over to someone else. I am trying as

loyally as I can to carry out the edict of my committee, but I am not going to vote for any form of protective tariff, not even in this bill.

Mr. GLASS. The Senator from Virginia did not stultify himself on that occasion. He stood here and defended every single, solitary provision of that bill but one, because he believed in every provision of it but one; and when we got to that one provision he voted his convictions.

Mr. SMITH. Yes; and the Senator from South Carolina will do the same thing if the Senator from Virginia will just keep quiet. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Carolina [Mr. BYRNES] to the amendment of the committee.

Mr. BULKLEY. Mr. President, as I understand, the question is on substituting the amendment offered by the Senator from South Carolina for the committee amendment.

The PRESIDING OFFICER. That is correct.

Mr. BULKLEY. That will not incorporate the amendment in the bill?

Mr. SMITH. As I understand the parliamentary situation, Mr. President, my colleague [Mr. BYRNES] has offered a substitute for the Senate committee amendment. That is now pending. I hope we may have a vote on that question.

Mr. BYRD. Mr. President, the author of the amendment has agreed to wait until tomorrow.

Mr. BYRNES. Mr. President, will my colleague yield to me?

Mr. SMITH. I yield.

Mr. BYRNES. In the absence of the senior Senator from South Carolina from the floor, the senior Senator from Virginia [Mr. GLASS], the junior Senator from Virginia [Mr. BYRD], and the senior Senator from New York [Mr. COPELAND] asked me if it would be agreeable to me to let the amendment to the committee amendment go over until tomorrow. I told them that it would be, but that I could not speak for the chairman of the committee, who was in charge of the bill, and was not on the floor at the time. That is the situation.

Mr. SMITH. Mr. President, all I am asking is that we may make some progress. Senators have made up their minds how they are going to vote on this amendment. They know now how they will vote just as well as they will know tomorrow morning; and if they are like I am, and try to read the technical terms which are employed in connection with rayon, they will know less tomorrow morning than they now know.

If it would aid to reach a conclusion, if I thought any Senator would take these amendments and study them and then govern himself accordingly, whether it would influence him for or against the substitute amendment, I should not hesitate; but I have been here a quarter of a century. I know what all this means.

Mr. McKELLAR. Mr. President, will the Senator yield to enable me to ask a parliamentary question?

Mr. SMITH. Yes.

Mr. McKELLAR. There is before the Senate a committee amendment which many of us are going to vote to reject. The junior Senator from South Carolina [Mr. BYRNES] has offered an amendment in lieu of the committee amendment, as a substitute for it.

The PRESIDING OFFICER. In the nature of a substitute.

Mr. McKELLAR. Naturally, I think the case for rejection would be stronger if we were voting on the committee amendment than if we were voting on the substitute amendment of the Senator from South Carolina. Is there any parliamentary method by which that could be accomplished, whereby the vote would first come on the committee amendment? I do not know whether there is or not, and, therefore, I am asking the Chair.

The PRESIDING OFFICER. Under the rule, the vote must first be taken upon the amendment in the nature of a substitute.

Mr. SMITH. That is what I thought.

The PRESIDING OFFICER. If that should be agreed to, then the committee amendment, as amended, would be voted upon.

Mr. GLASS. Mr. President, I think those of us who represent States largely interested in the manufacture of rayon presented a very reasonable request to the junior Senator from South Carolina in the absence of the senior Senator from South Carolina to whom the request could not then be presented. That request was that this particular amendment go over until tomorrow in order that we might communicate with those who are vitally concerned about this matter, and determine our action upon it.

I do not know this afternoon how I shall vote. I may know tomorrow how I shall vote. I do not wish to delay the bill. God knows I have been sitting around here for 8 days waiting for this bill to be passed in order that I may bring before the Senate a bill with the conduct of which I am charged. I do not wish to delay the matter for a minute; but we presented what I thought was a very reasonable request, and the junior Senator from South Carolina agreed to it.

Mr. SMITH. Mr. President, I did not hear the Senator. I was out of the Chamber at the time he made the explanation. It was the intent of those who desire the delay to communicate with those who are interested. I have no disposition to deny any Senator any opportunity to inform himself about a matter with which he is charged.

Mr. BULKLEY. Mr. President, does the chairman of the committee oppose the pending amendment as a substitute for the committee amendment?

Mr. SMITH. I have not made up my mind about it; but I might just as well declare now as at any other time that I am not going to vote for any measure which has in it the element of a protective tariff. This one has—both of them have—and I will not vote for it. I did not do so before, and I will not do so now; but I am doing my best to discharge my duty to my committee. Individually, I am opposed to it. I have been opposed to it. I refused to vote for the other bill when it had incorporated in it, as part I, a bill which I had favored. I refused to vote for it because had I done so I should have had to vote for the protective-tariff system.

Mr. BULKLEY. Mr. President, I respect the Senator's candor, and I respect his position. What I was leading up to was this: Can we not agree to accept the amendment offered by the junior Senator from South Carolina [Mr. BYRNES] as a substitute for the committee amendment, and then let the vote on the adoption of the committee amendments go over until tomorrow?

Mr. McKELLAR. The Senator from Virginia [Mr. GLASS] does not wish to have that done.

Mr. SMITH. Mr. President, may I have the attention of the Senator from Virginia [Mr. GLASS]?

Mr. GLASS. Yes, sir.

Mr. SMITH. The Senator from Ohio suggested that we act upon the substitute offered by my colleague [Mr. BYRNES], and then let the committee amendment, if it shall be amended, or if the amendment to it shall be voted down, go over until tomorrow. The point was made that the Senator from Virginia and others desire time to investigate and ascertain the attitude of their constituents who are interested in the substitute as well as in the committee amendment. If that is the attitude the Senator takes, I am perfectly willing to have the Senate take a recess at this time.

Mr. McKELLAR. Mr. President, before that is done, would the Senator from South Carolina be willing to depart from the usual parliamentary procedure and vote first on the amendment of the committee; and then, if it should be adopted, vote secondly on the substitute amendment of the Senator from South Carolina [Mr. BYRNES]?

Mr. SMITH. That would be a rather complicated thing to do, because if we should adopt the committee amendment, we should be estopped from voting on the substitute amendment.

Mr. McKELLAR. Not if it were done by unanimous consent.

Mr. WAGNER. Mr. President, will the Senator from South Carolina yield?

Mr. SMITH. Yes.

Mr. WAGNER. I desire to add my request to that made by the senior Senator from Virginia [Mr. GLASS] to have this whole matter go over until tomorrow. The senior Senator from South Carolina was not in the Chamber when his colleague [Mr. BYRNES] offered the amendment and made an explanatory statement with reference to it. Among other things we understood him, at least, to say that the rayon industry generally would prefer the amendment offered by him to the present amendment. Personally, I am opposed to both, and I shall continue to be opposed to both, no matter what attitude the rayon industry may take in the matter, because I think the proposal is an injustice to the consumer; but we desire to inquire to what extent there is unanimity of opinion among the rayon industries of our respective States. I thought that was a rather reasonable request.

Mr. SMITH. That matter has been gone into and explained so far as the chairman of the committee is concerned. It is a matter of absolute indifference to me personally which amendment the Senate takes, or whether it takes either. The Senate may be governed by its judgment in the premises.

Mr. WAGNER. Let us now take a recess.

Mr. SMITH. I was making that proposition when the Senator from New York rose.

Mr. McNARY. Mr. President, is it the desire of the chairman of the committee in charge of the bill that we recess now, or that we have a vote on the rayon substitute?

Mr. SMITH. Under the request made by the Senator from Virginia and the Senator from New York, as they desire to communicate with those who are interested, I think perhaps it would be well to take a recess now, and take up this matter tomorrow.

May I ask the Senator from Arkansas if it would not be a very good idea if we could meet earlier tomorrow?

Mr. ROBINSON. Mr. President, I was just about to suggest that in view of the slow progress that is being made the Senate now take a recess until 11 o'clock a. m. tomorrow. I hope the Senator from Oregon will find it consistent to agree to that.

Mr. McNARY. Mr. President, of course I am anxious to cooperate in the disposition of the bill, but I am informed that some work is set for tomorrow morning, and I think we can get along pretty well if we meet at 12 o'clock.

Mr. ROBINSON. If the Senator indicates he will object, I will not submit a request, but I wish to make the statement that unless more rapid progress shall be made it will be necessary for the Senate to hold longer sessions, and if we cannot meet at 11 o'clock tomorrow morning, it may be necessary to continue in session tomorrow, as well as during the remainder of the week, much later than has been the recent practice.

I wish to add that it seems to me we should cooperate to conclude the consideration of the bill by some hour Friday. Unless we do that, it will probably be necessary to have a session on Saturday. The pending bill has been before the Senate for a long time, the discussion has taken a very broad range, and while a limitation on debate has been agreed upon, the progress that has been made today is rather disappointing; we have not disposed of very many matters.

If the Senator from Oregon wishes to maintain his attitude, I will give notice that the Senate will remain in session tomorrow until a later hour than has been the practice heretofore.

ADDRESS BY GENERAL M'ARTHUR BEFORE RAINBOW DIVISION VETERANS

Mr. SHEPPARD. Mr. President, I ask unanimous consent to have incorporated in the RECORD an address delivered by Gen. Douglas MacArthur, Chief of Staff, United States Army, before national meeting of the Rainbow Division, World War, at Washington, D. C., July 14, 1935.

fibers. It is probable that efforts of the chemists and industrialists of the world to improve both the character and quantity of synthetic fiber will be continued. This is a menace that must be faced. The answer is not cheap cotton. The development has had its greatest impetus when cotton was cheapest. It is one of the manifestations of the desire of nations to become more economically independent, the one of the other, and particularly the desire to protect domestic exchange, resulting from depletion of gold reserves in payment for excess imports over exports.

THE ANSWER

It occurs to me that the Department of Agriculture should pursue steadfastly its adopted policy of controlling production so long as it has the enthusiastic support of the producers, and until the carry-over of American cotton is reduced to not more than 5,000,000 bales; that in the meanwhile producers be rewarded for their cooperation in this program by having at their disposal adequate credit facilities to enable them to market their cotton in an orderly manner and through the season; that at the same time America should carefully review her tariff policies, modifying and revising where necessary so to do, in order to bring about a more equitable distribution of commodities between nations of the world without undue hardship to American industry. Every resource of the Nation should be brought to play in an effort to develop both markets and uses for American cotton, and in view of the enormous proportion of the population of America dependent upon the cotton industry, directly and indirectly, every effort that is sound and economic should be made to increase exports.

Yours very truly,

OSCAR JOHNSTON,
Manager Cotton Pool.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from South Carolina [MR. BYRNES] in the nature of a substitute for the committee amendment on page 45, beginning on line 17.

MR. BYRNES. Mr. President, yesterday I offered an amendment as a substitute for the committee amendment providing for a tax upon rayon. As I then stated, my purpose was to do what I believed to be fair to the rayon industry. I felt, inasmuch as it was proposed to tax rayon, that there should be placed an equivalent tax on silk.

Senators representing States where the rayon industry has great interests advise me that they are opposed to my amendment. I offered it solely to be helpful and believing that it was fair to the rayon industry. As they are opposed to it, I have no desire to press the amendment. Therefore, I am going to withdraw my amendment and let the vote come on the committee amendment reported by my colleague. I hope that those who hold the views that I hold, that there should be a competition tax upon rayon, will vote for the committee amendment, and, thereby, do justice to the cotton industry.

The VICE PRESIDENT. The amendment offered by the Senator from South Carolina to the amendment reported by the committee is withdrawn.

PROPAGANDA RELATIVE TO INCOME TAX ON LARGE CORPORATIONS

MR. HASTINGS. Mr. President, a few days ago I had occasion to refer to the message sent to the Congress by the President proposing new taxes. At that time I pointed out that the increased income tax on large corporations would affect millions of small investors. I think the large corporations and their stockholders have a right to protest against any such tax. I think the Members of both Houses of the Congress will be glad to have the honest opinion of the people of the country upon this subject.

But, Mr. President, I hold in my hand exactly 100 typed letters, received yesterday and today, all dated July 16, containing exactly the same language and signed by individuals living in New York City, New Jersey, and the city of Baltimore. They were all addressed to me as a member of the Finance Committee and the envelopes were exactly alike and clearly written on the same typewriter. Such letters, of course, have no effect upon me except to annoy me, but I have no doubt that if I were prejudiced against the large corporations these letters would have the effect of increasing my prejudice.

It is difficult for me to understand how the executives of any large corporations could be so stupid or believe the

Members of the Senate to be so stupid as not to see clearly how such letters originate. If the executives of large corporations see fit to notify their stockholders of the effect of proposed legislation upon them, I think no person can complain. I shall not complain if the suggestion is made to the stockholders that if they be sufficiently interested they might write their Representatives in Congress. It is not difficult for any of us to tell whether a letter is genuine or whether it is inspired propaganda. The genuine letter most of us are glad to get. The inspired letter is apt to create resentment.

MR. PRESIDENT, this statement I make is not inspired by the hot weather or the length of the tedious session, which still continues. I make it only for the purpose of having the RECORD show what I conceive to be a proper conception of the right of the people to petition the Congress, and my resentment of the implication that Members of Congress can be influenced by the method I have described.

MR. LA FOLLETTE. Mr. President, while I am in complete disagreement with him on most of the issues involved in the tax question, I want to compliment the Senator from Delaware for his forthright statement bringing this matter to the attention of the Senate. I hope he will turn the letters and envelopes over to the lobby committee and let the matter be investigated so we may ascertain who is responsible for this manufactured type of propaganda.

MR. HASTINGS. I may say to the Senator from Wisconsin that I shall be glad to turn the letters over to the committee, although I doubt whether I have kept the envelopes in which they came.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The PRESIDENT pro tempore. The question is on the amendment of the committee, on page 45, beginning in line 17. The amendment will be stated.

The CHIEF CLERK. On page 45, after line 16, it is proposed by the committee to insert the following new section:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such, or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn or the products thereof."

MR. SMITH. Mr. President, the amendment before us provides for a tax on rayon. Subsequent to the approval of this amendment by the committee and during the discussion, my attention has been drawn to the fact that if this tax shall be imposed on rayon and its competitor, silk, it might have, and doubtless would have, a very disastrous effect upon the exportation of the very commodity which we are seeking to benefit and aid, so far as we can do so. I refer to cotton. We export 55 percent of the cotton we produce in this country. Therefore the price of our exported article and the demand for it abroad determines in large measure not only the size of our crop but its price.

I have been assured by those engaged in the export business, and who understand the condition of the foreign trade, that this tax, if imposed on rayon, would have a very disastrous effect upon the volume of our exports of cotton. It

is contended, and rightfully so, by the rayon interests that if a tax is placed on rayon, a compensatory tax should be placed on silk, especially raw silk. The importation of that article, not only to this country but to other countries, and the price at which it is sold, largely affects the export of our raw material. Therefore, so far as I am concerned as chairman of the committee, I am perfectly willing that the amendment should be rejected.

Mr. WAGNER. Mr. President, I have no objection.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was rejected.

The PRESIDENT pro tempore. The next committee amendment passed over will be stated.

The next committee amendment passed over was, on page 49, after line 18, to insert the following section:

SEC. 19. Section 11 of the Agricultural Adjustment Act, as amended, is amended by striking out the word "flax" and inserting in lieu thereof the word "flaxseed."

Mr. MOORE. Mr. President, yesterday the Senate decided to eliminate flaxseed in the amendment found at the top of page 38. The section just read also should be eliminated to carry out the intent of the Senate. I move to strike out the amendment.

The PRESIDENT pro tempore. The same result will be achieved whether the amendment shall be rejected or stricken out. Therefore, the question is upon the adoption of the committee amendment, being section 19, page 49.

The amendment was rejected.

The PRESIDENT pro tempore. The clerk will state the next amendment passed over.

The next amendment passed over was on page 54, after line 20, to insert:

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(f) No refund, credit, or abatement of the amount of any tax shall be made or allowed under this section, unless, within 60 days after the right to such refund, credit, or abatement accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10."

The PRESIDENT pro tempore. This amendment was passed over on the request of the senior Senator from Wyoming [Mr. CAREY].

Mr. CAREY. Mr. President, I should like to offer an amendment to the committee amendment. In line 1 of page 55, I move that "60 days" be changed to "120 days."

Mr. SMITH. Mr. President, after the explanation which has been given, I think that is essential; and, so far as I am concerned, I agree to the amendment.

The PRESIDENT pro tempore. Without objection, the amendment to the amendment is agreed to. The question is on agreeing to the amendment of the committee, as amended.

The amendment, as amended, was agreed to.

Mr. SMITH. Mr. President, the letter "(f)" ought to be changed to "(g)", since we have acted on a previous paragraph. I ask that that change be made in line 24 of page 54.

The PRESIDENT pro tempore. The Chair will suggest to the Senator that the numbers of the various sections may all be changed upon the completion of the bill.

Mr. SMITH. To conform to the amendments? Very well.

Mr. KING. Mr. President, I ask the Senator from South Carolina, for information, what disposition was made of section 23, beginning on page 51 and extending over to page 52?

Mr. SMITH. It has already been agreed to.

Mr. KING. What disposition has been made of section 25?

Mr. SMITH. That has been agreed to.

Mr. KING. And what disposition has been made of the amendment on page 54, line 1, beginning "except as to flour processed from wheat", and so forth?

Mr. SMITH. That was agreed to; and the one beginning on line 21 was agreed to, with an amendment, where "60 days" occurs on page 55, so as to make it read, "120 days."

The PRESIDENT pro tempore. The Chair will state to the Senator from Utah that all those amendments have been adopted.

Mr. KING. Mr. President, I inquire of the chairman of the committee what disposition was made of the amendment commencing on line 16, page 54, with the words "and by", and extending down to and including the word "only", on line 20.

The PRESIDENT pro tempore. The RECORD shows that it was adopted on the first call of the committee amendments on the 10th day of this month. The clerk will state the next amendment passed over.

The next amendment passed over was, on page 57, line 22, after "(a)", to strike out "No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment" and insert "No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof"; on page 58, line 17, after the word "no", to insert "recovery"; and on page 59, after the words "of section 15", to insert a comma and "under paragraph (1) of subsection (e) of section 16"; and in line 2, after "17", to insert "of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930", so as to read:

"SEC. 21. (a) No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof. Except pursuant to a final judgment or decree entered prior to the date of the adoption of this amendment, no recovery, recoupment, set-off, refund, or credit of, or counterclaim for, any amount of any tax, interest, or penalty assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment shall be made or allowed. The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15, under paragraph (1) of subsection (e) of section 16, or under section 17 of this title, or (4) any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

The PRESIDENT pro tempore. This amendment was passed over at the request of the senior Senator from Idaho [Mr. BORAH].

Mr. BORAH. Mr. President, we have now reached the amendment on page 58, as I understand; that is, the portion stricken out begins on page 57 and the insertion is on page 58. The amendment on page 58 reads as follows:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoup-

ment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

Mr. President, as I understand this amendment, it is broad enough not only to include the prohibition or denial of the right to go into court to test the recovery of a tax on the ground that the tax is or was unconstitutional, but it also denies the right to challenge the illegality of the tax by reason of the malfeasance or misfeasance of an officer. It denies the right of the citizen to avail himself of the courts for any purpose touching the legality of the tax.

I do not feel such a provision ought to be incorporated in this bill or in any bill. We should not deny the citizen the right to go into court to test the legality of a tax which he has paid.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. CONNALLY. The citizen is not denied that right if he cares to resist the collection of the tax; is he?

Mr. BORAH. But this covers the tax which has been paid. This is for past transactions.

Mr. CONNALLY. He could have tested it when he was called upon to pay it, if he so desired, could he not?

Mr. BORAH. That is true; but why should we deny a citizen the right to go into court at any time and test the legality of a tax which has been laid on the part of the Government, and even though it involves the malfeasance or misconduct of the officer?

Mr. President, one argument has been advanced in favor of this proposal which I think has merit; and I desire to refer to that briefly before discussing some other features of the amendment.

It is claimed that in many instances this tax has been passed on; and I have no doubt that in many instances it has been passed on. I should not want the citizen to be given the right to recover for a tax which he had passed on to someone else. But that can all be taken care of, and should be taken care of, by a provision that when the citizen brings his suit the Government shall have the right to prove as a defense that the tax has been passed on. Not only that, but, in my judgment, without any provision whatever in the statute, the Government would have the right to make that showing, and it would be a complete defense to the action. I would be willing to place the burden of proof on the claimant.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. TYDINGS. I agree with what the Senator says; but may I also suggest that in some jurisdictions the taxpayer would not be able to collect the tax where he had passed it on, because he would not be able to show to the court any measure of damages. Nevertheless, if the provision should be written into law, that would make it universal, and show the intent of Congress in the matter.

Mr. BORAH. I have no objection to its being written into the law. In fact, I think perhaps that is a wise thing to do, although I am quite sure that failure to pay the tax would be a defense without any special provision being written into the law.

Mr. WAGNER. Mr. President—

Mr. BORAH. I yield to the Senator from New York.

Mr. WAGNER. Does not the Senator think it would be fairer that the burden should be upon the taxpayer to prove that he himself absorbed the tax, rather than putting upon the Government the duty of proving that the tax was passed on?

Mr. BORAH. I should have no objection whatever to a provision that the burden shall be upon the taxpayer to show that he had paid the tax.

Mr. WAGNER. As I understand this bill, as to future taxes that very thing is provided for.

Mr. BORAH. Yes; although, in my opinion, he would have to show that. We must bear in mind that the taxpayer must first go into the Court of Claims, and secondly he must come to the Congress for his appropriation; and in

my judgment there is no possible way by which the claim of a taxpayer could escape scrutiny on the question of whether or not he had paid the tax. All equities would run in favor of the Government. Anyone who has ever brought suit against the Government is familiar with that fact.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. ROBINSON. In every instance the taxpayer pays the tax. He is required to pay the tax. The proposition is that as a result of the payment of the tax he requires the consumer to absorb it.

It would be difficult, if not impossible, to require the Government in all cases to prove that actually the processor paid the tax and then passed it on. We all know that the general rule is that taxes are passed on to consumers. It would seem to me that the fair rule would be to deny the processor the right to recover unless he can prove that he has not passed on the tax.

Mr. BORAH. Let me say to the Senator from Arkansas that I should have no objection to that. What I am objecting to is denying the citizen the right to go into court to test the question of whether he has paid an illegal tax. After he is once in court I care not what rule may be established as to requiring him to show that he actually has suffered a loss by reason of the imposition of the tax.

Mr. LOGAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Kentucky?

Mr. BORAH. I yield.

Mr. LOGAN. I desire to ask the Senator from Idaho if it is not the universal rule in taxing districts of States and municipalities that where a taxpayer voluntarily pays a tax to the government, without serving on the government any notice of protest he is estopped from recovering the tax?

Mr. BORAH. There is a rule, of course, such as that to which the Senator refers; but that arises only after the taxpayer gets into court. This amendment proposes to deny him the right to bring a suit. This amendment closes the courts and denies all right to be heard.

Mr. LOGAN. That ought not to be done, of course. What I mean to say is that I cannot see much occasion for the amendment at all. The citizen has a right to come into court, and the Government has a right to say, "We have had this money; it has been used for governmental purposes without any notice that you were going to seek to reclaim it." That, I think, would generally be a good defense. So I can see no occasion at all for the amendment.

Mr. BORAH. I invite the Senator's attention to the language of the amendment, which is that "no Federal or State court shall have jurisdiction to entertain a suit."

Mr. LOGAN. Could we deny jurisdiction to a Federal court?

Mr. BORAH. I do not think we should take from a citizen the right to go into court to test the question of whether he has suffered by reason of the act either of the Government or of anyone else.

I am aware of the fiction which obtains that there must be consent before one can sue the Government; that is a matter I shall discuss in a few minutes. But where there has been an actual wrong suffered, a wrong sustained, where property has been taken and rights have been denied, I do not believe we can justly or legally deny a citizen the right to go into court. I do not think in all conscience we can deny him the right to bring a suit.

Mr. LOGAN. I agree fully with the Senator that where a man has a cause of action the doors cannot be closed to him, and particularly is that true if we seek to prohibit him from suing a collecting officer or an officer who makes an assessment. There may be some protection against suits as far as the Government is concerned, but there is a clear distinction between agents of the Government and the Government itself.

Mr. BORAH. When we were discussing this matter a few days ago I suggested that I thought some amendment with reference to the procedure after a suit was brought would be quite proper, and I should be perfectly willing, myself, to

support a provision that the taxpayer should be required to disclose that he had suffered injury by paying the tax, and that he had not passed it on. I would put the burden of proof upon him, because the facts are peculiarly within his knowledge. But that is not what we are discussing here. We are discussing the broad proposition that notwithstanding it is admitted that a tax is illegally laid the citizen should be denied the right to go into the courts of this country to test the question of whether he can recover. That is the amendment which is before us, not an amendment which may be drawn for the purpose of providing the procedure after a suit has once been brought.

Mr. LOGAN. Mr. President, will the Senator yield further?

Mr. BORAH. I may say to the Chair that I am speaking on the bill.

The PRESIDENT pro tempore. The Senator has 30 minutes.

Mr. BORAH. I yield to the Senator from Kentucky.

Mr. LOGAN. I should like to ask the Senator if it would be possible to impose a limitation against the right to institute a suit for taxes which have already been paid, although there was no provision of the law providing a limitation on suits. Could we now, by an amendment here, provide that unless suits are brought within 60 days after the enactment of this measure, or any other time, no suit shall be brought to recover?

Mr. BORAH. I think we can pass a statute of limitations with reference to the time of bringing a suit. Sixty days, perhaps, would be rather short; but no doubt a reasonable time could be provided, and perhaps should be provided. Those are matters which, it seems to me, must arise after we have determined the question which is now before us.

Mr. President, the Government should be fair with the citizen. It should be just. In the last analysis, the supreme purpose of government is to administer justice—not alone, I contend, as between the citizens, but also as between the government and the people. The nonsuability of the government by the citizen originated in the most egregious fiction of all history, and that is, that the king can do no wrong. As a matter of fact, at the time this doctrine was first announced, the king did not do anything else but wrong. It was because he was often and continuously in the wrong in the treatment of his subjects that he could not afford to have his acts adjudged by anyone other than by himself. This doctrine can have little place under a government where the people have prescribed in their constitution limits beyond which the government may not go. If these limits thus prescribed by the people are broken and disregarded by the government, and the people are to have no redress, why place limits upon the action of the government at all? Indeed, it becomes at once an absolute government.

Under a system where the people have prescribed by their Constitution limits beyond which the Government may not go, it does not seem to me fair or just to the citizen to disregard those limitations and then say to him that he has no tribunal in which to test the legality of the denial; and that is precisely what is proposed at this time.

The matter of procedure after the suit is brought may be curtailed or limited within reason, but not the right of the citizen to sue to test the legality of the Federal Government or a State, or a citizen of the Government or a State.

If the Government, under cover of law, may enforce from the citizen large sums of money called taxes to which, under the Constitution, the Government is not entitled, and then if the Government may close the courts to the injured citizen, may deny him a right to be heard, that, in my judgment, is the very foundation stone of an absolute government. The citizen is not under these circumstances living under a government of law. He cannot claim that justice be administered without price and without favor. Admitting that for reasons which seem to me unsound, but admitting that the consent of the Government to be sued must be extended, yet I contend that that consent ought to be given with very few and rare exceptions. When the

citizen has had his contract broken and the citizen has been unjustly deprived of his property, of his liberty, or his personal rights, when the citizen has been made to pay sums of money which the Government has no lawful right to take, he should be given a hearing in the courts of his country or before some tribunal which may adjust his rights and determine the amount of his recompense.

Justice Brandeis, in a paragraph of an opinion which he wrote sometime ago, used this language:

Whether acting through its judiciary or through its legislature a State may not deprive a person of all existing remedy for the enforcement of a right which the State has no power to destroy unless there is or was afforded to him some real opportunity to protect his right.

Enlarging upon that, if it be true, as this amendment admits, that the tax was illegally collected—that may not be ultimately determined; I do not know about that, but the amendment proceeds upon the theory that it will be determined that the tax was illegally collected—then we are asked to deny a citizen the right to recover that which it is admitted was illegally taken from him. I do not think we want to incorporate that kind of a principle in the laws of this country.

It is true, as I said a moment ago, that some of this tax has been passed on, doubtless. It has been passed on in large measure by the large companies. However, I have a great number of letters and some telegrams this morning from small, independent companies, which were not in a position to pass the tax on, which could not pass it on, and, by reason of not being able to pass it on, they suffered great loss. If we deny those companies the right to go into court, we will have passed a law under which the large companies, having ability to pass the tax on, have passed it on, and therefore have not suffered; but we will deny to the independent company, the small company, the right to recover, although it was unable to pass the tax on. Viewed from every standpoint, it works an injustice.

I had intended to say something upon the question of the right and the power of the legislature to deny a citizen the right to sue his Government. I have not the time to go into that subject at present, but I do desire to say that while that principle has been embodied in our law it has been embodied there over the views of some of the ablest members of our courts. They have contended that it has no application under our system of government.

I maintain that under our system the highest power is not the State, not the Government, but the people. The people's rights are superior to the rights of the State or to the Government. The State and the Government are simply the agents of the people to preserve and maintain the rights of the people. The people made the Constitution, and when the Constitution is violated those who violate it must answer for its violation to the people. There is no divine right of exemption here in this scheme of government. The Constitution and the laws of the country are binding upon government and people alike.

Admitting, for the sake of the argument, that the fiction does exist, it is my contention that the right to sue should never be denied except in the most rare instances. I can conceive of conditions, during war, or some similar emergency, when it would be proper to deny to a citizen the right to go into court; but where we take away a man's liberty, where we take away his property right, where we deprive him of his money, it is my contention that he should never be denied the right to have a hearing in the tribunals of his country.

We have had experience with that kind of procedure in this country several times. It will be recalled that after the Civil War, when the reconstruction measures were passed, and military establishments were set up in some of the Southern States, men were sent to prison upon the orders of military commissions. It became necessary, in the view of those who were seeking to maintain the reconstruction measures, to avoid litigation upon that question.

A man by the name of McArde, an editor in the State of Mississippi, was sent to jail under the order of a military

commission. He sued out a writ of habeas corpus, as he had a right to do under the law as it then stood. The Congress a short time before had passed a bill providing for an appeal in such cases. McArdle sued out the writ, the matter was argued in the Supreme Court of the United States, the Court rendered an opinion entertaining jurisdiction of the writ, and then, while the case was still pending, the Congress passed an act denying the right to such parties to go into the courts of the country to test the legality of their imprisonment.

The result of it was the law was passed, the court was denied jurisdiction, and these persons were denied the right to go into the courts of the country and test the legality of their imprisonment; and those persons remained imprisoned under an order of a military tribunal in a constitutional form of government. There are several other instances of that kind. That may be government, but it is not a Government law.

We have now a situation here in which the legality of this tax may become very important, but I contend that under no circumstances should we establish the principle in this country that a man deprived of his rights, his property, his property rights, or his liberty should ever be denied the right to have a hearing in a court or before some tribunal which could determine his equities or his rights.

Mr. WAGNER. Mr. President, I was going to suggest—and I think I am right about it—that this principle which the Senator condemns, in which condemnation I agree with him, was transplanted from a country of kings on the theory that a king could do no wrong. We established a republican form of government here, and yet for some paradoxical reason we accepted this principle that the king could do no wrong. Upon that theory the courts have refused to take jurisdiction in the case where the Government resists.

Mr. BORAH. It is one of the interesting phases of our history with respect to this particular subject as to how it ever got into our jurisprudence at all. It originated, it seemed, from a single sentence in an opinion written by Chief Justice Marshall. There was no argument; there were no reasons stated; but after that time Mr. Justice Miller, while recognizing that precedents had been established, stated, as the Senator from New York has stated, that it had no applicability to our system of government; that we had no king, and we had no inherent sovereignty in this country; that we had none of the attributes of inherent sovereignty in this country; that the Federal Government possessed no sovereignty save that which is given to it by the express terms of the law, and the only basis upon which this can be found is the matter of the inherent sovereignty or the right of the sovereignty to be exempt from question by its citizens. At the same time we profess to be living under a form of government in which not the State, not the Government, is the supreme power, but the people are the supreme power, and the people give to the State or give to the Government whatever power they see fit to choose to give. They have never given to the Federal Government exemption from suits by the citizen who has been wronged. I cannot but believe if this was a new question it would be possible to evict this theory from our constitutional form of government.

Mr. SMITH. Mr. President, I am very much interested in what the Senator says, and I agree with him. Since he has quoted Mr. Justice Brandeis, I will say that I was astounded when I was shown an opinion by Mr. Justice Brandeis, in the case of *Lynch v. U. S.* (292 U. S. 571), from which I read the following language:

Although consent to sue was thus given when the policy issued, Congress retained power to withdraw the consent at any time. For consent to sue the United States is a privilege accorded, not the grant of a property right protected by the fifth amendment. The consent may be withdrawn, although given after much deliberation and for a pecuniary consideration.

Further on in the decision Mr. Justice Brandeis says, after citing cases:

The sovereign's immunity from suit exists whatever the character of the proceeding or the source of the right sought to be enforced. It applies alike to causes of action arising under acts of Congress, and to those arising from some violation of rights conferred upon the citizen by the Constitution.

Justice Brandeis maintains that the sovereign may not be sued except by its consent.

Mr. BORAH. Mr. President, I stated in the beginning that the fiction had been inducted into our law and was now recognized as a fact in our law. I do not deny that. I do say, however, that it has been contested in the opinion of able judges from the case of Georgia against Chisholm to the present day.

Let me read a single sentence from Mr. Justice Miller in a majority opinion, in the case of *United States v. Lee* (106 U. S. 206). I think Mr. Justice Miller is regarded as one of the greatest justices who has sat on the Supreme bench. He said:

As no person in this Government exercises supreme executive power, or performs the public duties of a sovereign, it is difficult to see on what solid foundation of principle the exemption from liability to suit rests.

And I think it is difficult to see. However, I admit that it is here. What I am saying is that though it does exist, yet so strong is the argument against it that the consent should rarely if ever be denied.

Mr. President, more and more the Government is entering the field of private enterprise; more and more the Government is coming in competition with the citizen in his daily concerns. At the same time the Government is constantly demanding sacrifices of the people in the way of increased taxes. Now, it is proposed to add to all this a disregard of the simple principles of justice. A government which is unwilling to open the courts to its wrongdoing as against the citizen is not far from being a government of lawlessness, a government of force.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. ROBINSON. The Senator's last statement has made partially clear the subject matter about which I wished to question him. I understand the Senator concedes that no right to sue the Government exists except by consent, that is, by a statute. Unless a statute be passed or exists authorizing suits, no action can be maintained in any court against the Government unless it be a proceeding in habeas corpus, which cannot be suspended except during time of insurrection or rebellion. Why does the Senator refer to this very fundamental principle as a "fiction"?

Mr. BORAH. What is that?

Mr. ROBINSON. Why does the Senator from Idaho refer to the fundamental principle that no suit or action against the Government can be maintained except by its consent as a "fiction"? Does not the Senator recognize that from the beginning of the Government that principle has been adhered to, that no one can sue the Government unless the Government consents?

Mr. BORAH. I will explain to the Senator.

Mr. ROBINSON. Does not the Senator know that the right to sue now is limited and confined to those cases in which the statute authorizes suits?

Mr. BORAH. Mr. President, I will explain to the Senator. As I said in the beginning, this principle that one could not sue the sovereign originated in the fact that the king could do no wrong. It never had any expression in the laws of England. It never had any statute supporting it in the laws of England at the time it started. It rested entirely upon what I claim is a pure fiction, and that is, that the king can do no wrong.

Mr. ROBINSON. Will the Senator yield for a question?

Mr. BORAH. In just a minute. That came down to us and was accepted. There is not in the Constitution of the United States a line or a letter indicating exemption of the Government from suit by the citizen.

Mr. ROBINSON. Mr. President, does the Senator intend by that declaration to maintain that the right to sue the Government should be unlimited and unrestricted; that there should be no limitation whatever upon actions or proceedings against the Government?

Mr. BORAH. Mr. President, if I had my way about it, that is exactly what I would contend; but I recognize the fact that I am closed on that proposition by the precedents

which exist, but I am not closed on the proposition that universal consent, with very rare exceptions in time of war, should be the policy of the Government of the United States. When a citizen has been wronged, when his liberty has been taken away from him, or his property has been taken from him, I cannot conceive why, under a free government, he should not have a right to be heard. It is a fiction, an egregious fiction, a falsehood and libel upon free government.

Mr. ROBINSON. Mr. President, may I say in the time of the Senator from Idaho that I do not agree with the statement of the Senator from Idaho, and will take occasion in my own time to reply to it?

The PRESIDENT pro tempore. The time of the Senator from Idaho on the bill has expired.

Mr. BORAH. I will reserve my 15 minutes on the amendment.

Mr. LEWIS. Mr. President, I do not know whether I am intruding on anyone's time. If not, I wish in my own time to say a word at this time on the subject raised by the Senator from Idaho.

Mr. ROBINSON. Mr. President, will the Senator from Illinois indulge me just a moment to speak on the amendment, and then he may resume the floor.

Mr. LEWIS. I wish to address myself directly to the subject under discussion, but I yield to the Senator from Arkansas.

Mr. ROBINSON. The Senator has the floor, and I will speak on the subject later.

The PRESIDENT pro tempore. The Senator from Illinois [Mr. LEWIS] has the floor.

Mr. LEWIS. I ask my friend from Idaho, in view of the argument the Senator makes, that the right to sue or the right to withhold the suit is one which he regards as fundamental, whether his attention has been drawn to the opinion of the Supreme Court of the United States in the case of *Monaco v. Mississippi* (292 U. S.), in connection with which I take the liberty to ask the Senator's kind attention to the observation of the Supreme Court of the United States, where it quotes Mr. Hamilton as follows:

Hamilton, in the *Federalist*, No. 81, made the following emphatic statement of the general principle of immunity:

"It is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent."

Mr. BORAH. Mr. President, may I interrupt the Senator there?

Mr. LEWIS. Certainly.

Mr. BORAH. Of course, I have read what Mr. Hamilton said. He bases it upon a proposition, which, in my judgment, if I may be so presumptuous as to say so, does not exist in the American system of government; that is, upon inherent sovereignty and inherent attributes of sovereignty. The Supreme Court has said there is no such thing as inherent sovereignty in this country; that we have none of the attributes of inherent sovereignty in this country; and, while Mr. Hamilton thought we had, I cannot bring myself to believe that there are any attributes of inherent sovereignty in the Government of the United States.

Mr. LEWIS. Mr. President, I find no difficulty in differing in principle with my able friend, but recalling that the able Senator from Idaho, as a just champion of the Constitution, prefers to rest the Constitution on its language, I call his attention to this particular matter, that, apart from Mr. Hamilton, the Supreme Court of the United States in this case has occasion to refer to the case of *Chisholm* against Georgia, in Second Dallas, an opinion by Mr. Justice Iredell, and then, in this late case, to which I ask my able friend to give consideration, after referring to the case of *Chisholm* against Georgia, uses something of the language of the Senator from Idaho has just used:

But this decision created such a shock of surprise that the eleventh amendment was at once proposed and adopted. As the amendment did not in terms apply to a suit against a State by its own citizen, the Court had occasion, when that question was presented in *Hans v. Louisiana* (supra)—a case alleged to arise under the Constitution of the United States—to give elaborate consideration to the application of the general principle of the immunity of States from suits brought against them without their consent. Mr. Justice Bradley delivered the opinion of the Court

and, in view of the importance of the question, we quote at length from that opinion to show the reasoning which led to the decision that the suit could not be maintained. The Court said (134 U. S. pp. 12 et seq.): "Looking back from our present standpoint at the decision in *Chisholm v. Georgia*, we do not greatly wonder at the effect which it had upon the country. Any such power as that of authorizing the Federal judiciary to entertain suits by individuals against the States, had been expressly disclaimed, and even resented, by the great defenders of the Constitution, whilst it was on its trial before the American people." After quoting the statements of Hamilton, Madison, and Marshall, the Court continued.

"It seems to us"—

This is the opinion of the Supreme Court speaking for itself—

"It seems to us that these views of those great advocates and defenders of the Constitution were most sensible and just; and they apply equally to the present case as to that then under discussion. The letter is appealed to now, as it was then, as a ground for sustaining a suit brought by an individual against a State. The reason against it is as strong in this case as it was in that. It is an attempt to strain the Constitution and the law to a construction never imagined or dreamed of. Can we suppose that, when the eleventh amendment was adopted, it was understood to be left open for citizens of a State to sue their own State in the Federal courts, whilst the idea of suits by citizens of other States or of foreign states was indignantly repelled? Suppose that Congress, when proposing the eleventh amendment, had appended to it a proviso that nothing therein contained should prevent a State from being sued by its own citizens in cases arising under the Constitution or laws of the United States; can we imagine that it would have been adopted by the States? The supposition that it would is almost an absurdity on its face.

The truth is that the cognizance of suits and actions unknown to the law and forbidden by the law was not contemplated by the Constitution when establishing the judicial power of the United States * * *"

I wish to call the attention of the able Senator to this point: That the Supreme Court of the United States finds it agreeable to give the exemption from suit without the consent of the sovereign; and, while my able friend may be right, and undoubtedly is right, upon the basis that it ought not to prevail, nevertheless there are those who are contending just now that, because the present administration desires to give a construction of the Constitution which will carry out the purposes of government and because it does not run according to the letter of the organic law, therefore it is violating the Constitution.

It appears to me, considering the argument of the able Senator from Idaho, that those who believe that the privilege such as is extended of exempting the sovereignty from being sued without its consent must note that the Supreme Court of the United States insists upon the right as a right not only of sovereignty but as a protection of the Government.

So we respectfully insist, since it is adhered to by the Supreme Court as its last declaration, that it is a right; and, while the Senator from Idaho may be correct and I may be correct and we all may be correct in wishing that it were not so, yet since it is declared to be the law, as an essential to the Government itself, why should we not have the right, then, to enforce it in the protection of this administration and the laws of government in the manner that is now admitted by the Supreme Court of the United States is the only proper one they will recognize as obtaining?

I ask my able friend if he will not give attention, at his convenience, to this opinion in the case of *Monaco* against the United States in 292 United States on page 313?

Mr. BORAH. Mr. President, I have read that opinion, as I have endeavored to read all the opinions on this subject from the case of *Chisholm* against Georgia in Second Dallas down, and I say to the Senator that, from the beginning, I recognize that this principle has been in our system, and the only question involved here is whether we will give consent. I do not believe in the theory, but I realize that it has been recognized.

Mr. ROBINSON. Mr. President, finding myself not in accord with some of the views expressed by the Senator from Idaho [Mr. BORAH], I wish to point out, first, that the amendment does not deny the right to question the validity of the tax. It is limited to barring suits for recovery of the tax.

One must realize that, in a practical sense, this amendment constitutes a denial of the right of the taxpayer to recover a tax which may be held to have been illegally collected. The language of the amendment is very clear. It reads:

Nor shall any judgment or decree be entered by any such court (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

It is clear, from a reading of the language, that what is attempted is to prevent the taxpayer from recovering the amount he has paid, even though the Court may hold finally that the tax was wrongfully levied or illegally collected.

The first question that arises under the argument of the Senator from Idaho is whether there exists the power of withdrawal of the right to sue. I understand him to admit that, technically, it is possible, it is constitutional, to adopt this amendment, but that, morally, it is objectionable to do so.

If there be any question as to the power to deny the right to sue, I refer to the cases cited by the Senator from Illinois [Mr. LEWIS], and to every other case decided by any United States court that has ever come to my knowledge. The opportunity has not been afforded of refreshing my memory touching the various cases, but I have come to regard it as a settled principle of law that no sovereign can be sued except with the consent of the sovereign.

The Senator from Idaho assails the moral soundness of that proposition and asserts that in a republic such as ours there ought to be no limitation whatever on the right to sue. We may readily understand that this principle of immunity from suit on the part of the sovereign has been the outgrowth of centuries of experience. If the United States today were subject to suit in every claim or action that might be urged or presented, I ask the Senate to consider what amount of recoveries would be possible in the various jurisdictions that exist?

It is for the very reason that questionable and unfairly augmented claims are often presented that the sovereign retains the right to say in what instances and in what jurisdiction it will submit itself to civil actions. If the question of the immunity of the sovereign from legal suits remains in any measure of doubt, I am unable to know how doubt arises in view of the almost unanimous weight of the authorities. There is a line of cases which addresses itself to my approval, namely, that when a sovereign departs from the exercise of sovereign authority to engage in what normally is private business, it ought to submit itself to the jurisdiction of the courts.

I shall assume, then, that no difficult question arises as to the power of the Congress to adopt the committee amendment, and for a few moments I shall make reference to the merits of the controversy.

The Senator from Idaho [Mr. BORAH] has admitted in his argument that in the large cases—that is, in cases where great amounts of taxes have been paid—the tax has been passed on. There has come to my knowledge no instance in which the tax has not been passed on. It would be improper for me to assert that no such instance exists, but I shall quote the Senator from Idaho himself in several forceful public addresses in which he asserted that the custom is to pass on the processing tax.

Before doing that, however, let me take note of another statement made by the Senator from Idaho, the correctness of which as a principle of law is questioned. He said that the right in the Government to assert and prove that the processing tax in a given case was passed on to the consumer or passed back to the producer, exists independent of statute. We have had thousands of suits or proceedings against the Government for the recovery of taxes illegally collected. I can recall no case, though such a case may exist of which I have no knowledge, in which it was held that the taxpayer's right to recovery was restricted by the issue as to whether he had passed on the tax. Universally, so far as I know, the practice has been, if the tax is illegally

paid and the right of action is granted by the sovereign for its recovery, that the question as to what price the taxpayer received for his commodities does not enter into his right of recovery.

If any Senator knows of a contrary rule being asserted by any court in any tax case which has arisen by the authority of the sovereign since the beginning of the Government, I should like to have him point it out now—unless the right was restricted by a statute.

Mr. BAILEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from North Carolina?

Mr. ROBINSON. I yield.

Mr. BAILEY. This is probably the first tax ever imposed by this Government with the intention that it should be passed on.

Mr. LOGAN. Mr. President, what about the various gasoline taxes which have been imposed for many years throughout the country? They are all passed on, and that is the principle which is involved in this case.

Mr. ROBINSON. Yes; and if it is held that the gasoline tax is illegally levied and collected the taxpayer recovers his tax. That is true in the instance of every tax of which I have heard.

Mr. BORAH. Mr. President—

Mr. ROBINSON. I yield to the Senator from Idaho.

Mr. BORAH. The taxpayer could not sue to recover the gasoline tax, because there is no doubt of its legality. The sovereign has never been sued for that reason.

Mr. ROBINSON. I can conceive of a case in which the gasoline tax might be levied and collected when there was no authority of law for it. However, I do not wish to enter into what appears to be a more or less irrelevant discussion.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. WAGNER. I agree with what the Senator has said as to recovery, but the Senator does not question the authority of Congress to provide a procedure; that is, to establish or to provide that the burden of proof shall be upon the taxpayer to show that he did not pass on the tax?

Mr. ROBINSON. Certainly not. If I have not made myself clear on the proposition, let me add that this is the legal principle which I assert:

First, the right to sue the Government does not exist except with the consent of the Government. That consent may be given upon condition or without condition. If condition is imposed, the condition must be observed and enforced.

The right to withdraw consent to be sued follows, in my judgment. The sovereign may at any time withdraw the consent which was given that it might be sued and may deny the right to sue.

Mr. BARKLEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Arkansas yield to the Senator from Kentucky?

Mr. ROBINSON. I yield.

Mr. BARKLEY. The right to withdraw consent has been exercised by the Government and by the Congress.

Mr. ROBINSON. Oh, yes. This is a proposal to exercise that right now.

Mr. WAGNER. Mr. President, I think the Senator did not understand the point I was trying to make.

Mr. ROBINSON. Oh, yes, I do. The Senator asked me the question, while admitting that the right to sue does not exist without consent, if we provide for a right to sue and put in the statute a condition that the party suing must bear the burden of proof, whether that condition would be valid.

Mr. WAGNER. Exactly; and if we should not provide for the condition but simply granted the right to sue, then the burden would not be upon the taxpayer to establish that he did not pass on the tax.

Mr. ROBINSON. Certainly. I have maintained as clearly as I am able to express myself that the right to offset or defeat a recovery does not exist on the ground that the tax has been passed on unless it be expressly asserted

in the statute. If it be asserted, the burden of proving that it has been passed on may be imposed by statute either on the claimant or on the Government.

Mr. WAGNER. The reason why I asked the Senator the question was to emphasize the point which has been contended here, a rule I never heard of before, that a taxpayer in an action of this kind, where the consent of the Government is given, must also establish not only that he paid a tax which was illegally exacted, but that he did not pass it on to the consumer. I never before heard of that principle.

Mr. ROBINSON. I never did either. I do not believe the principle is sound, and that is why I question the correctness of the statement of the Senator from Idaho.

The PRESIDING OFFICER (Mr. HATCH in the chair). The time of the Senator from Arkansas on the amendment has expired.

Mr. ROBINSON. Then I shall take a little time on the bill, if I may be permitted to do so.

The Senator from Idaho this morning in his remarks recognized that in the cases involving large amounts the tax has been passed on, but he says that in numerous instances that has not been done by small taxpayers.

I do not object to the principle that if one who has paid this tax has actually borne it, and the Supreme Court holds the tax to have been illegally collected, he should be entitled to recover; but I now make the assertion that in almost if not quite in every instance the tax has been passed on, and the persons who paid the tax cannot be identified; and when we give the right of recovery to the taxpayer, in 999 cases out of 1,000 we shall be paying a bonus to someone who is not entitled to it.

Of course, the only theory upon which anyone here or elsewhere can justify the right to sue the Government for the recovery of this tax is that it has been actually borne by the person or corporation paying it; that he did not pass it on. If he did pass it on, I wish someone would clear my mind and conscience on the proposal that he should be permitted to collect it from the persons with whom he trades, from the producers or the consumers, and then be reimbursed for it by the Government of the United States.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield; certainly.

Mr. BARKLEY. Even if the payer of the processing tax were permitted to sue to recover it, and did recover it, and it turned out that he had passed it on, how could the man to whom he passed it on, and who paid it, go into court and prove that in the price of the things he had bought the tax had been passed on to him and that he should be allowed to recover it in turn from the processing-tax payer?

Mr. ROBINSON. The Senator's question is the justification for going straight to the point, as this amendment goes, and denying the right to sue. How could one prove that the price of a commodity had been raised so as to pass on the tax? Let Senators who are lawyers give a little thought to that. Assuming that the burden of proof were on the Government, as the Senator from Idaho suggests—

Mr. BORAH. No; the Senator from Idaho did not suggest that.

Mr. ROBINSON. Then I withdraw the statement. I thought he did suggest it. I am sure the Senator will find, if he will look at the report of his remarks, that he did, at one time in his remarks, suggest that the Government should be required to prove that the tax had not been passed on. Then he also said that he should have no objection to an amendment requiring the burden of proof to be borne by the claimant; but I know the Senator does not wish to quibble about differences in the meaning of language.

Mr. BORAH. If I made the statement, it was in error, because I certainly do not wish to have the Government refund a tax which has not been paid by the one who brings suit.

Mr. ROBINSON. If the Senator will look at the report of his remarks, I think he will find that the proposition was discussed in that way, although I do not think at that time the question had been directly raised as to who should bear

the burden of proof. Later it was raised, and the Senator from Idaho accepted the principle that the claimant should carry the burden, as I understood him; so, after all, that is a question which passes out of the debate.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. ROBINSON. Yes; I yield.

Mr. WAGNER. I asked the question because I think it would be a much wiser as well as a fairer policy to provide for a rule of evidence that the burden of proof shall be upon the taxpayer to prove that he did not pass on the tax, but permit him to sue in court. This very bill recognizes the justice of that principle, because, as I understand, as to actions for future taxes collected, it permits the taxpayer to sue and provides that the burden shall be upon him to show that he did not pass on the tax. So in this very bill as to some taxpayers we provide one principle and as to others we absolutely foreclose an action. That seems to me to be a rather inconsistent position.

Mr. ROBINSON. Mr. President, of course, the reason for the distinction grows out of the fact that an inferior court recently held the tax invalid; and, therefore, a distinction is made between those upon whom the tax may be hereafter imposed and those upon whom it has been heretofore imposed.

Mr. WAGNER. Is the Senator accurate about that? I think this amendment was incorporated in the bill by the committee before the Massachusetts case was decided.

Mr. BANKHEAD. Mr. President—

Mr. ROBINSON. I yield to the Senator from Alabama.

Mr. BANKHEAD. May I say, relative to the statement of the Senator from Arkansas, that numerous lower courts had so held.

Mr. ROBINSON. Yes; that is true. My remarks should be amended to take note of the fact that in addition to the decision which I particularly had in mind, and which probably was rendered about the time the amendment was adopted by the committee, or even afterward, there were numerous other cases in other courts in which the question of the validity of the tax had been adversely ruled upon; so that the question arose before the committee as to how the matter should be dealt with.

As a practical proposition, I doubt if it would give the taxpayer any substantial advantage to be accorded the right to sue, and then to have imposed on him the burden to prove he did not pass on the tax. I think if he did prove it, in many cases he would use unreliable testimony. In most cases he has passed on the tax. That was what he was expected to do, and he did it wherever he could, and I doubt if he failed to do it in very many instances. The consumer has paid it. We do not know, and the man who first paid the tax does not know, who the actual consumers were. The product may have passed through the hands of any number of dealers, and the man who finally paid the tax cannot be identified. The processor has been compensated for his loss by passing on the tax, and the man who actually and ultimately paid the tax cannot be identified. That is the sound reason, and, in my judgment, the only sound reason, justifying this amendment.

Mr. WAGNER. Mr. President, will the Senator yield just once more?

Mr. ROBINSON. Yes; I yield.

Mr. WAGNER. I do not wish to disturb the Senator.

Mr. ROBINSON. No; that is all right.

Mr. WAGNER. If that be true, why do we adopt a different principle as to the future taxpayer? Why should there be a discrimination between the two?

Mr. ROBINSON. I have not read the amendment to which the Senator refers; and I do not know that there should be any discrimination between the two.

I wish now to refer to some remarks which have been attributed by the press to the Senator from Idaho [Mr. BORAH], whose position, so far as it was defined heretofore, is that this tax is almost universally passed on.

In a radio speech on March 22, 1934, which he placed in the CONGRESSIONAL RECORD on the following day, and

which appears at page 5218 to page 5220, he said, at page 5219:

Take our experience with hogs. Pigs were destroyed, the farmer was induced to curtail production, a processing tax was laid. But in the effort of the processor to compel the consumer to take care of this tax it was found that the consumer did not and could not do so. He bought less meat. Therefore the packer passed the tax back to the producer in the form of lower prices for his hogs. There is just so much purchasing power in the country; and when you increase the price prior to increasing the purchasing power, the consumer must deny himself and eat less or eat not at all. When you levy a tax, somebody must pay the tax. The inevitable tendency is to pass the tax to the low man in the economic set-up, and, therefore, the incident of the tax is at last with those who cannot pass it on. First, it is passed to the consumer who refuses to buy, then it is passed to the producer who cannot pass it on and must absorb the tax. He has nobody to whom he can transfer it.

There is a general declaration. True, it was made in connection with a speech about hogs; but the general declaration is that the universal rule is to pass the tax first to the consumer, and, if he cannot and will not pay it, then to pass it back to the producer in the form of reduced prices for his products. Upon what theory, then, should the taxpayer who has already been reimbursed by increased prices for the commodities he has handled be given a bonus at the expense of those who actually paid the tax, and who cannot be identified?

In another speech at St. Anthony, Idaho, on July 24, 1934, at a Mormon pioneer day celebration, as reported in the New York Times of July 25 of that year, the Senator is quoted as saying:

Is there any livestock man, sheep or cattle raiser, who does not know that the meat packers are constantly manipulating the markets to his ruin? The packers, when they cannot pass the processing tax on to the consumer, pass it back in the way of lower prices to the producers.

I was given a statement the other day by one of the packers; the profits of the last year were very great. I saw another letter from another packer sometime ago in which it was plainly stated that the packers were passing the processing tax back to the producer.

In his radio speech on March 22, as it appears at page 5219 of the RECORD, the Senator stated:

No better illustration could be had as to the way in which the processing tax reaches the producer and by him must be paid than is found in the jute tax. This processing tax is not being paid by those who sell jute bags, but is being paid by the farmers.

Of course, that did not mean that the tax actually was not in the first instance paid by the handler, or processor. It meant that in the last analysis the consumer was required to pay it.

It would probably merely invite litigation to establish a rule of evidence authorizing the imposition of the burden of proof either on the Government or on the taxpayer. It is doubtful whether honestly that burden of proof could be discharged by either party. As a lawyer, I would not know how to prove my case for either.

Suppose I wished to maintain that the tax had been passed on to the consumer; I would probably be able to prove that the prices of the processor's product had been raised during a period, but he would probably be able to overcome that with proof that the motive for increasing the prices was something different, or at least he might be prompted to attempt to do so.

For the reason that if we embark upon the policy of refunding the processing taxes we will merely succeed in paying a bonus to someone who is not entitled to it, to someone who actually did not bear the tax, mulcting the Government in a very large aggregate sum, and for the other reasons I have stated I believe the committee amendment to be sound.

Mr. HASTINGS. Mr. President, I think it would be a mistake to permit the argument made by the distinguished Senator from Arkansas [Mr. ROBINSON] to remain unchallenged, for those of us who are opposed to the pending amendment are not opposed upon any such grounds as those suggested by the Senator from Arkansas, as was made perfectly clear, it seems to me, by the Senator from Idaho [Mr. BORAH] in his argument a little while ago with respect to the amendment.

The distinguished Senator from Idaho made it perfectly clear that he was as unwilling as any of us to have somebody recover money from the Federal Government who was

not entitled to it. He made it perfectly clear, it seems to me, that the one objection he was making and insisting upon was that it was un-American and unjust to prevent persons from going into court when they had a claim against the Federal Government.

Let me see if I can state briefly what my understanding is of those who are urging this amendment. Hurriedly, in what was called "a great emergency", Congress passed the Agricultural Adjustment Act, permitting these processing taxes to be levied. It was done at a time when it was believed the farmers needed great help, when it was believed the country was in the throes of a great depression and needed all the assistance possible in every direction. So these taxes were imposed, and I assume it was true, in many instances I know it was true, that those who paid the taxes did not believe the Federal Government had the right to levy them in the particular way specified. But they were urged by propaganda and otherwise that the country was in a great depression, and that it was unpatriotic to do anything in opposition to this great scheme designed to take us out of the depression.

The Senator from Texas [Mr. CONNALLY] pointed out that, in the first instance, a man could protect himself by refusing to pay the tax, compelling the Government to sue him for the tax, and thereby test the constitutionality of the act, and so on, giving no credit to the man who was trying to do a patriotic duty and follow the leadership of one who was attempting to take us out of the depression. I think it was to the credit of the citizen that he paid the tax voluntarily instead of being sued for it, and having the people all over the Nation call him up to the bar of justice and say, "You are doing something to prevent the country from coming out of the depression."

A citizen pays his tax to the Federal Government, and lo and behold, about this time, a year or two after the payment, the administration reaches the conclusion that there is a great possibility, a probability, a pretty nearly universal opinion, that the act will be declared unconstitutional; but the billion dollars or so which have been collected by the Federal Government must somehow be kept in the Treasury of the Federal Government, or at least the credit of the Federal Government must not be affected by the requirement to repay that money.

Is that a free government or not? Have we reached the point where we admit that through our patriotism, through our desire to help, we may pay a tax, and then find a little later that the act under which it was collected is declared to be unconstitutional, but the Congress has said, "You shall not be permitted to go into court"?

Go into court for what purpose? The distinguished Senator from Idaho has said that he has no idea of permitting anyone to recover any tax which he has not paid, meaning that which he has not ultimately paid. Of course, the processor himself has been taxed, and he has paid the tax, and it is true, I assume, that he has passed it on to the consumer. No more true is it that he has passed it on than that the corporation which paid an income tax has passed it on. They all pass it on if they possibly can. But merely because they pass it on does not mean that we should deny a man the right to go into court and find out whether or not his rights have been taken away from him.

What is the danger in permitting a taxpayer to go into court? The distinguished Senator from Arkansas says, "If you permit him to go into court, you permit him to collect a tax which has been passed on to the consumer, and that would be unfair."

It is perfectly ridiculous to say that we cannot safeguard that sort of a situation. It is perfectly absurd to say that we must deny citizens all rights merely because they have passed the tax on. Of course, the individual who has paid the tax by having it passed on to him cannot come back on the Federal Government under any circumstances, because it is only the person against whom the tax is laid who ought to have any right to sue the Government of the United States. The Senator from Idaho is not so much interested, I take it, in securing to the taxpayer even the loss he has

sustained as he is disturbed, as all of us ought to be disturbed, about taking away from him the right to have his case heard.

Mr. President, those of us who know anything about what the processor has gone through know that as a matter of fact the processor has been greatly damaged. I have in my possession a petition signed by 32 people, presented to me more than a year ago, declaring that if the processing tax continued it would be necessary for them to go out of business, and my understanding is that all but three or four of them have gone out of business because it was not possible for them to pass the tax on. I took that petition sent to me on May 7, 1934, and referred it to the Department of Agriculture. In the letter transmitting it to me, which I desire to read, will be found this language:

Last week was one of the outstanding weeks for the processing tax. Steers have been left alone by the Department and last week they sold for \$9.50 per hundredweight in Chicago. That is the highest price they have brought in 2 years. We bought hogs in St. Joseph, Mo., at all-time low for \$2.95 per hundredweight. The tax on the hogs will amount to almost as much as the hogs cost. Packers are simply afraid to buy these hogs as each month the tax is due. The tax for this little plant amounted to \$30,000 last month. It is doing almost the impossible to take \$30,000 cash out of any business.

We note there is another bill now coming up to make Secretary Wallace practically a dictator. If they pass this bill, it will be about time to shut up shop. All these small butchers around here had to stop long ago. A small packer in the lower part of Maryland owes the Department \$10,000. He has had to stop doing business, and I suppose the Department will take his factory and machinery, because the man does not have the money and does not know where he can get \$10,000.

I sent that letter to the Department of Agriculture. I received a reply, under date of May 12, which I desire the Senator from Idaho particularly to note. I read:

Your letter of May 4, conveying the protest of a group of dealers in pork products in Wilmington, Del., has been received. The Department is grateful for any information that bears on the operation of a processing tax.

As you are aware, changes in the rate of a processing tax are made according to the provisions of paragraph (b), section 9, of the Agricultural Adjustment Act. By the provisions of this paragraph the Department is required to act according to a formula in which the effects of the tax on the consumption of the commodity, the accumulation of surplus stocks, and the farm price of the commodity are all examined.

In weighing this protest, we believe that these dealers should consider carefully whether or not other factors than the processing tax are responsible for the plight in which they now find themselves. Eastern packers in general do not accumulate stocks of pork to any appreciable degree. Middle-western packers do accumulate such stocks. Is it not, therefore, possible that the difficulties of the eastern packers may be due to the competition of stored stocks that are now being disposed of by the large middle-western packers? Some specialists in the Department believe this to be the case.

I replied to that letter, as follows:

I note in your letter that you ask the following question: "Is it not, therefore, possible that the difficulties of the eastern packers may be due to the competition of stored stocks that are now being disposed of by the large middle-western packers?"

I cannot answer that important question; but, if it be true, as some of your specialists in the Department believe to be the case, how does that help those distressed packers in my State? It is the same old story—when you adopt a course of legislation for the relief of a particular class you impose more than a corresponding burden upon some other class.

Mr. President, as late as July 2, I had a letter from the Wilmington Provision Co., of Wilmington, Del., a small packer, in which it was said:

Our business in Delaware has been very seriously affected by the hog tax of \$2.25 per hundredweight. This tax has cost us a loss during the past year or more and these losses are increasing each month, and if they continue it will simply mean the closing of this plant.

We cannot understand how Mr. Wallace or those in charge of this hog tax can attempt to continue this tax and then put through amendments that are positively putting us, as well as most every other independent packer in the country, out of business. We are the distributors of the hogs from the farms, and if all the little packers are put out of business it should be plain enough to anyone that the price of livestock will have to fall, which in turn will mean less competition for the hogs and a sharp drop in values.

On May 28 of this year I received the following letter from the Beste Provision Co., of Wilmington, Del.:

Since the fall of 1933 when the processing tax was levied on packers and processors we have paid the collector of internal revenue \$54,981.23 processing tax. Beginning with the period in which the tax was levied, we began losing money and our losses are getting larger each month, because at times during this period we are unable to sell our products when this tax was added.

Our customers simply would not buy and we were forced to reduce our price on all perishable products and take a loss. Our books are open for inspection to verify this statement.

There are rumors that some of the larger packers are not paying this tax but are allowing it to accumulate. There are also rumors to the effect that a \$505,000 processing-tax account was settled for \$127,000 at Newark, N. J., and another tax account of \$80,000 was settled in Baltimore, Md., for \$14,000.

I wish to say in that connection, that I made inquiry about the \$505,000 item and the \$80,000 item, and I was informed by the Department that the information the writer of the letter gave was correct, but these companies had gone into bankruptcy, and the Federal Government was taking out of them all it could get, which was the reason it made that settlement.

Mr. President, I call attention to the facts contained in those letters for two purposes. One is to show a thing which the Secretary of Agriculture knows to be true, that it is not possible for the processors to pass all of the processing tax on. The difficulty here and the great fear is that if we give the processors the opportunity to sue for the damages they have actually sustained under a law which they believe now to be unconstitutional, it will require the Federal Government to put up a considerable sum of money to reimburse them for such damages.

I am not anxious to take anything from the Federal Treasury for any purpose which is not essential, but I insist that if the Federal Government has invaded the right of any man and has caused him to suffer a damage it has done something which it has no right under our form of government to do, and Congress ought to be ashamed of itself if it were to take away from him the right to sue in the courts of this land to recover from the Federal Government what is actually due.

The fact that this tax was imposed for a specific purpose—the one thing which, in my judgment, makes it unconstitutional—does not relieve the Federal Government at all. It was imposed upon the theory that it was to be used for a public purpose. If it was used for a public purpose, then we can go into the Treasury of the United States and take the public money and return it to the person who has been damaged by an act passed by the Congress which was unconstitutional, under which was collected a tax which the Government had no right to collect.

The PRESIDING OFFICER (Mr. POPE in the chair). The time of the Senator from Delaware has expired.

Mr. BAILEY. Mr. President, I have been very deeply moved by this proposal, and am very much concerned about it. The proposal is to exercise the arbitrary power—

Mr. VANDENBERG. Mr. President, will the Senator yield to me?

Mr. BAILEY. I yield.

Mr. VANDENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Capper	Gerry	McCarran
Ashurst	Caraway	Glass	McGill
Austin	Carey	Gore	McKellar
Bachman	Chavez	Guffey	McNary
Bailey	Clark	Hale	Maloney
Bankhead	Connally	Harrison	Metcalf
Barbour	Coolidge	Hastings	Minton
Barkley	Copeland	Hatch	Moore
Bilbo	Costigan	Hayden	Murphy
Black	Davis	Holt	Murray
Bone	Dickinson	Johnson	Neely
Borah	Dieterich	Keyes	Norbeck
Brown	Donahey	King	Norris
Bulley	Duffy	La Follette	Nye
Bulow	Fletcher	Lewis	O'Mahoney
Burke	Frazier	Logan	Overton
Byrd	George	Loneragan	Pittman
Byrnes	Gibson	McAdoo	Pope

Radcliffe	Schwellenbach	Townsend	Van Nuys
Reynolds	Shipstead	Trammell	Wagner
Robinson	Smith	Truman	Walsh
Russell	Steiner	Tydings	Wheeler
Schall	Thomas, Okla.	Vandenberg	White

Mr. CONNALLY. I desire to announce that my colleague the senior Senator from Texas [Mr. SHEPPARD] is detained from the Senate by important business.

The PRESIDING OFFICER. Ninety-two Senators having answered to their names, a quorum is present.

Mr. BAILEY. I was saying, Mr. President, that I am very deeply interested in the pending amendment and have been profoundly moved by the discussion of it.

I believe I can approach just what I wish to say by relating an historical incident, a story of Frederick the Great. When he came to set apart certain lands at Potsdam for his great palace and estate, he sent forth his agents to buy up the land or to take it by the power of tyranny and oppression. The agents became involved in a controversy with a little miller down by a stream, who resisted the officers of the great King. He resisted them all the way up to the throne. When he came before the throne, Frederick the Great said to his agents, "Let the miller keep his mill, in order that it may be known that there is law in Prussia."

So I say, Mr. President, let the American citizen keep his rights to test out the laws of the United States in order that it may be known that there is law in the United States. If the tyrant Frederick the Great could stay the hand of his bureaucratic servants, notwithstanding they were operating in behalf of the acquisition of his palatial grounds, in order that the humble miller might have his mill and that the people ruled by Frederick, with a power far more absolute than any power this Government has ever had or ever will have, might know that law prevailed in Prussia; if that could be the rule decades back in Prussia, I think it very strange that here in this land of liberty and of individual rights the Congress, representing the people of the United States, should be proposing to do that which is proposed in the language which I intend to read, assuming, of course, that every Senator is familiar with it, but considering that it ought to be read over and over again, as follows:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

Mr. President, I am inclined to take the view that we do not have the power under the Constitution to enact such a law as this. We may pass such a statute, but I do not think it will ever be law in America. Assuming, however, that we do have the power, my mind recurs to a line I learned long years ago—

O it is excellent
To have a giant's strength; but it is tyrannous
To use it like a giant.

There is a controversy here about the passing on of the taxes. The argument of my distinguished and very warmly loved friend, our leader here, seems to revolve around the theory that these taxes either were passed on or the question was one so difficult of solution that we would be justified in enacting this arbitrary statute, denying, in a truly tyrannical way, the right of an American citizen to recover against the Government either a tax or a penalty which presumably had been wrongfully taken from him.

Agreeing in the first instance that it was in contemplation that these taxes should be passed on, and agreeing in the second instance that just to what extent they were passed on and whether one litigant passed them on and another did not, is a question, I submit that it is a question not for the arbitrary exercise of our power but for the exercise of justice in the court created by the Constitution and not by the Congress. We are not the judges of that question. We can enact

the statute, but we are not the judges of the effect and the consequences of the statute or the rights under the statute.

In the second place, I do not hesitate to assert as a fact, and I could put it in evidence here if the facts were to be tried, that these taxes have not been passed on in all cases. There are 65 cotton mills and knitting mills in my State of North Carolina which are now closed down. Around those silent, closed factories are 35,000 human beings who have no means of livelihood, so long as those factories are closed down, other than the work relief or the other relief provided by the Federal Government. In those 65 cotton mills and knitting mills are goods piled on the shelves unsold. The taxes are collected in the case of the cotton mill at what we call the breaker. That is where the cotton begins to enter into the process of manufacture. The tax has been assessed. In many cases the tax has been paid. But the goods have not been sold. The taxes on those mills have not been passed on, and those are 65 instances in one Commonwealth.

How far that condition prevails I do not know, but I have this to say. Conceding everything the Senator from Arkansas [Mr. ROBINSON] said, so long as there is one individual in our land deprived of his property in the form of taxes or penalties under the operation of an act of Congress, it is tyrannical and it is immoral—immoral, I repeat—to seek to deprive him of his rights simply because we think we have the power to do it.

It has not been long since the Supreme Court of the United States made something in the nature of a suggestion as to the conscience of the sovereign in America, and to that I refer for evidence, that there is such a thing yet remaining in our land as "the conscience of the sovereign." There is a moral tribunal in which it is the duty of every man who recognizes the grandeur of the moral law to resolve this question, in which it is the duty of every government that professes to be a government and which would have the approval of the people whom it serves and the God from which it came, for the powers that be are ordained of God, to resolve its questions not only in terms of justice, but in terms of morals. When we fail to satisfy the moral standard of righteousness in the high places we may not expect anything but the lower order of life amongst the people for whom we undertake to set the great example and the symbols of the Government.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. LEWIS. I should like to have the opinion of the Senator from North Carolina, and I trust the able Senator from Idaho [Mr. BORAH] will hear my views. Having in mind the law which allows the Court of Claims to take jurisdiction of a claim by a citizen, after having it brought to Congress and heard in Congress, reaching to the point of passing an act of Congress, do the able Senators feel that this act, which forbids suits in the Federal courts as suits against the Government, prevents the exercise of the law which allows recovery in the Court of Claims?

Mr. BAILEY. The term "Federal court" embraces the Court of Claims.

Mr. LEWIS. I am carrying in my mind the thought that we are all busy lawyers, that the distinction is made that the Court of Claims is not a constitutional but a statutory court, and I inquire whether or not this bill as it now stands—and I am frankly seeking for information—still authorizes a proceeding by those, as described by the able Senator from North Carolina, who may have paid their taxes and feel them to have been wrongfully collected and whether they may not still bring a proceeding in the form of a bill before the Congress, secure a congressional act, and then to the Court of Claims to collect it, or from the Court of Claims obtain a judgment and from there to the Congress to obtain an appropriation. I inquire if my friend feels this bill deprives the citizen he has described, who has paid the taxes, of his recourse to the Court of Claims for such redress as the Court of Claims has been constituted to grant?

Mr. BAILEY. I have not the slightest doubt about it. That is the intention of the act. The intention of the act

is, 2 years and some months since its enactment, to prevent any citizen who has paid taxes under the act or paid penalty under the act from testing the power of the Government to collect the tax or the penalty; and, further, to prevent the citizen under any circumstances, whether by recoupment, set-off, recovery, refund, credit, or counterclaim, to obtain the return of a dollar he has paid. Unconstitutional or constitutional, lawful or unlawful—

Let him take who has the power,
And let him keep who can.

Mr. WAGNER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from New York?

Mr. BAILEY. I yield.

Mr. WAGNER. Does the Senator recognize any distinction, so far as the equal treatment of our citizens is concerned, between those who have already paid a tax and those who will be required to pay the tax after the enactment of this particular bill?

Mr. BAILEY. None whatever. So far as I am concerned, Mr. President, I wish to make this perfectly clear: I shall never live long enough, though I live a million years, to exercise the power which I have here as a trustee of the people—and that is all the power I have, the power of a trustee under the Constitution—to deprive an individual in this land of his right to recover any money unlawfully paid or any property unlawfully taken, or his right to test the constitutionality of any law which is imposed upon him.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAILEY. I will take my time on the bill. I have not finished.

Mr. WAGNER. And yet the very bill we are considering, for a reason which I cannot fathom, makes a distinction between the taxpayer who has already paid the tax and the future taxpayer. In the case of the one who has already paid the tax it shuts the door of a court of justice to him altogether; while, as to the future taxpayer, the Government assents to his going into court and recovering the tax, so long as he proves that he has not passed it on. I do not know why one taxpayer should be treated unjustly and the other justly.

Mr. BAILEY. One is in the past, and the other is in the future. That is the idea.

Mr. President, that may raise a question of some interest to us all. I said here about 2 days ago that I had applied myself with all earnestness to the study of this measure. I had found it extremely involved and intricate and so difficult to understand that I wondered how far the fault was within myself, until I talked to my fellow Senators and found all of them were having the same difficulty. What the Senator from New York has said brings up the question, In whose fertile brain did the conception arise that we should have one law as to the destruction of rights with regard to the old act, and a different one with regard to the new act?

That being the fact, who can deny that if the measure we now propose to pass should go into force, and the taxes be collected under it, 1 year from now or 2 years from now, suits being entered, and the constitutional question being in the balance—as we all know it is—we should be called upon to pass an act similar to this? I do not think there would be any difficulty about that. Promptly we should, with respect to the then pending litigation, invoke the amendment now before us with respect to the pending bill; the plain purpose and intent being to collect the man's taxes, and to place penalties upon him for not paying the taxes—and they are very heavy penalties—and then say to him, "It is useless for you to appeal to your Government for justice."

This Government has three branches. One is the executive, one is the legislative, and the other is the judicial. One is administration, one is law, the other is justice—in terms of the rights of the individual.

Mr. SMITH. The Senator means that is our theory.

Mr. BAILEY. That is our theory, and that is always going to be our principle. I am not doubtful about that.

The rights of individual liberty will not be extinguished in this land.

Mr. President, a great deal has been said here about the origin of this doctrine of the immunity of the sovereign from suit. That was, from its inception, the doctrine of tyrants, and in its very character it is tyrannical. We may invoke it in the name of a free republic, if we please, and we may apply it as representatives of the people, if we please. Nevertheless, when all is said and done, it is precisely the same tyranny which was exercised by the tyrants from whose foul breasts this doctrine arose, and it contains within it the same power of oppression that they exercised by means of it.

The fathers who founded this country were done with kings. They were done with governments for the few. They were done with arbitrariness. They dedicated this Government to liberty—liberty defined in the terms of personal, individual rights. This is a government of laws and not of men; and the doctrine of the immunity of the sovereign from question by his subjects established the doctrine of government by men and not of laws, government by kings and aristocracies and not by the people, government affirming the supreme character of the state and denying the sovereignty of the people. We have lived so long in this Republic, we have gotten so far away from the great ideals that governed the men who made it what it is—I shall not call all their names—that we have lost the sense of the values they established, and we have an idealism which is like the pale light of the moon compared with the bright sun in comparison with the idealism of Washington and Jefferson and Adams and Marshall and Madison and Hamilton and Mason, and all the other noble founders of our Republic.

Mr. President, I stand and make a plea at this hour for the idealism in which this country was born, in which this Republic was created, in which the character of this Government was molded. I will match that idealism against all the moonshine of the modern socialistic so-called "liberal" who breathes in every word he utters the words of reaction, and then complains of men like ourselves as being reactionaries.

The doctrine of the immunity of the sovereign or the state from question—that is what it is; it is not merely immunity from suit, it is immunity from question—is precisely the same order of thinking now proceeding in our land that created the communism in Russia and the fascism in Italy. Of course, I speak respectfully of all foreign countries. What did they do? What is the heart of it? Mussolini says, "Away with liberty! Away with individual rights! The state is supreme." This amendment says the same thing.

What is the standard in Russia? I make no complaint about their communism. They have a perfect right to their form of government. I am speaking of the theory of the root of it. The root of it is that all is for the state, and the state is supreme, and the individual is nothing.

Mr. President, I beg my fellow Senators, regardless of party, to join with me in repudiating this amendment, not because it affects a few taxpayers, not because it relates to a cotton mill here or some other kind of mill somewhere else, but because this amendment strikes down the soul of the American Republic, compromises us in our own eyes, and presents us defenseless before the bar of the moral law.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hattigan, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 1309. An act to amend section 114 of the Judicial Code to provide for terms of District Court for the Western District of Wisconsin to be held at Wausau, Wis., and for other purposes;

S. 2326. An act authorizing the Secretary of War to sell to the Eagle Pass & Piedras Negras Bridge Co. a portion of the Eagle Pass Military Reservation, Tex., and for other purposes; and

S. 2965. An act to amend the Hawaiian Homes Commission Act of 1920.

The message also announced that the House further insisted upon its disagreement to the amendments of the Senate numbered 17, 67, 68, 83, and 84 to the bill (H. R. 7260) to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and Mr. DOUGHTON, Mr. SAM B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH were appointed managers on the part of the House at the further conference.

ENROLLED BILL SIGNED

The message further announced that the Speaker of the House had affixed his signature to the enrolled bill (S. 2532) to amend an act entitled "An act setting aside Rice Lake and contiguous lands in Minnesota for the exclusive use and benefit of the Chippewa Indians of Minnesota", approved June 23, 1926, and for other purposes, and it was signed by the Vice President.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. NORRIS. Mr. President, I have listened with a great deal of interest to the discussion in the Senate this afternoon pertaining to the right of a citizen to sue his Government. It has been stated that the existing practice comes from the ancient idea of the days of barbarism, when it was said that the king could do no wrong, and that, it is claimed, is the reason why governments do not allow themselves ordinarily to be sued.

In my opinion, the freedom of a government like ours, for instance, from suits begun by its citizens without its consent rests upon an entirely different ground. As I see it, the immunity of the Government from suits by the citizen rests on the fundamental idea of self-preservation.

Deductions could very well be made from some of the arguments which have been presented that a government which will not permit itself to be sued at any time, on any occasion, by anybody who wishes to sue it, is despotic, and that it lacks the fundamental principle of liberty and freedom.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. McKELLAR. Is it not true that virtually every State of the Union has a similar law on its statute books?

Mr. NORRIS. Certainly; every government in the civilized world has a similar law.

Mr. McKELLAR. That is my recollection; but I am quite sure that practically all the States of the Union have laws under which they do not allow themselves to be sued.

Mr. BORAH. Mr. President, will the Senator from Nebraska yield?

Mr. NORRIS. I yield.

Mr. BORAH. It is true that the States have such a rule, but a number of governments do not have that rule.

Mr. NORRIS. A government which does not have that rule must circumscribe the right very completely, must control by some rule or law the right to sue the government, and not have such universal right extended to everybody, or it could not live.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. BAILEY. I suggest to the Senator very respectfully that the question here is not a matter of universal suits.

Mr. NORRIS. I understand that, and I intend to offer an amendment before I conclude which, as I see it, will clear up this difficulty. I do not deny the justice of the position taken by Senators as to the right of a citizen to begin an

action where he has not passed on the tax which he has paid to the Government.

Mr. BAILEY. This is a question of a right to test a statute in the courts. In the first place, there is an affirmative act of the Government by way of legislation, and, in the second place, there is a test of the right of the Government under the statute to take taxes and benefits without recourse. That is the question involved here.

Mr. NORRIS. Mr. President, my reference to the argument which has been made was for the purpose of calling to the attention of the Senate what I believe to be a reasonable view, so that Senators will not go off on a tangent and say, "We must repudiate, we must vote down any proposition which limits the right of a citizen to sue the Government."

If there were no limitation on the right of a citizen to commence a suit against the Government, if the courts were open to suits by citizens against the Government as they are open to suits between citizens, I do not see how the Government could exist. I do not believe it could. I think the reason for the rule is not the ancient one, that the king can do no wrong, but in modern times at least it is the rule of self-preservation.

I do not believe the Government ought to refuse to allow itself to be sued under any circumstances. There are many avenues in which we have recognized the right of the individual to sue and to recover money wrongfully obtained by the Government. I am in full sympathy with that, and I believe that in this particular case, instead of deciding the matter on the abstract question of the right of the citizen to sue the Government, we ought to meet the conditions confronting us, and grant such modified right as will prevent injustice, and will give every person who has a legal and a rightful claim a day in court to present his claim and be heard.

Mr. ADAMS. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. ADAMS. I was wondering how the citizen would know he had a right to make a claim if we did not permit him to go into court. That is the very question here.

Mr. NORRIS. I would permit him to go into court under the amendment I intend to offer before I conclude. I shall offer an amendment which will give the citizen the right to do that if he can go in with clean hands.

Mr. ADAMS. May I ask the Senator what would be the type of injury or oppression to the citizen for the redress of which the Senator thinks he ought not to be permitted to go into court?

Mr. NORRIS. I did not understand the Senator's question.

Mr. ADAMS. I was wondering in what type of cases or instances the Senator thinks the citizen should be denied the right to sue the State.

Mr. NORRIS. It is going to appear, when I offer the amendment, just what persons I would allow to sue. I am opposed to throwing down the bars and saying to everybody, "You can sue the Government", because there probably would be millions of suits. It would be profitable to a class of attorneys to bring such suits by the thousands, and if we did such a thing as that I do not believe our Government would last 5 years from the date we allowed it.

Mr. ADAMS. Is not the Senator rather abandoning his usual confidence in the citizenship of the country when he states that he believes that that would be the result of throwing down the bars?

Mr. NORRIS. No. I can cite cases of some instrumentalities of the Government which are thrown open to suit without any limitation—instrumentalities of Government which are being killed by suits brought and lost, yet the losing party makes money. I can give the Senator actual illustrations where millions are involved.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. McKELLAR. As an illustration, there are 350,000 Indians, the wards of our Government, and we have by law allowed a number of those Indians to bring suit. Three billion dollars of claims have been filed against the Government of the United States by the Indians, and they comprise but 350,000 of our citizens.

Mr. NORRIS. That would not be a drop in the bucket. We passed a law about 3 years ago providing for the T. V. A. organization. They organized, and they were met with an injunction where they had an agreement with 14 or 20 municipalities to supply them with electricity, cities and villages which were paying enormous prices for electricity, buying it from the Alabama Power Co. The T. V. A. made contracts, agreed to by the municipalities, agreed to by the owners of the distributing system, agreed to by the T. V. A., for very greatly reduced rates. The T. V. A. had the power going to waste over Wilson Dam, and they made a contract to sell it. But a court issued an injunction which restrained them from selling it, restrained the municipalities from buying it, and the power continues to go to waste; the people continue to pay high rates; the people lose all the money that would have been received for the power that is gone and lost forever; the municipalities have lost millions in additional rates they have had to pay; and if they win the suit in the end, yet they lose millions by it.

It happens, incidentally, that the corporation which gets the benefit of this loss is the Alabama Power Co. It is profitable to them to litigate. It pays them well to do it. The T. V. A. is an instrumentality of the Government of the United States. This is only an illustration where millions of dollars have been lost by the citizens on the one side and the T. V. A. on the other, millions of dollars totally lost, without a possibility of recovery; yet the citizens have won the suit.

Mr. ADAMS. Is not the fault rather with our judicial processes than with the fact that we open the courts to citizens?

Mr. NORRIS. There is an instance of where we let the Government be sued without limitation. I am not trying to change that. I advocated the law when it was passed. But it shows the difficulty the Government would get into if it permitted suits to be brought indiscriminately, without limit against it.

Mr. President, I sympathize entirely with a corporation or an individual who pays a processing tax and has not passed it on, and then finds that it is declared to be illegal, let us say. Such a taxpayer ought to be allowed to recover. But, according to the argument made by the Senator from Delaware just a few moments ago, if we do not limit this right to recovery, there may be a liability on the part of the Government to suits for the recovery of about \$2,000,000,000, I understand, which corporations and individuals have paid in the way of processing taxes, which have been passed on to the consumer. The corporations upon which the tax was levied have been repaid by the consumers, and to permit such corporations now to come to the Government and get the money again would be an outrage.

Mr. President, I desire now to offer the amendment to which I have referred.

Mr. ADAMS. Mr. President, will the Senator yield for a question?

Mr. NORRIS. Yes; I yield.

Mr. ADAMS. Does the Senator believe that the court would sustain an action by one who had paid the processing tax but in fact had recouped it?

Mr. NORRIS. The argument is made that that is just what they would do. I do not know whether or not the court would sustain such an action.

Mr. ADAMS. I call the Senator's attention to the recent Supreme Court opinion on the gold clause in Government bonds. In that case the Supreme Court of the United States said that the holder of gold-clause bonds had a perfectly good contract, but unless he could show that he was personally damaged he could not recover, and in the gold-clause cases the Court said the economic situation surrounding the condition at the time the claimant made his demand should be taken into consideration.

Mr. GLASS rose.

Mr. NORRIS. I yield to the Senator from Virginia.

Mr. GLASS. I rise merely to express my satisfaction at hearing it so repeatedly stated on the floor today that the processing taxes have been passed on to the consumers.

Mr. NORRIS. I do not think they have all been passed on.

Mr. GLASS. I express my satisfaction because when the bill was under consideration, and some of us objected to it upon the ground that the processing taxes would be passed on to the consumers, as I recall, the Secretary of Agriculture vehemently denied that any such thing was in contemplation or that any such thing was possible; yet that is just exactly what has been done. No one speaks for the consumer at all.

Mr. NORRIS. I have no doubt that the processing taxes were passed on. I think they always have been passed on, except in cases such as the Senator from North Carolina mentions—and I think there are a good many such cases—where a man has paid a processing tax, as the Senator describes, and the goods are unsold and on the shelf. If the processing tax is held to be illegal, I think in such cases the man ought to have returned to him the money which he paid as a processing tax. That is only fair. If I could, I would compel the Government of the United States to return that money; and I think my amendment will do it, as I see it.

On page 58, line 15, after the first word in the line, the word "amendment", I propose to insert "unless the claimant in the action shall allege and prove that the amount sought to be recovered has not been passed on to any subsequent purchaser."

I offer that amendment to the committee amendment.

Mr. MURPHY. Will the Senator yield for a question?

Mr. NORRIS. I intend now to yield the floor.

Mr. MURPHY. I desire to ask the Senator a question in connection with the amendment. The Senator's amendment assumes the passing on of the tax to a consumer?

Mr. NORRIS. No; to a purchaser. I do not use the word "consumer."

Mr. MURPHY. My question is purely for information. Is the Senator from Nebraska satisfied that his amendment would cover the case of a processor who collected the tax from the producer in the form of a lower price paid to the producer for his commodity?

Let me illustrate what I mean: When the processing tax was imposed on hogs, on the very date the processing tax took effect the price of hogs was lowered by exactly the amount of the tax. Does the Senator consider that his amendment covers such situations as that?

Mr. NORRIS. I do not think it would have any application to that situation. It would have no application in any case unless a processing tax had actually been paid and not passed on.

Mr. MURPHY. Mr. President, may we have the amendment read?

The PRESIDING OFFICER. The amendment will be read.

The LEGISLATIVE CLERK. In the committee amendment, on page 58, line 15, after the word "amendment", it is proposed to insert "unless the claimant in the action shall allege and prove that the amount sought to be recovered has not been passed on to any subsequent purchaser."

Mr. SMITH. Mr. President, I was just about to call the attention of the Senator from Nebraska to the fact that the wording of his amendment ought to be such as to provide for the case where the tax had already been collected by virtue of lowering the price of the commodity the processor bought. The language of the amendment restricts it to the subsequent sale of the product. I desired to call the Senator's attention to that in order that he might modify his amendment so as to make it mandatory upon the claimant to prove that he had not collected the tax either from the consumer or from the one from whom he purchased the raw material.

Mr. GEORGE. Mr. President, the amendment offered by the Senator from Nebraska undoubtedly helps this provision very much. The same purpose he has in mind might well be accomplished by simply providing that the language on page 61 shall read:

No recovery, refund, or credit shall be made or allowed of any amount of any tax which accrued before or on or after the date of the adoption of this amendment—

Except upon the conditions subsequently stated in the amendment. That language covers all the cases which the Senator from South Carolina has in mind.

Mr. MURPHY. Mr. President, I think that will also cover the point which I made.

Mr. GEORGE. Undoubtedly it will cover the very point which the Senator from Iowa made.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. NORRIS. I have had called to my attention just now by one of the experts the fact that the same object could be accomplished by making a very slight change on page 61.

Mr. GEORGE. That is what I just called attention to.

Mr. NORRIS. Is that what the proposed change is?

Mr. GEORGE. Yes.

Mr. NORRIS. I did not hear the Senator. I was talking just then with the expert.

Mr. GEORGE. I called attention to the fact that the same purpose could be accomplished by inserting certain language on page 61, line 16, so as to read "tax which accrued before or on or after the date of the adoption", and so forth.

Mr. NORRIS. By inserting the words "before or."

Mr. GEORGE. Yes; just inserting the words "before or."

Mr. NORRIS. That might accomplish what we wish to accomplish by the amendment.

Mr. President, on account of the importance of this matter, and the suggestions that are made, and, in view of the fact that we cannot finish the bill today, I am wondering whether it would not be well to go on with other amendments, and take up this amendment later—tomorrow, perhaps. What does the Senator from Georgia think of that suggestion?

Mr. GEORGE. Mr. President, I was about to make the suggestion—in fact, I had made the suggestion—that the amendment I propose might be inserted on page 61, which, so far as I now can see, would cover the situation. Certainly the additional words would be useful there.

Mr. BORAH. Mr. President, then the amendment on page 58 would have to go out.

Mr. GEORGE. Then the entire amendment on page 58 should go out, save as to certain exceptions made on page 58.

Mr. NORRIS. It seems to me we ought to pass over the amendment on page 58 until we take up the subsequent amendment on page 61, and see whether that can be agreed to in such form as to meet the difficulties suggested. Then we can go back and strike out the amendment on page 58 if necessary.

Mr. BORAH. Mr. President, so far as I am concerned, having made the motion I am quite willing that the amendment shall go over until we may get together on it. So far as I see it, there is no difference in the position of the Senator from Nebraska and mine. It is only a question of arriving at the method of accomplishing the desired purpose. As I understand, the Senator from Nebraska concedes the right to sue, but he wants to control—and I think very properly—the matter of procedure; that is to say, where a person has not suffered any loss, of course he should not recover. I have favored that from the beginning.

Mr. STEIWER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. STEIWER. I merely desire to join in the suggestion made by the Senator from Nebraska. I think we are approaching what may be a solution of this matter, but, at first blush it occurs to me that we ought to give a little further thought to our method of procedure. It happens that on page 58 the provision is stated in terms of denial of jurisdiction of the court; and if that should go out the whole thing would stand on the negative effect of subsection (d) on page 61.

It may be that I am slow in comprehending the exact nature of the proposal made, but I should like a little more time to consider it. If that request may be granted it will be very welcome to some of us who are trying to follow this feature of the debate.

Mr. GEORGE. Mr. President, if the Senator will read the provision on page 61 I think he will see that the recovery

of credit, and so forth, may be allowed either by the collector of internal revenue or through court procedure. The dual rights of the taxpayers are recognized in that provision. It might be necessary to eliminate other language in the provision on page 61.

Mr. STEIWER. Mr. President, may I interrupt the Senator further?

Mr. GEORGE. I yield to the Senator from Oregon.

Mr. STEIWER. Probably I did not make myself perfectly clear. One thing I had in mind was the language on page 59, which also denies the right to maintain certain kinds of proceedings. I am not yet sure whether the elimination of the language on page 58 will correct the situation if subsection (b) on page 59 shall be retained in the bill.

Mr. GEORGE. Subsection (b) is, of course, not now open to consideration, because it contains only two or three slight committee amendments at the end of the subsection. I think, however, that subsection (b) refers only to equity proceedings, extraordinary remedies, such as injunctions. I do not think it cuts off the right of refund.

The PRESIDING OFFICER. The Chair is advised that the amendment on page 61 was adopted on July 10.

Mr. GEORGE. That being the case, unless we could have unanimous consent to reconsider the vote by which that amendment was agreed to, we would, of course, have to resort to an amendment on page 58.

Mr. SMITH. Mr. President, will the Senator from Georgia yield?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. GEORGE. I yield.

Mr. SMITH. In the hope of expediting consideration, if the Senator from Georgia and other Senators who have discussed this matter, including the Senator from Nebraska [Mr. NORRIS], who has offered an amendment, are agreeable to the suggestion, we might temporarily pass over this amendment and allow them to get together and frame such amendment as they think will cover the situation of those who have already passed the tax on after it has been collected.

Mr. GEORGE. It will be necessary that consent be given to reconsider the vote by which the amendment on page 61 was agreed to, the Chair advising that it has heretofore been agreed to.

Mr. BANKHEAD. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Alabama?

Mr. GEORGE. I yield.

Mr. BANKHEAD. So that there may be no misunderstanding, I wish to say that I myself am not going to agree to the proposed amendment. I want to insist upon the principles declared by the sections as reported by the committee. So we will have no unanimous-consent agreement about it.

Mr. BORAH. I did not understand what the Senator from Alabama said.

Mr. BANKHEAD. I said, so that the matter may not be passed over under a misapprehension that we were about to reach a unanimous-consent agreement involving the amendment of the Senator from Nebraska [Mr. NORRIS], I thought it proper to say that I would not be in line with that thought and would not acquiesce in a program along that line. I have no objection if the Senate wishes to pass over the amendment; but, from my standpoint, I do not consent, and will not consent, to conforming the section on page 58, involving taxes heretofore paid, with the subsequent section relating to taxes hereafter to be paid.

Mr. CLARK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CLARK. Is it necessary to have unanimous consent to enable the Senate to insert in this bill the amendment proposed by the Senator from Nebraska or any other amendment?

The PRESIDING OFFICER. Not at all; but the amendment to the section on page 61 has been adopted.

Mr. BANKHEAD. Of course, it is not necessary, but we are talking about passing over the amendment and working out an agreement on it. I wanted to state my position so that there would be no misunderstanding.

Mr. JOHNSON. Mr. President, if the Senator from Alabama makes it perfectly plain that he will not accept the amendment, why not proceed with the amendment pending and vote on it? Why not go right ahead with the proposition, if there is no possibility of an agreement subsequently in reference to the amendment?

Mr. GEORGE. I understand the Senator from Alabama to object to a reconsideration of the vote by which the amendment on page 61 inserting subsection (d) was agreed to on July 10.

Mr. BANKHEAD. I gave notice that I was not in line with the thought here upon the floor of the Senate of abandoning the amendment of the committee on page 58. I have no objection to any orderly procedure upon the proposition. In taking that position I do so because I do not want the amendment to go over under the idea that it would be worked out under an agreement and settled by abandoning the provision on page 58.

Mr. SMITH. Mr. President, will the Senator from Georgia allow me to make a short statement of less than a minute?

Mr. GEORGE. I yield to the Senator from South Carolina.

Mr. SMITH. The provision on page 58 pertains entirely to taxes already levied and collected; the provision on page 61 has reference to those that are subsequently to be levied and collected. The Senator from Nebraska has offered an amendment in reference to the paragraph which pertains to the taxes already collected. As there has been an amendment offered thereto looking toward liberalizing it to some extent, it was suggested by the Senator from Idaho that both features might be combined in one; that is, preserving whatever is deemed advisable in the provision on page 58 and also in the provision which occurs on page 61. I made the suggestion which I did in the interest of clarity and expedition, that the Senators interested get together, but it was not with the intent of abandoning any of the principles incorporated in either provision.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina that the amendment be temporarily laid aside?

Mr. GORE. Mr. President—

The PRESIDING OFFICER. The Senator from Georgia has the floor. Does he yield to the Senator from Oklahoma?

Mr. GORE. I will not ask the Senator to yield now, as I wish to speak in my own right.

Mr. GEORGE. Mr. President, if the amendment is to be temporarily laid aside, I will reserve what I had expected to say on the general principles.

Mr. McKELLAR. Mr. President, will the Senator from Georgia yield?

Mr. GEORGE. I yield.

Mr. McKELLAR. If the amendment is to be temporarily laid aside, then subsection (d) ought to be reconsidered, so that both provisions may be considered; and I ask unanimous consent that—

The PRESIDING OFFICER. There is one request pending. Is there objection to the request of the Senator from South Carolina?

Mr. McKELLAR. What I want to do is to ask for reconsideration of the vote by which subsection (d) was agreed to, if the Senator from Georgia will permit me.

Mr. GEORGE. On what page is that?

Mr. McKELLAR. Subsection (d) on page 61.

Mr. GEORGE. I had already submitted a similar request.

Mr. McKELLAR. Was it objected to?

Mr. GEORGE. I understood that it was objected to by the Senator from Alabama.

Mr. BANKHEAD. Mr. President, I may have misunderstood the provision to which the Senator from Georgia

referred. I simply did not want to agree to anything that would result in abandoning the principle set forth in the committee proposal. I had reference also to the principle involved in the provision on page 58.

Mr. JOHNSON. Mr. President, will the Senator from Alabama speak so that we may hear him, please?

Mr. BANKHEAD. I am trying to find out the basis of the request for reconsideration of subsection (d).

Mr. NORRIS. Has the Senator succeeded in finding out?

Mr. BANKHEAD. I have not.

Mr. SMITH. Mr. President, may I make a statement?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from South Carolina?

Mr. GEORGE. I yield.

Mr. SMITH. If those who are interested—and we all are agreed, I think, or, at least, a majority of the Senate are agreed, that some modification of the amendment on page 58 ought to be made—if Senators who have been discussing the matter can work out a plan by which the purpose of both amendments may be effectuated, it does not bind anybody here to agree to what they bring back, but it may solve the problem. Then we could reconsider the action on paragraph (d) if they should bring in a provision which would appeal to the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Carolina temporarily to lay aside the amendment on page 58?

Mr. GORE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Oklahoma?

Mr. GEORGE. I yield. I was simply awaiting the order of the Chair as to whether or not the amendment is laid aside.

Mr. GORE. Mr. President, I wish to make a statement on that.

Mr. GEORGE. I yield to the Senator from Oklahoma.

Mr. GORE. Mr. President, I hope the request of the Senator from South Carolina [Mr. SMITH] will be agreed to. I am glad to see this question making some progress toward a composition. I do not believe that the provision of the bill now under discussion should be enacted into law as it now stands. I think some change should be made that would make it more just and reasonable in its purport and in its object and in its probable effect. Looking to that end, I myself have prepared an amendment which I will ask to have read, in order that it may be considered by those who are working out the composition.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The LEGISLATIVE CLERK. On page 59, line 5, it is proposed to strike out the period and insert in lieu thereof a comma and the words "or any taxpayer who alleges under oath or affirmation that he has sustained actual damage or loss."

Mr. GORE. Mr. President, in preparing this amendment I have followed the language used by the Supreme Court of the United States in the gold-clause cases. The Court held that, while the act annulling the gold clause in United States bonds was void, a holder of such bonds or other securities had a claim against the Government but that in most cases he had not suffered actual loss or damage, indicating that only in cases where there had been an actual loss could an aggrieved citizen recover. In the amendment I have adopted the language used by the Supreme Court in that decision. The amendment was prepared, I may say, with the assistance of the legislative draftsmen.

Mr. President, I shall detain the Senate but for a moment, and I shall not embark on the discussion of theoretical questions as to the immunity of a sovereign from suit at the hands of a citizen. Whatever the origin of that doctrine, it is now a principle well established and accepted in our jurisprudence that the sovereign cannot be sued without its consent. It is equally well established, of course, that the sovereign may waive that immunity, and on many occasions it has waived the immunity and has permitted an aggrieved citizen to bring suit against the sovereign. From my present standpoint, the origin of this doctrine of immunity is imma-

terial. It may have had its origin in the ancient and now exploded doctrine that the king can do no wrong, a doctrine that has passed into the debris of history.

This is a Republic where the people are sovereign. But, sir, that does not affect this principle. It has been argued here that the processing tax has been shifted by the taxpayer, in some instances shifted backward to the vendor from whom the taxpayer purchased, in some instances shifted forward to the vendee to whom he has sold his commodity. Undoubtedly that was the theory upon which this entire processing tax was imposed, that the tax would be shifted by the processor, that it would be shifted, I assume, forward to the vendee and not backward to the vendor. I assume that no one in the beginning expected that the tax would be assumed, borne, and paid finally by the processor himself.

Undoubtedly in many cases the tax has been shifted. Undoubtedly in respect to the hog tax it was shifted back to the producer, shifted back to the farmer. I have made some investigation upon that point, and the conclusion is irresistible that in the earlier stages of the policy the processor shifted the tax back and made the producer of the hogs pay the tax. The total number of hog processors in the country has been about 18,000, while there have been some 12,000 corn processors and some 5,000 flour mills and 6,000 tobacco processors. These have all paid processing taxes. I do not have for the moment the number of cotton processors.

Undoubtedly in many instances the tax has been shifted forward. I believe the Senator from Arkansas [Mr. ROBINSON] virtually contended that shifting of the tax was practically universal. If that be true, then it makes my amendment all the more easy to adopt, because if the processor has suffered no actual loss, if he has shifted the tax in every instance, then he has sustained no actual damage and no actual loss. It is a splendid opportunity where we can be honest and safe at one and the same time. We can save our faces and save our purses, and yet seem to be perfectly fair in the premises.

I have no doubt there are instances where the tax has not been shifted, where it has been borne by the processor, where it has been paid and borne by the taxpayer. I read an instance a few days ago of a tobacco concern in New York who had paid a processing tax amounting to more than \$200,000 and the tax exceeded the entire amount of its sales. In that case, whatever may happen in the future, at least up to date that concern has not shifted the tax. The probabilities are it will never be able to shift the tax entirely. The newspaper report indicated the concern was teetering on the brink of bankruptcy. In such a case there would be an actual loss sustained at the hands of the Government, the Government obligated to protect the citizen instead of ruining him.

I remember the case of one of the great cotton mills in New Hampshire, the Amoskeag mills. Last year its annual report showed that it had suffered a loss of more than \$1,000,000, I believe \$1,008,000. I speak from memory. It had paid a processing tax of \$1,274,000 and had paid extra wages on account of the code amounting to \$1,600,000. Those were expenses incurred at the command of its Government. It seems to me fairly clear that in that case the taxpayer had not been able to pass the tax on either forward or backward, but that it had suffered a loss, had sustained an actual damage in the transaction.

If the privilege had never been granted to taxpayers to bring suit, I should not insist so strenuously that the doors of the courts be opened; but, Mr. President, these taxpayers have enjoyed this right, a statutory privilege which has been vouchsafed to them by the Government.

The Government has imposed this tax. The inferior courts have adjudged the tax to be unconstitutional. I think no lawyer doubts that the Supreme Court will hold the taxes unconstitutional; that the Government of the United States, great sovereign as it is and as we have boasted this afternoon, has thrust its hands into the pockets of the taxpayers, some of them distressed taxpayers, has taken their money without their consent. And now, sir, since the

courts have declared the tax to be unconstitutional and void, the great Government of the United States says, "We will close the doors of the courts and we will not return a tax that was void"; but that this great sovereign, invested with the power of taxation, which is the power to destroy, will impose a burden upon its citizens upon whom it must rely for its revenues and for its existence. Then, when the tax is adjudged to be void, this sovereign will say, "It is just too bad. We will slam the door of the court in your face. We will keep your money. We will not even give you your day in court."

I think the fear suggested by the Senator from Nebraska [Mr. NORRIS] has no foundation. The Senator from Nebraska thinks immunity from taxation is based upon the right of self-preservation and that the universal privilege of being sued would result in the destruction of the Government. When these suits are brought, when and if judgment is recovered, the citizen is even then powerless, the citizen is helpless then, even though it be found he was illegally separated from his money. He can never obtain compensation until the Congress of the United States enacts a law appropriating money to make the payment. There is our last refuge. I realize it would not be desirable to be pestered with thousands and thousands of judgments amounting to billions of dollars, as the Senator suggests. I can appreciate that.

Whenever this Government compels a citizen to part with his money in violation of the Constitution, in violation of the law of the land, and that citizen suffers an actual loss, in my judgment it is to the discredit of the sovereign to say, "You shall not have your day in court."

Mr. WHITE. Mr. President, I desire to say a very brief word about the situation which has arisen. Although my words may be affirmative, I am really asking a question.

The particular language which appears on page 58 relates to a litigant; it undertakes to circumscribe or limit his rights, and it relates also to the jurisdiction of a court of the United States. More than that, it relates to the jurisdiction of a State court.

Passing over the question of our authority over the jurisdiction of a State court, I wish to direct a question as to our control over the jurisdiction in all cases of a United States court.

The Constitution vests the judicial power of the United States in a Supreme Court, and in such courts of inferior jurisdiction as the Congress may create. Then it goes on and provides that this judicial power shall extend, among other things, to all cases arising under the Constitution of the United States.

I wish someone would answer for me the question whether the testing of the constitutionality of a statute of the United States is not a question arising under the Constitution, and whether the authority of a United States court to pass on that question does not rest in the Constitution itself rather than upon a statute of the United States. Assuming that to be true, I next desire to ask whether we can take from one of the courts of the United States its jurisdiction to pass on the constitutionality of a statute of the United States.

Personally, while I think we may do many things—we may limit in many ways, perhaps, the right of action—I have very serious doubt whether we can say to a United States court, the source of its power being in the Constitution,

You shall not have jurisdiction to answer the question whether a statute of the United States is or is not within the purview of the Constitution of the United States."

I am glad this matter is going over, because I think the reference to the jurisdiction of the courts of the United States ought to have some serious consideration.

Mr. GORE. Mr. President, with regard to the question just propounded by the Senator from Maine, I think there is no doubt that even Congress could not close the doors of the courts to any citizen who challenged the constitutionality of an act of Congress. That is not involved in the pending amendment.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. GORE. Yes.

Mr. WHITE. It seems to me it is almost necessarily involved, because I do not know how a person can raise the question of the constitutionality of a statute which lays a tax upon him except by challenging the tax or by suit to recover the tax. I think that necessarily raises the question of the authority of Congress in passing the tax statute.

Mr. GORE. The Senator in one sentence has stated the two horns of this dilemma. A citizen may go into court and challenge the constitutionality of a tax; and if he does so before having paid the tax, and the law is held to be unconstitutional, it protects him by obviating the future payment of a tax. But where the tax has already been paid, and a taxpayer challenges the constitutionality of the tax, if the courts hold that the tax is unconstitutional and void, notwithstanding such a decision Congress may close the doors of the courts when he desires to bring suit to recover the taxes already paid, even though it was an unconstitutional tax.

The PRESIDING OFFICER (Mr. CLARK in the chair). The Senator from South Carolina [Mr. SMITH] asks unanimous consent that the committee amendment on page 58 be temporarily passed over. Is there objection? The Chair hears none, and the amendment will be passed over.

Mr. CONNALLY. Mr. President, I have an amendment pending which I think is next on the list. I should like to call it up.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. GORE] had the floor and undertook to offer an amendment.

Mr. GORE. It was my purpose to have my amendment go over with the committee amendment.

The PRESIDING OFFICER. The Chair will inquire of the Senator from Texas whether his amendment is an amendment to a committee amendment?

Mr. CONNALLY. It is.

Mr. McKELLAR. On what page?

Mr. CONNALLY. Page 66.

The PRESIDING OFFICER. The Senator from Texas offers an amendment to the committee amendment which will be stated.

The LEGISLATIVE CLERK. In lieu of the matter on page 66, lines 15 to 25, inclusive, and on page 67, lines 1 to 22, inclusive, proposed to be stricken out by the committee, it is proposed to insert the following:

Sec. 32. There is authorized to be appropriated for each fiscal year an amount equal to 30 percent of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of such fiscal year. Sums appropriated in pursuance of such authorization shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to: (1) Encourage the exportation of major agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; (3) purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands; and (4) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated in pursuance of this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to eliminate unprofitable agricultural and grazing lands, bring about the utilization of only such lands as can be profitably utilized, increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds authorized to be appropriated by this section shall be expended pursuant to (3) or (4) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds authorized to be appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas to the amendment of the committee.

Mr. LA FOLLETTE. Mr. President, may I ask the Senator from Texas whether his amendment affects the text which

begins on page 64, line 20, and runs down to and including line 14 on page 66?

Mr. CONNALLY. It does not. It affects only the section following the language to which the Senator from Wisconsin has referred.

The PRESIDING OFFICER. The Chair will state that the Chair was in error in ordering the amendment of the Senator from Texas stated, because the next amendment in order would be section 30, on page 64.

Mr. LA FOLLETTE. I have an amendment which I desire to offer in lieu of the text proposed to be stricken out by the committee, known as section 30. I do not desire to interfere with the procedure of the Senator from Texas, but I do not wish to lose any right to offer my amendment at the appropriate time.

Mr. ROBINSON. Mr. President, this appears to be an amendment other than a committee amendment.

The PRESIDING OFFICER. The Chair will construe this as a motion to strike out and insert, which would take precedence of the committee amendment to strike out. The Chair understands the purpose of the Senator from Texas to be to insert certain language in lieu of the language proposed to be stricken out by the committee amendment.

Mr. CONNALLY. That is correct.

Mr. ROBINSON. Mr. President, I should like to ask the Senator from Texas a question. Has the amendment been submitted to or considered by any standing committee of the Senate?

Mr. CONNALLY. It is practically a reenactment of the House language, with some modifications. Section 31 of the House text of the bill is substantially the same as the amendment which I have offered, except that some modifications have been made by me in an effort to obtain support for my amendment.

Mr. ROBINSON. But this amendment has not been submitted to the committee?

Mr. CONNALLY. This identical amendment has not, but it is in the bill. If the Senator will look on page 66, he will see that section 31 as contained in the House bill is practically the language of the amendment, with some slight modifications; and I propose to strike out the language in the bill and insert the language contained in my amendment. It has been considered by the committee in the House as well as by the committee in the Senate.

Mr. COSTIGAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Texas yield to the Senator from Colorado?

Mr. CONNALLY. I yield.

Mr. COSTIGAN. May I ask the Senator from Texas whether there is any other modification of the portion of the House language for which this language is proposed to be substituted except the addition of the last proviso?

Mr. CONNALLY. Yes; there is some slightly different language in the middle of the amendment. I have not marked it, but there is a slight variation in the body of the amendment, though nothing of any substantial importance, I will say to the Senator.

The PRESIDING OFFICER. The Senator from Texas asks unanimous consent that this amendment be next considered, without prejudice to the rights of any Senator to offer an amendment to section 30 of the House bill.

Mr. LA FOLLETTE. In other words, I simply desire to ask for a division of the committee amendment.

Mr. CONNALLY. That was agreed to a day or two ago.

Mr. LA FOLLETTE. I also ask unanimous consent that I shall not lose my right in view of the fact that the Senator from Texas now desires to proceed.

Mr. JOHNSON. Mr. President, I have been called out of the Chamber. I was endeavoring to take part in the writing of a new amendment on the subject which has been discussed here all day, and I could not be present for the moment when the Senator from Texas began. Is the Senate now considering his amendment?

Mr. CONNALLY. It is.

The PRESIDING OFFICER. The Senator from Texas has asked unanimous consent that section 31 be next taken up,

without prejudice to the rights of any Senator as to section 30, which is a different committee amendment.

Mr. JOHNSON. I have no objection at all to that, but I desire to call the Senator's attention to one slight amendment which I should like to see adopted in his amendment; that is, the elimination of the word "major."

Mr. CONNALLY. I will say to the Senator that he may offer an amendment to my amendment striking out the word "major."

Mr. JOHNSON. I am asking the Senator whether he will not accept that amendment.

Mr. CONNALLY. Personally, I have no particular objection to the Senator's amendment, except that I understand that the sentiment of the committee is that this amendment ought to be confined to major agricultural crops; and that is why I drew my amendment in that fashion.

Mr. JOHNSON. When the amendment comes up, I shall offer an amendment striking out the word "major."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas with regard to taking up section 31 at this time? The Chair hears none, and the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment striking out section 31 is before the Senate.

Mr. CONNALLY. Mr. President, this amendment, as already suggested, is in substantial accord with the House language of section 31, beginning on page 66. As the bill came to the Senate, it provided that 30 percent of the tariff revenues were authorized to be appropriated for the use of the Agricultural Adjustment Administration in stimulating exports by way of paying an export debenture—or, as some may call it, an export bounty—on agricultural products.

It is not expected that this particular provision will supplant entirely the processing taxes, but it is proposed that the Agricultural Adjustment Administration, if Congress subsequently makes the appropriation, may employ these funds for the purposes set forth in the amendment. I shall not weary the Senate by reiterating the purposes set out in the amendment. The amendment is printed and is available to Senators and I invite their attention to its particular provisions. In short, the amendment embodies the principle of the export debenture in order to aid the Government in removing from domestic supplies the surpluses and getting them out into world commerce.

If Senators will notice the amendment they will see it does not apply to raw cotton; it is restricted to manufactured cotton. Personally, I favor including all cotton; I think the amendment ought to include raw cotton as well as manufactured cotton; but that idea met so much resistance on the part of members of the Committee on Agriculture and Forestry, and on the part of others who are interested in the question, that I modified the amendment to restrict the employment of these funds to stimulating the exportation of manufactured cotton.

That will be of particular benefit to textile manufacturers. The imposition of the processing tax has no doubt hindered domestic manufacturers of textiles in the export market. Today it is probably more difficult for them to compete in the export market than it was prior to the assessing of the processing tax. So that my amendment offers at least some degree of hope that that burden on the textile manufacturers may be somewhat lessened, and perhaps it may result in the lessening of the processing tax itself.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. VANDENBERG. I have substantial sympathy with the Senator's objective, but I wish to ask him a question in respect to the practical application of the amendment.

Would it be possible under the present tariff bargaining policy and the most-favored-nation treaty conception of that policy to proceed effectually with export bounties? What is the Senator's judgment upon that question?

Mr. CONNALLY. I will say to the Senator that I have not recently inspected any of the tariff agreements or trade

treaties, but I do not believe the amendment would offer any difficulty in that regard.

Let me call the Senator's attention to the fact that a great many of the countries of the earth are already employing export bounties. I will cite some of them.

Australia has an export bounty on canned fruit. It aids the states of that dominion in export bounties on sugar, and provides an export bounty on sweet wines.

In Argentina fixed prices are paid for grain exports if world prices go below a certain amount. Argentina has a modified form of export bounty on wheat.

Chile provides export bounties on wheat, flour, oats, barley, malt, hay, wine, and certain fruits and vegetables.

Estonia has a sliding differential subsidy for meat exports, hogs and bacon, derived somewhat like our processing tax, by a tax on slaughter-house processors. There are premiums to exporters of cheese, butter, and eggs.

Finland pays export premiums on butter, cheese, eggs, fowl, and live hogs.

In France the excess wheat production made it necessary to have recourse, among other schemes, to exports. France provides an export bounty on flax. In the case of wheat, since the French domestic price is usually above the world price, export bounties are being granted by the Government.

Mr. VANDENBERG. Mr. President, will the Senator yield further?

Mr. CONNALLY. I yield.

Mr. VANDENBERG. Let me see if I can make my point a little plainer. I apprehend that all of the export bounties to which the Senator refers were created prior to any of the reciprocal tariff treaties, and prior to the new emphasis upon the most-favored-nation treatment. This is my question, Will not the export bounty which the Senator proposes, and which I think has great logic behind it—

Mr. CONNALLY. I thank the Senator.

Mr. VANDENBERG. Will it not be construed abroad as dumping, and therefore is it not necessary, in conjunction with the successful operation of a scheme of this character, that we should have bilateral trade treaties with other countries, without regard to most-favored-nation treaties, so that we may frankly be permitted to operate under this method if adopted, rather than the multilateral most-favored-nation treaty system, which is virtually a barrier against that sort of thing? Does the Senator see what I am driving at?

Mr. CONNALLY. I understand the Senator. I will say, in response to his suggestion, that, of course, those countries which may object to the encouragement of our exports will probably claim that this is a modified system of dumping, but what I was trying to point out was that it is a practice which is employed by a large number of the nations of the earth.

Mr. VANDENBERG. I understand that.

Mr. CONNALLY. My understanding is that the State Department, in negotiating trade agreements, is now adopting the bilateral method rather than the multilateral method.

Mr. VANDENBERG. That is technically true. But it is impossible for the State Department to do anything except in net result write a multilateral treaty so long as it extends the same advantage to all countries with which we have treaties containing the most-favored-nation clause.

Mr. CONNALLY. Let me say to the Senator that, even if his contention were entirely sound, that is no argument why we should not adopt the particular amendment before us, for the very good reason that it can only be employed when and if the Secretary of Agriculture adopts the system and the Congress appropriates the money out of the tariff revenues, and naturally, if the administration should run into the difficulties suggested, and should ascertain that the practice was in violation of some treaty, the President would instruct his minister, the Secretary of Agriculture, not to do it.

Mr. VANDENBERG. Mr. President—

The PRESIDING OFFICER (Mr. RUSSELL in the chair). Does the Senator from Texas yield to the Senator from Michigan?

Mr. CONNALLY. I yield.

Mr. VANDENBERG. I am raising purely the practical question as to whether we can hope to achieve anything by the adoption of the amendment, in view of the fact that it will, if used by the Department of Agriculture, apparently be in direct hostility to the foreign-trade policies now urged by the State Department.

With the Senator's permission, let me amplify that suggestion. The ideas of Mr. George N. Peek, so long as he was foreign-trade adviser to the President, it seems to me were wholly in line with the views now submitted by the Senator from Texas, and certainly entirely in line with the views which I hold; but Mr. Peek's views, being found in fatal collision with Secretary Hull's views, were set to one side, the position of foreign-trade adviser was permitted to lapse, and the Hull policy now entirely covers the foreign compacts. I am wondering how, in the face of that contemplation, there is any real hope that a provision of this character, which obviously would run against the Hull policy, offers any tangible hope.

Mr. CONNALLY. Let me tell the Senator from Michigan what I would do if I entertained the views he entertains—and I do, in a measure. He says he favors this policy and believes it to be sound. If I so believed, I should vote for it, regardless of what Mr. Peek, or Mr. Hull, or Mr. Somebody Else might say about it.

Mr. VANDENBERG. I think that is a fair statement; I am only inquiring whether, after the Senator from Texas and I have voted for it, we have simply indulged in shadow boxing.

Mr. CONNALLY. That may be, but the duty of the Senator from Michigan and the duty of the Senator from Texas is not to hunt up bogies; if we believe in the proposal, it is our duty to do what we can here in this Chamber, where our functions obtain, and then let instrumentalities and agencies outside of this Chamber perform whatever duty they may have to perform. So I think the Senator from Michigan, if he believes in this proposal and thinks it ought to be adopted, ought to vote for it and support it and speak for it, rather than to hunt up imaginary bogies and bugaboos to destroy it in advance.

The PRESIDING OFFICER. The time of the Senator from Texas on the amendment has expired. The Senator from Texas is permitted to speak but once on the bill, and not to exceed 30 minutes.

Mr. CONNALLY. I thought the agreement the other day was that a Senator could speak once on the amendment and once on the bill.

The PRESIDING OFFICER. The Chair is advised that the unanimous-consent agreement permits each Senator to speak once on each amendment and once on the bill.

Mr. ROBINSON. If the Chair will pardon me, the arrangement is that a Senator may speak 15 minutes on an amendment and may divide his time if he chooses to do so, but there is to be only one speech on the bill, which may be 30 minutes in length.

Mr. CONNALLY. In other words, I have 30 minutes on the bill, and when I have used the 30 minutes, I am through, but I may speak on some subsequently offered amendment.

The PRESIDING OFFICER. The Senator from Texas is correct.

Mr. VANDENBERG. If the Senator will permit me, in conclusion let me say that I agree with his analysis fully, and I particularly agree with his use of the word "bogy" as applied to both the Hull trade policy and the Wallace foreign-trade policy.

Mr. CONNALLY. Let me say to the Senator from Michigan that I have not always agreed with him on tariff policies, but I do agree with the Senator when he comes to the view I entertain as to the particular industries and enterprises in the United States which can receive a benefit from a tariff—and I have voted for many of them. If it be sound and if it be just and right for the Government to exert its power to give an artificial benefit to one industry at the expense of all the other industries, it is just as sound for an industry which cannot be protected by a protective tariff to have that tariff turned around and to have the

Government exert its power to aid it in exporting its products and selling them in a world-free market in which the industry cannot get a tariff benefit.

Twice in 1929, under the administration of Mr. Hoover, the Senate, by a majority vote, passed the so-called "debenture amendment" as applied to agricultural products.

The Senator from California [Mr. JOHNSON] will remember that struggle. As I now recall, he voted for that amendment, as did the Senator from Nebraska [Mr. NORRIS] and the Senator from Idaho [Mr. BORAH], and, if I mistake not, the Senator from North Dakota [Mr. NYE], and a great number of other Senators, including the Republican leader in this Chamber, the Senator from Oregon [Mr. McNARY], voted in 1929 for the debenture agricultural amendment. It was killed by the House of Representatives at that time at the dictation of the then President, Mr. Hoover.

The basis of this amendment, Senators, lies in the fact that those engaged in agriculture, the cotton producers, the wheat producers and others, must sell their surplus abroad in the markets of the world, and in so doing must accept the world price without any artificial enhancement, without any device of Government to lift or raise that price. They must in the full and fair markets of the world meet competitors from every clime and every section of the earth; and if they pay the bounty on the various protected articles at home they are entitled to a similar advantage by way of the Government aiding them to export their goods so they may receive something like a fair standard of value in the foreign markets. That is all there is to this amendment.

I regret that necessity has caused me to limit the amendment in the case of cotton, the great product of my section, to manufactured cotton; but, unless I do so I am rather of the opinion that I shall not be able to secure its adoption. The producer of raw cotton is just as much entitled to the export privileges and to the export debenture and to the export bounty as is any other agricultural producer; but the textile manufacturers would oppose an export bounty on raw cotton. They would say it still further increased the burden placed upon them by the processing taxes. So, out of deference to views of members of the Committee on Agriculture and Forestry and other Senators, I have drawn the amendment so as to limit it in the case of cotton to manufactured cotton. Indirectly, of course, that will benefit the producer of raw cotton to a limited extent, because if the textile manufacturers in America receive some benefit from it and are able to compete in the export market they will, of course, consume more domestic cotton.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. GERRY. I should like to ask the Senator a question to ascertain if my understanding of his amendment is correct. Under his amendment he leaves it entirely discretionary, does he not, with the Secretary of Agriculture to determine where the revenue derived is to be expended and how it is to be expended? He simply sets forth four different means by which the revenue may be expended and leaves the authority entirely with the Secretary of Agriculture?

Mr. CONNALLY. Yes; very largely.

Mr. GERRY. Has the Senator figured out what the revenue item would amount to?

Mr. CONNALLY. I do not know just what it would be. It is 30 percent of the customs.

Mr. GERRY. Therefore the Secretary of Agriculture might, if he saw fit, not employ the funds for a bounty on finished commodities, but might use them entirely for any of the other three purposes set forth?

Mr. CONNALLY. He may only use it for purposes (3) and (4), provided he finds it is not needed at all for (1) and (2). In other words, he must give preference to purposes (1) and (2); and if he finds no necessity or occasion for so employing the funds he may employ them for (3) and (4).

Mr. GERRY. I thank the Senator.

Mr. CONNALLY. Mr. President, I shall make just a brief statement and then I shall conclude.

Let me say to the Senator from Michigan [Mr. VANDENBERG] that I did not complete the recitation of foreign countries which use the export-debenture or export-bounty principle. I shall not mention all the commodities upon which it is used, but I cite the nations of Greece, Hungary, Irish Free State, Italy, Latvia, Lithuania, the Netherlands, Poland, Union of South Africa, Uruguay, and Yugoslavia. I may add that Great Britain has heretofore employed, if it does not at the moment employ, the principle of the export debenture or the export bounty.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. BORAH. I wish to ask the Senator a question. As I understand his amendment, it covers corn, wheat, hogs, and so forth.

Mr. CONNALLY. It covers all the major agricultural products.

Mr. BORAH. How would the Senator describe a major product?

Mr. CONNALLY. I understand the bill defines it. Is that true?

Mr. BANKHEAD. The bill specifies the different basic commodities.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. CONNALLY. I yield.

Mr. JOHNSON. In reference to the question asked by the Senator from Idaho [Mr. BORAH], I wish to say to him that I shall offer an amendment proposing to strike out the word "major."

Mr. CONNALLY. Mr. President, my assumption was that the bill defines what major commodities are, so my amendment is confined to them, but I have no particular desire to exclude any export product. I ask unanimous consent to delete the word "major" and insert the word "basic."

The PRESIDING OFFICER (Mr. RUSSELL in the chair). The Senator from Texas has a right to modify his own amendment.

Mr. CONNALLY. I ask unanimous consent to strike out the word "major" and to insert in lieu thereof the word "basic." Then the amendment to be offered by the Senator from California will be in order.

Mr. JOHNSON. Mr. President, striking out the word "major" leaves no room for difficulties or troubles hereafter. We are going to have enough troubles with this bill as it is.

Mr. CONNALLY. Have the committee members any objection to striking out the word "major" and inserting the word "basic"?

Mr. JOHNSON. Mr. President, I have had some difficulty in analyzing the amendment; but, analyzing it as I have, I feel highly sympathetic with what it proposes to accomplish.

The amendment differs from the House language, which was stricken out by the Senate committee, in just two particulars. Those particulars are contained in lines 3 to 5 on page 2, and lines 2 to 5 on page 3 of the amendment. The first change is insignificant. The second change proposes to exempt cotton from benefit payments under the 30-percent fund. The provision is substantially the old export-debenture provision which was adopted by the Senate some years ago, and in whose behalf there was a very substantial majority.

We ask that the word "major" be stricken out, to which the Senator from Texas has graciously assented, because the word is indefinite in meaning and would give rise to endless controversy as to what is a major agricultural commodity.

Mr. CONNALLY. I will say to the Senator from California that I personally have no objection to his amendment.

Mr. JOHNSON. That is all I ask. I join with the Senator from Texas in the request that his amendment be adopted. I should like to see tried out this particular plan, which once was adopted by the Senate. I should like to see it tried out even in the limited fashion which is here provided, and I think it might solve in some degree certain of the problems which are presented to us.

The PRESIDING OFFICER. The Chair is in doubt whether or not the Senator from Texas modified his amendment by striking out the word "major."

Mr. CONNALLY. I withdraw the request and will let the amendment stand as it is. The Senator from California [Mr. JOHNSON] will move to strike out the word "major."

Mr. CAREY. Mr. President, will the Senator yield?

Mr. JOHNSON. I yield.

Mr. CAREY. I should like to ask the Senator from Texas if he did not substitute the word "basic" for the word "major"?

Mr. CONNALLY. No; I withdraw that request.

Mr. BORAH. Mr. President, I am very much in favor of this proposal. I think it is one of the unfortunate things in the history of legislation for the interests of agriculture that the debenture proposition was defeated under the last administration. I have been a believer in it and an advocate of it for some years, and I sincerely hope that this amendment will be adopted.

Mr. SMITH. Mr. President, when this matter was before the committee we had a communication from the Treasury Department to the effect that the inclusion by the House of this section in the bill was without any consultation with the Treasury Department, and that if it should become law it would totally upset all the calculations the Treasury has made as to certain expenditures, and would deflect from their calculations the amount herein provided of 30 percent, and that the Department was totally opposed to its inclusion for the reasons set forth.

I have the communication here, but I am giving only the substance of it. It was stated that it would be necessary to find other sources of income for such amount as might be deflected for the purpose herein suggested.

Mr. BORAH. Mr. President, that is precisely the argument which was presented by the Secretary of the Treasury when the proposal was defeated under the former administration, that it might cost the Government \$150,000,000 or \$200,000,000. Since that time we have spent not only \$150,000,000 or \$200,000,000 but additional hundreds of millions of dollars to accomplish what, in my judgment, the debenture plan would have accomplished in large measure had it been adopted.

Mr. SMITH. I want the Senate to understand that in calling attention to this I am simply doing what I think it my duty to do—to let the Senate be advised of what a coordinate branch of the Government has indicated.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. SMITH. Certainly.

Mr. VANDENBERG. Did the committee have any communication from the Secretary of Agriculture respecting his attitude toward the export debenture?

Mr. SMITH. I do not believe the Department objected to it.

Mr. VANDENBERG. Is it the Senator's opinion that Secretary Wallace is in favor of this proposal?

Mr. SMITH. I do not know, but, without remembering any definite statement, my impression is that the Department of Agriculture had no objection.

Mr. VANDENBERG. Then, if it is my impression that the Department has violent objection to it, either the Senator's opinion is wrong or my opinion is wrong.

Mr. SMITH. I know the matter came up when several representatives of the Department were present. I do not remember that they expressed themselves one way or the other.

I still maintain—and want it definitely understood here and now—that I think the legislative branch of the Government ought to legislate in the light of its own opinions and convictions. Of course, there will arise occasions when the theories of a department touching some salient point ought to be considered, but I, for one, believe we ought to assume the full duty of drafting the legislation for which, under the Constitution, we are held responsible. It is for us to draft the legislation and enact it, and insist upon the recognition of our exclusive right in the realm of legislation.

Mr. VANDENBERG. Mr. President, will the Senator yield further?

Mr. SMITH. Certainly.

Mr. VANDENBERG. I cordially concur in the Senator's general statement and I applaud his courage in stating these opinions in view of his official position in relation to spokesmanship under the present administration. However, is it not pertinent to inquire the attitude of the Secretary of Agriculture in respect to a matter which we are proposing to leave to his option? For instance, I am interested in knowing whether the option is going to be exercised.

Mr. SMITH. As it is optional, and if the Senate determines it is optional and shall be discretionary on his part, it might be pertinent to know just how he stands in respect to exercising the option we may give him.

I have stated all I care to state about it. The Senate is thoroughly competent to take such action as may be deemed wise and proper.

Mr. CONNALLY. Mr. President, what the Senator from South Carolina [Mr. SMITH] said about the attitude of the Treasury Department has no influence on me whatever. When it does not want a policy adopted the Treasury Department, from the days of Mr. Mellon down, issues a statement and prophecy that if we do such a thing we will ruin the Treasury program. This proposal will, of course, divert a portion of the customs revenues; but those revenues come out of the people by taxation. We are going to have a tax bill during this session and we can take care of any necessities in the tax bill.

I for one resent the attitude of the Cabinet and administrative officers in constantly lecturing the Senate and the Congress about what we should or should not do. They are simply glorified hired men, and if they will attend to their business in the Cabinet and in their departments, we can attend to our business in the Senate and the House of Representatives.

Mr. VANDENBERG. Hear! Hear!

Mr. CONNALLY. I do not care if the Cabinet or the State Department or anybody else advises against this amendment, I am in favor of trying out the export bounty plan. It has been before the country for years. It has been before the Senate on two different occasions. If it will not work, we had better find it out. If it does work, we may then develop it and elaborate it as the exigencies of the times may require.

Mr. BORAH. If it does work, it will far more than take care of any loss to the Treasury.

Mr. CONNALLY. To be sure. The Senator from Idaho is correct that if it does work it will bring more money into the hands of the American producers than would be taken out by the process of taxation.

Mr. President, the Senator from Michigan [Mr. VANDENBERG] spoke about antidumping laws and other nations throwing up their hands and crying out about antidumping laws. There are countries in Europe today that need American farm products, that are hungry for them, and yet are not getting them because of artificial impediments to trade. The tariff is a hindrance to trade. The high tariff is a hurdle over which commerce has to leap. This plan is an encouragement to trade. It would open up the channels of trade. It would remove some of the snags and stimulate the free flow of commerce from America to foreign countries.

In behalf of the producer, the primary producer, the man who sweats and labors in the fields to produce the necessities of life, I believe now is the time for the Congress to assert some of its own views and to adopt this amendment and try out this experiment, if it be desired to call it such, with regard to the debenture or export subsidy system.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY].

Mr. KING. Mr. President, I entered the Chamber a few minutes ago, having been absent for a short time upon official business at the Department of State, and heard only the concluding remarks of the Senator from Texas [Mr. CONNALLY]. I regret not having had an opportunity to hear

his entire address, because it is possible I may not fully comprehend his purpose or the object of the amendment which is under discussion. I have hastily glanced at the amendment but have had no opportunity to analyze it, and perhaps do not fully comprehend its scope and implications. However, from the imperfect examination which I have given it, I cannot give it my support.

First, let me briefly refer to the observations made by the Senator respecting the position taken by the Secretary of the Interior. As I understood the Senator, I do not disagree with his position as to the duties resting upon the legislative branch of the Government. Congress, and not the executive department, deals with legislative matters; Congress enacts the laws and the responsibility rests upon the executive department to see that they are executed.

It is quite true that not infrequently the executive branches of the Government are too importunate in seeking legislation, and it cannot be denied that they have sought to influence, as many believe, improperly, the Congress of the United States in connection with proposed legislation under consideration by both branches of Congress. Executive departments, bureaus, and organizations have often drafted and attempted to secure the passage of measures increasing their authority and expanding their jurisdiction. I believe that there has been too much pressure brought by executive departments to secure legislation and to direct policies which the Government should follow—policies the formulation of which rests with the legislative branch of the Government.

However there are obligations resting upon executive departments and agencies of the Government to advise Congress with respect to matters under consideration by it. It is the duty of the Secretary of the Treasury to submit reports from time to time for the consideration of Congress with respect to revenues and the financial affairs of the Government. It is his duty to submit data and information that will aid Congress in enacting revenue and financial measures. As Senators know whenever revenue bills are under consideration the Secretary of the Treasury is called upon to submit his views and to furnish information respecting the fiscal needs of the Government and the condition of the Treasury, in order that needed legislation may be enacted. Only a few days ago the Committee on Ways and Means of the House began the consideration of a revenue measure. The President had recommended that additional revenues be obtained by increasing the taxes upon incomes of individuals and corporations and also by increasing the demands made upon estates, gifts, and so forth.

It was necessary that the Secretary of the Treasury supply information to the committee in order that it might deal wisely with the important questions before it. It is the duty of the Secretary of the Treasury to keep Congress informed as to the financial needs of the Government, the expenditures which are made, and the sources from which revenue may be derived. It has been the practice of the Department of the Treasury for years to prepare and submit estimates of governmental receipts and disbursements and to supply full and detailed information regarding all matters connected with the fiscal affairs of the Government. The Department of the Treasury estimates the receipts which it expects will be derived from import duties, and includes such estimated receipts as a part of the aggregate revenues which will be derived from all sources in order to meet the expenditures of the Government.

My understanding is that the Secretary, in submitting reports required by law, dealing with the fiscal affairs of the Government for the last and present fiscal years, estimated the customs receipts, and included such estimates as a part of the total revenues expected to be derived during each of these years. My recollection is that the President, in the Budget which he submitted to Congress, took cognizance of the report of the Secretary respecting the revenues to be derived from customs, and based his views as to the total revenues and the expenditures, in part at least, upon the proportion of the former which would be derived from import duties.

It was, therefore, in my opinion, entirely proper for the Treasury Department to advise Congress as to the results that would follow the diversion of 30 percent of the customs receipts from the Treasury Department to meet the expenses of the Government, and to transfer them to the Secretary of Agriculture to be expended by him under a broad and latitudinarian discretion for purposes not contemplated by the President when he prepared and submitted to Congress his Budget for the next fiscal year.

The measure before us, if I interpret it correctly, will lay its hands upon the customs receipts and take therefrom 30 percent, which, under the estimates to which I have referred, were to have been paid into the Treasury of the United States for use in meeting the ordinary and extraordinary expenses of the Government.

Senators are familiar with the fact that the Treasury Department has occasionally been criticized for its alleged failure to submit accurate estimates as to receipts and disbursements. I think it should be said, in justice to the Treasury Department, that its officials have been careful in the preparation of their estimates, and have, in the main, discharged their duties with remarkable ability, and certainly with fidelity. The present Secretary of the Treasury, as we all know, is earnestly and intelligently addressing himself to the very heavy responsibilities resting upon him. I am glad that he has called attention to the fact that the diversion of a part of the customs receipts from the Treasury of the United States and their application to other than the meeting of the expenses of the Government would increase the Federal deficit and lead to some confusion in the fiscal affairs of the Government.

Mr. President, a hasty examination of the amendment under consideration shows how indefinite and uncertain are its terms. It is only certain in one thing, namely, that 30 percent of all of the customs receipts are not to be placed in the Treasury, where they belong, but are to be delivered over to the Secretary of Agriculture, to be expended largely as he may see fit, or, at any rate, to be expended without proper limitations and without rational standards or reasonable restrictions.

It is impossible to determine what the total customs receipts for this or the next fiscal year or subsequent years will be. A number of years ago the customs receipts were from \$400,000,000 to more than \$600,000,000 annually. For 1933 the customs receipts were only \$250,000,000. My recollection is that the total customs receipts for the fiscal year ending June 30 of this year were approximately \$340,000,000. While it is true that 30 percent of \$340,000,000 is not impressive, measured by the total receipts of the Government for the present fiscal year of approximately \$3,800,000,000, exclusive of postal receipts, nevertheless it is a factor to be considered in preparing estimates of receipts and disbursements for any given period.

If Congress were disposed to appropriate any considerable sum for the uncertain purposes indicated in the amendment before us, prudence (and if I may be permitted the expression, common sense) would demand a definite appropriation; but the amendment before us calls for an indefinite appropriation and perhaps for an indefinite period. It does not take cognizance of the fact that the customs receipts may be greater or may be less during the future years. It seems to me incredible that Congress would be willing to embark the Government upon an uncharted sea such as the amendment before us contemplates. May I ask in all seriousness, Is it fair to the taxpayers or fair to the Government to make such uncertain commitments as provided in this amendment? I know during the past few years we have been dealing with not millions but hundreds of millions and billions of dollars until I sometimes feel that our vision has become clouded, our judgments distorted, and our appreciation of sound principles of finance and governmental policies impaired.

The PRESIDING OFFICER (Mr. MINTON in the chair). The time of the Senator from Utah on the amendment has expired. The Senator has 30 minutes on the bill, if the Senator desires to take it.

Mr. KING. I will take part of my time on the bill.

If it is deemed proper to appropriate money by way of bounty or subsidy or whatever name may be given it, for the purchase of submarginal lands or for the purposes indicated in the amendment under consideration, then I respectfully submit it should be done in an open, frank, and courageous manner. If \$90,000,000 or \$100,000,000 or \$200,000,000 are to be appropriated in aid of agriculture then let us frankly avow the purpose to do so and make a direct appropriation from the Treasury of the United States. In that manner the people would know what amount Congress was providing for the purposes indicated in the amendment.

They would know when they read the Treasury report what proportion of the receipts were employed as a subsidy or bounty or grant to agriculture. Indefinite and uncertain appropriations are not only unwise but, I believe, unfair to the taxpayers of the Government, and for that reason, if for none other, the amendment under consideration should be defeated.

Mr. President, we all sympathize with the hardships through which the farmers of the United States have passed and the problems which are now before them. It may be said, in passing, however, that there are millions of American citizens without employment and without homes. Industries have suffered and millions who have been employed in industrial activities have likewise passed through trying days, and even now they are still within the shadows. It is not only those employed in agriculture who have suffered during this depression, but millions of individuals in other walks and activities of life have, as I have stated, had their sorrows and days of distress.

Millions have lost their homes and millions perhaps have never had homes. During the period to which I have referred factories, mills, and mines have been closed, and armies of men and women were deprived of employment. Today there are millions of American citizens who have no jobs and no means of support.

I do not challenge attention to these matters for the purpose of minimizing the hardships of the farmers and the problems with which they are now confronted. It has been said that when any branch of our economic or industrial life suffers its effects are materially manifest in every other avenue of public or private life. We rise or fall together. The advancement of one is the advancement of all. Of course, it is desired that the farmers of our country enjoy prosperity. Indeed, when they are prosperous it may safely be said that the clouds of adversity in every part of the land will be largely dispelled.

Mr. President, conceding for a moment that there should be relief granted to agriculture either through bounties or subsidies, it seems to me that the bill which came from the House and is now under consideration by the Senate should not be employed as a vehicle to accomplish that result. The bill before us contains amendments to the Agricultural Adjustment Act. It is claimed that it is to supplement that act and to clarify some of its provisions and, as I am advised, to possibly relieve it of its imperfections and inequalities, if not provisions unconstitutional in character. There are many who believe the Agricultural Adjustment Act to be unconstitutional and also to rest upon no sound or logical or just foundation, and that it is doomed ultimately, even if found to be free from constitutional taint, to prove so unsatisfactory in its results as to meet an early end.

The Agricultural Adjustment Act was regarded by the friends of agriculture as more than an experiment; indeed, many asserted that it was a panacea for the ills of agriculture and would bring to the farmer a golden age of prosperity. The same geniuses who devised the Agricultural Adjustment Administration Act have administered it and have provided the bill which is now under consideration.

Other policies have been formulated and are being carried into effect by the Agricultural Department to supplement the Agricultural Adjustment Act, and it is claimed to contribute to the advancement of the interests of agriculture. Such important results have been promised by these measures that it would seem highly improper to attach to them the provisions found in the amendment offered by the Sena-

tor from Texas. I can readily understand, notwithstanding the many assertions as to the efficacy of the measures formulated by the Agricultural Department, that there are some who have been protagonists of those measures who have some apprehension as to their virtue and are therefore seeking to discover other ways and means and further devices to promote the interests of agriculture. I repeat, however, that regardless of their misgivings and apprehensions consideration of provisions such as those found in the amendment offered by the Senator from Texas should be deferred pending the results of existing law, supplemented by the new A. A. A. bill reported by the House and now before us. In other words, if the measures which were to accomplish such great results are inadequate and will fail to meet the expectations of those who devised the same and have given them their support, then, when such failure is manifest, it will be time to consider other plans.

Indeed, Mr. President, there are some who believe that some of the experiments which have been introduced into our economic and industrial life of late, and similar experiments which have been introduced into the social and industrial life of other countries, have not, and will not, accomplish the results desired; that many of the efforts to disturb economic and natural laws, instead of accomplishing good, produce evil results.

Mr. President, I have referred to the amendment offered by the Senator from Texas as being uncertain and indefinite in its terms. Permit me to invite attention to some of its provisions in justification for this statement. The amendment declares that the 30 percent of the gross receipts from duties collected under the customs laws of the United States—

Shall be used by the Secretary of Agriculture to encourage the exportation of major agricultural commodities and products.

I might add in passing that the exportation of agricultural products can be not only successfully encouraged but accomplished if we will pursue a course similar to that followed by our Government for many years. The exports of the United States have reached the stupendous sum of between \$7,000,000,000 and \$8,000,000,000, and a very large part of these exports consisted of agricultural products. More than 60 percent of the cotton produced in the United States was purchased by foreign countries, and the farmers of the United States found foreign markets for their surplus wheat and corn and dairy and other products. By reason of almost prohibitive tariffs we lost much of our foreign market, and the farmers of the United States were among those who suffered by reason of the loss of foreign markets.

How is the Secretary to encourage exportation of agricultural products? I have indicated what I conceive to be the most certain and effective way to insure the sale in foreign markets of American agricultural commodities. But the amendment suggests that the encouragement is to be brought about by paying benefits, presumably to those who export their commodities. The amendment presupposes losses because of the export of commodities and calls for the payment of indemnities. There is nothing to indicate what commodities will be exported; what losses will be sustained; how the indemnities are to be divided. It is obvious that a vast bureaucratic organization must be set up to gather agricultural products for export, to search for markets abroad; to enter into negotiations perhaps with foreign nations because they undoubtedly will have something to say with respect to what commodities shall be brought into their respective states. It may be charged by them that the United States is dumping its surplus agricultural products in violation of the laws of the countries into which such commodities may be transported. It is certain that any such policy will bring retaliation and repercussions of a serious character. It is also certain that a policy such as suggested would run counter to the provisions of the Reciprocity Act, which is receiving attention at the hands of our State Department.

It is easy to envision a multitude of difficulties and problems that will be encountered in the execution of the uncertain provisions of the amendment under consideration. The amendment further provides that the moneys derived

from the 30-percent customs may be used by the Secretary of Agriculture to encourage domestic consumption of commodities or products by diverting them, whatever that means, by the payment of benefits or indemnities or whatever means, from the normal channels of commerce. I cannot conceive of such unlimited and unrestricted authority being given to an Executive agent. There is no necessity of encouraging domestic consumption of commodities. The American people are ready to purchase and use domestic products where needed and if and when they are able to buy the same. But as I understand the amendment, the Secretary can pay benefits or indemnities to induce people to use commodities. At any rate, the Secretary may pay benefits or indemnities or take any steps he may see fit to divert, whatever that may mean, commodities from the normal channels of trade and commerce. One would suppose that it was desirable to have commodities used in the normal channels of trade and commerce and to enlarge such channels, but apparently the channels are to be dammed and efforts made to prevent normal consumption and the usual and proper utilization of the channels through which trade and commerce flow. But that is not all the Secretary is empowered to do.

He is authorized to purchase and lease on behalf of the United States submarginal agricultural and grazing lands. Senators know that there are now several Federal agencies empowered to purchase so-called "submarginal lands", and my understanding is that large tracts of lands have been purchased in many States. Millions of dollars have been expended for this purpose and lands which have been subject to taxation by the States are now the property of the Federal Government. It seems to be the view of some that the Federal Government should become a great landlord; that it should acquire hundreds of millions of acres of land, withdraw the same from taxation, and either permit the land to lie fallow or to attempt all sorts of experiments for its utilization. The Government is not a satisfactory landlord, and I predict that some of these schemes originated by doctrinaires and persons devoid of that realistic conception of the problems and difficulties of life, will meet with utter failure. However, the point I am attempting to make is that there are no limitations upon the authority of the Secretary under this amendment and he could employ the entire annual fund obtained from customs duties for the purchase of so-called "submarginal agricultural and grazing lands."

The amendment further provides that the Secretary may finance adjustments in the quantity planted or produced for market of agricultural commodities.

It seems to me that no more uncertain and ambiguous language could be employed to conceal one or more purposes. What is meant by "adjustments in quantity planted or produced"? Is it meant that the Secretary shall have unlimited power to determine what maladjustments exist in production, and to determine how to adjust the crops as to quantity and character which are to be planted or produced; that he shall have full authority to determine whether the crops planted or produced are for foreign markets or for domestic markets; whether these adjustments shall be made in one State or in many States; whether they shall apply to one group or to many groups?

It is quite likely that if this measure should become law, whoever administered it, with the unrestricted authority given, could say that adjustment is needed in the quantity of oranges produced or planted; that California should only plant or produce 100,000 acres; that the production should be only for domestic consumption and that within a limited number of the States. The official administering the law would have authority to finance the cotton growers or wheat growers of one State and not of another; to determine the amount of wheat which should be planted in one State or in a number of States. Indeed, the provisions of this amendment are so indefinite, so susceptible of a multitude of interpretations as to condemn the scheme though the goal sought to be reached may have merit.

We know that the Secretary of Agriculture has been hostile to the bringing of new lands under cultivation or to in-

creasing the productivity of lands which perhaps for years have been cultivated. This attitude has resulted in the purchase by the Government of millions of acres of lands, as I have before stated; so I repeat, the Secretary, without there being any prohibitions, any restrictions, could utilize the entire annual funds obtained from customs duties to purchase and withdraw from cultivation grazing lands or submarginal lands. Such a course would not aid in the expanding of foreign markets for agricultural commodities.

Mr. President, just a few words in respect to a matter germane to the questions under discussion. As I have heretofore indicated, we have lost a considerable part of our foreign market. I believe that that is largely due to unwise legislation which has been enacted by Congress. Following the Civil War we embarked upon a policy of extreme protection, and succeeding Congresses, until the year 1930, multiplied tariff laws and increased tariff duties. We built perhaps the highest tariff wall that could be found among civilized nations. There were some who believed that we should have what was called "a Chinese wall" around our borders so that all imports might be prevented. We had fierce nationalists, indeed isolationists, who were averse to proper contacts and intercourse with other nations who were so self-centered that they were unwilling, even for cultural and spiritual forces, to have cooperation throughout the world, if the United States was to have any part in developing or promoting such forces.

It is a matter of common knowledge that many of the agricultural States of the United States were the strongest supporters of exclusive tariffs; and it is known of all that some of the States to which I have just referred for many years gave almost undeviating support to the Republican Party and to those elements in the Republican Party whose philosophy was largely founded upon the concept that the tariff was the panacea for all social, political, and economic ills.

I do not desire to be critical, but it cannot be denied that the plight of agriculture has been in part due to the zeal with which many of the agricultural States defended and promoted tariff legislation. It is known that the Republican Party in the agricultural States, as well as in many of the Northern States, has been in the ascendancy largely because of the agricultural votes.

Mr. President, as the result of this tariff legislation and other restrictive and unsound economic policies, we built up a more or less artificial economic and industrial structure, and under the influence of the philosophy which resulted in its establishment, policies were put into effect and legislation enacted that have contributed to the economic debacle through which we have passed, and to the financial disasters which have visited individuals, communities, States, and the Nation itself.

Mr. President, I have hastily and imperfectly discussed the amendment before us. In conclusion, may I say that I do not think it an auspicious occasion to adopt the amendment, and I feel certain that the bill which is before us should not be the organism to which this amendment should be attached.

Mr. ROBINSON. Mr. President, I wish to speak briefly on the amendment.

To the principle underlying the export debenture I do not find myself in opposition. At this time I think it may be confusing and even harmful to attempt to put into effect the provision now under consideration. It authorizes the appropriation of 30 percent of the customs revenues for four purposes; namely, to—

(1) Encourage the exportation of major agricultural commodities and products.

It is proposed to strike out the word "major", so as to leave in the statute no limit on the agricultural products to be promoted in export. The manner in which that is to be accomplished is by the payment of benefits in connection with exportation, or of indemnities for losses incurred in exportation, or by payment to producers in connection with production.

The second purpose is to—

(2) Encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce.

I do not understand what is the process to be employed. How is it proposed to promote domestic consumption by diverting commodities or products from the normal channels of trade? I assume that the language has a well-defined meaning in the mind of its author.

The third purpose is to—

(3) Purchase or lease, on behalf of the United States, submarginal agricultural and grazing lands.

As stated by the Senator from Utah [Mr. KING], we have already made liberal arrangements to that end. It is the opinion, I have heard, of the Secretary of State that the injection of this plan at this time would confuse the problem of increasing our export commerce, and might result in retaliation.

In addition to that, 30 percent of the customs revenues would be so manifestly inadequate for the four purposes stated in the bill that I do not believe it would accomplish a very wholesome result. Assuming that 30 percent of the customs revenues would be \$90,000,000, which I think the Secretary of the Treasury stated in a letter to the chairman would approximate the amount, it is perfectly clear that \$90,000,000 used for benefit payments in promoting export commerce would be, as we often say, a mere drop in the bucket. It would be so absolutely inadequate that it would fail before it had been very long applied.

Mr. GORE. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. GORE. I was wondering if the Senator would be able to tell us why the amendment provides that one-third of the customs duties shall be set aside for this purpose, instead of carrying in the bill an appropriation of the amount that would come to.

Mr. ROBINSON. I presume the reason in the mind of the author of the amendment is that he is seeking to provide a perennial appropriation or authorization, and that he may also anticipate some increase in the customs revenues, and that it would be easier to pass through the Congress a provision of this nature than it would be to pass a direct appropriation.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. CONNALLY. Is the Senator opposed in principle to this proposal?

Mr. ROBINSON. No, Mr. President; I stated in the beginning that I did not find myself in opposition to the principle underlying the export debenture. I thought I made that clear.

Mr. CONNALLY. I was out of the Chamber. I am sorry I did not hear the Senator state that.

Mr. ROBINSON. But I stated the reasons which prompt me to the conclusion that it is a very doubtful proceeding to incorporate this amendment in the bill. I usually find myself in hearty accord with the Senator from Texas, but I think this is a hopelessly inadequate provision insofar as accomplishing very much in increasing export trade is concerned.

Mr. CONNALLY. Is it the Senator's chief objection that it is inadequate? We might, with his influence, be able to increase it.

Mr. ROBINSON. Mr. President, that is one objection. I think I ought to be entirely frank on that subject. To make the customs revenues available for the purposes set out in this amendment would undoubtedly upset the financial arrangements of the Government. I say, in support of what the Senator from Utah [Mr. KING] has said, that I see no objection to the Secretary of the Treasury expressing his opinion on that subject. In fact, I think it is a wholesome thing for him to do. If we should appropriate \$500,000,000, which was the amount carried in the Farm Marketing Act, and which proved wholly ineffective—that act failed, as I think we all agree—we should use the entire customs rev-

enues, and at this time I think we ought to give very careful consideration to a process calculated to accomplish that end.

The PRESIDING OFFICER (Mr. MINTON in the chair). The question is on the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment. [Putting the question.] The ayes seem to have it.

Mr. ROBINSON. I ask for the yeas and nays, Mr. President; and before the request is acted upon I wish to make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBINSON. Which amendment is the Senate now voting on?

The PRESIDING OFFICER. On the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment.

Mr. ROBINSON. I withdraw the request for the yeas and nays. Let us vote on that question.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California [Mr. JOHNSON] to the amendment of the Senator from Texas [Mr. CONNALLY] in the nature of a substitute for the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Texas [Mr. CONNALLY], as amended, in the nature of a substitute for the committee amendment.

Mr. ROBINSON. On that question I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. DAVIS (after having voted in the negative). I have a general pair with the junior Senator from Kentucky [Mr. LOGAN]. I transfer that pair to the junior Senator from Vermont [Mr. GIBSON], who is detained in a committee meeting, and allow my vote to stand.

Mr. CONNALLY. I desire to announce that my colleague the senior Senator from Texas [Mr. SHEPPARD] is detained by important business.

Mr. ROBINSON. I desire to announce the unavoidable absence of the Senator from Louisiana [Mr. LONG], the Senator from Texas [Mr. SHEPPARD], and the Senator from Utah [Mr. THOMAS].

I also wish to announce that the Senator from Arizona [Mr. ASHURST], the Senator from Alabama [Mr. BLACK], the Senator from New Mexico [Mr. CHAVEZ], the Senator from Massachusetts [Mr. COOLIDGE], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Wisconsin [Mr. DUFFY], the Senator from Virginia [Mr. GLASS], the Senator from Kentucky [Mr. LOGAN], the Senator from California [Mr. McADOO], the Senator from New Jersey [Mr. MOORE], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Florida [Mr. TRAMMELL], the Senator from Missouri [Mr. TRUMAN], the Senator from New York [Mr. WAGNER], and the Senator from Montana [Mr. WHEELER] are detained from the Senate on official business.

I wish further to announce that the Senator from New York [Mr. WAGNER] is paired with the Senator from Utah [Mr. THOMAS]. If the Senator from New York were present and voting, he would vote "yea", and the Senator from Utah [Mr. THOMAS] would vote "nay."

I desire also to announce the general pair of the Senator from Texas [Mr. SHEPPARD] with the Senator from Massachusetts [Mr. COOLIDGE].

The result was announced—yeas 34, nays 41, as follows:

YEAS—34

Bailey	Clark	Johnson	Russell
Bankhead	Connally	La Follette	Schall
Bilbo	Copeland	McCarran	Shipstead
Borah	Dickinson	McGill	Thomas, Okla.
Bulow	Fletcher	Murray	Townsend
Byrd	Frazier	Norbeck	Vandenberg
Byrnes	George	Nye	Van Nuys
Capper	Hastings	Overton	
Carey	Hatch	Pope	

NAYS—41

Adams	Davis	Lonergan	Radcliffe
Austin	Donahay	McKellar	Robinson
Bachman	Gerry	McNary	Schwellenbach
Barbour	Gore	Maloney	Smith
Barkley	Guffey	Metcalf	Steiwer
Bone	Hale	Minton	Tydings
Brown	Harrison	Murphy	Walsh
Bulkeley	Hayden	Neely	White
Burke	Holt	Norris	
Caraway	Keyes	O'Mahoney	
Costigan	King	Pittman	

NOT VOTING—21

Ashurst	Duffy	McAdoo	Truman
Black	Gibson	Moore	Wagner
Chavez	Glass	Reynolds	Wheeler
Coolidge	Lewis	Sheppard	
Couzens	Logan	Thomas, Utah	
Dieterich	Long	Trammell	

So Mr. CONNALLY's amendment, as amended, to the committee amendment, was rejected.

Mr. CLARK. Mr. President, in connection with the vote taken yesterday on the amendment proposed by the Senator from Texas [Mr. CONNALLY], I ask unanimous consent to insert in the RECORD the roll-call vote taken on the export-debenture scheme on October 19, 1929, appearing on page 4694 of the CONGRESSIONAL RECORD, volume 71, part 5, Seventy-first Congress, first session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The roll-call vote referred to is as follows:

The VICE PRESIDENT. * * * The question is on agreeing to the amendment of the Senator from Nebraska [Mr. NORRIS] [providing for export debentures.]

Mr. Norris and Mr. Heflin demanded the yeas and nays, and they were ordered.

The Chief Clerk proceeded to call the roll.

Mr. BLAINE (when his name was called). I have a pair with the junior Senator from West Virginia [Mr. Hatfield]. If I were permitted to vote, I would vote "yea." I am authorized to announce that if the junior Senator from West Virginia were present and voting he would vote "nay."

Mr. CARAWAY (when his name was called). I have a pair with the senior Senator from Illinois [Mr. Deneen]. I transfer that pair to the senior Senator from Minnesota [Mr. SHIPSTEAD], who, if he were present, would vote as I shall vote. I vote "yea."

Mr. JONES (when the name of Mr. Edge was called). The senior Senator from New Jersey [Mr. Edge] is necessarily absent. He is paired with the senior Senator from Maryland [Mr. TYDINGS]. If the Senator from New Jersey were present, he would vote "nay." I understand that if the senior Senator from Maryland were present he would vote "yea."

Mr. KING (when his name was called). Upon this vote I am paired with the senior Senator from Louisiana [Mr. Ransdell], and, therefore, I withhold my vote.

Mr. SCHALL (when Mr. SHIPSTEAD's name was called). The senior Senator from Minnesota [Mr. SHIPSTEAD], if present, would vote "yea." He has a pair on this vote with the senior Senator from Illinois [Mr. Deneen].

Mr. SIMMONS (when his name was called). I transfer my pair with the junior Senator from Ohio [Mr. Burton] to the senior Senator from New York [Mr. COPELAND]. If the senior Senator from New York were present, he would vote as I intend to vote. I vote "yea."

Mr. SWANSON (when his name was called). On this vote I have a pair with the senior Senator from Ohio [Mr. Fess]. I am unable to obtain a transfer. If the senior Senator from Ohio were present, he would vote "nay", and if I were permitted to vote I would vote "yea."

Mr. WATSON (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. SMITH], which I transfer to the junior Senator from Illinois [Mr. Glenn], and vote. I vote "nay."

The roll call was concluded.

Mr. BLEASE. I have a pair with the senior Senator from West Virginia [Mr. Goff], who is absent. Not knowing how he would vote if he were present, I withhold my vote.

Mr. BINGHAM (after having voted in the negative). I have a general pair with the Senator from Virginia [Mr. GLASS]. In his absence I transfer my pair to the senior Senator from Vermont [Mr. Dale] and permit my vote to stand.

Mr. BROUSSARD. I desire to announce that my colleague [Mr. Ransdell] is necessarily absent on official business. If present, he would vote "nay." His pair has been announced.

Mr. SWANSON. I wish to announce that my colleague [Mr. GLASS] is necessarily absent. If present, he would vote "yea."

The result was announced—yeas 42, nays 34, as follows:

YEAS, 42—Ashurst, Barkley, Black, Borah, Bratton, Brock, Brookhart, Broussard, Caraway, Connally, Cutting, Dill, Fletcher, Frazier, George, Harris, Harrison, Hawes, Hayden, Heflin, Howell, Johnson, La Follette, McKellar, McMaster, Norbeck, Norris, Nye, Overman, Pine, Pittman, Robinson, of Arkansas, Schall, Sheppard, Simmons, Steck, Stephens, Thomas, of Idaho, Thomas, of Oklahoma, Trammell, Walsh, of Montana, and Wheeler.

NAYS, 34—Allen, Bingham, Capper, Couzens, Gillett, Goldsborough, Gould, Greene, Hale, Hastings, Hebert, Jones, Kean, Kendrick, Keyes, McNary, Metcalf, Moses, Oddie, Patterson, Phipps, Reed, Robinson of Indiana, Sackett, Shortridge, Smoot, Steiwer, Townsend, Vandenberg, Wagner, Walcott, Walsh of Massachusetts, Warren, and Watson.

NOT VOTING, 19—Blaine, Blease, Burton, Copeland, Dale Deneen, Edge, Fess, Glass, Glenn, Goff, Hatfield, King, Ransdell, Shipstead, Smith, Swanson, Tydings, and Waterman.

So Mr. NORRIS' amendment was agreed to.

The VICE PRESIDENT. The question is on agreeing to the committee amendment to strike out section 31.

The amendment was agreed to.

Mr. SMITH. Mr. President, I should like to recur to an amendment on page 58, which was passed over. I think an amendment to the amendment has been prepared.

The VICE PRESIDENT. The Senator from South Carolina asks unanimous consent to recur to page 58 for the purpose of considering an amendment to the committee amendment. Is there objection? The Chair hears none. The clerk will state the amendment.

Mr. SMITH. Mr. President, before the clerk states the amendment, I desire the Senate to understand that the question really involves the amendment on page 58 and the amendment on page 61 so as to bring the elements of both into one amendment. It would be necessary, after the amendment is stated, if we are to consider it, to reconsider the vote by which the amendment on page 61 was adopted.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. ROBINSON. Let us have the amendment reported.

The VICE PRESIDENT. The clerk will report the amendment.

Mr. SMITH. Mr. President, the Senator from Georgia [Mr. GEORGE] has an amendment which he desires to present.

Mr. NORRIS. Mr. President, the chairman of the committee has correctly stated the parliamentary situation. Before the amendment is in order we have to reconsider the vote by which the amendment on page 61 was adopted. I ask unanimous consent—

Mr. ROBINSON. Let the amendment be reported first.

Mr. NORRIS. Very well.

The VICE PRESIDENT. The Chair understands the parliamentary situation to be this. The Senator from South Carolina asked unanimous consent to return to page 58 and consider an amendment which had been passed over. That consent was given. The clerk will state the amendment which was passed over.

The CHIEF CLERK. It is proposed by the committee, on page 57, after line 21, to strike out:

No suit or proceeding shall be brought or maintained in, nor shall any judgment or decree be entered by, any court for the recoupment, set-off, refund, or credit of, or on any counterclaim for, any amount of any tax assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment.

And in lieu thereof to insert the following:

No Federal or State court shall have jurisdiction to entertain a suit or proceeding against the United States or any collector of internal revenue or other internal-revenue officer or any person who has been such a collector or officer or the personal representative of any such collector, officer, or person (nor shall any such suit or proceeding be brought or maintained in, nor shall any judgment or decree be entered by, any such court) (1) for the recoupment, set-off, recovery, refund, or credit of, or on any counterclaim for, any amount of any tax, interest, or penalty, assessed, paid, collected, or accrued under this title prior to the date of the adoption of this amendment or (2) for damages for the collection thereof.

The VICE PRESIDENT. When this amendment was passed over there was pending an amendment offered by the Senator from Nebraska [Mr. NORRIS]. The clerk will state the amendment of the Senator from Nebraska.

Mr. NORRIS. I now withdraw the amendment.

The VICE PRESIDENT. The Senator from Nebraska withdraws his amendment.

Mr. GEORGE. Mr. President, pending the debate it was suggested that perhaps the purpose of the Senator from Nebraska in offering his amendment could be served by

amending subsection (d) of the same section on page 61; but in order to consider the amendment to that subsection unanimous consent would have to be given to reconsider the vote by which subsection (d) on page 61 was heretofore adopted.

The VICE PRESIDENT. The ordinary procedure probably would be for the Senate to consider the amendment on page 58, and then reconsider the amendment on page 61 in order to permit the Senator from Georgia to offer his amendment.

Mr. NORRIS. Mr. President, that would be the ordinary procedure; but, as a matter of fact, if the Senate should adopt the amendment agreed upon by those who were in the conference to the committee amendment on page 61, known as subsection (d), it would follow as a matter of course that the committee amendment on page 58 should be rejected. I think I have properly stated the matter.

Mr. SMITH. That is correct.

Mr. NORRIS. So, in order to deal with the subject, before passing on the amendment on page 58 we should have to consider the amendment of the Senator from Georgia in regard to subsection (d) on page 61.

The VICE PRESIDENT. From the statement made by the Senator from Nebraska, it seems to the Chair that the ordinary process would be to reconsider the amendment on page 61, in order to permit the Senator from Georgia to offer his amendment.

Mr. ROBINSON. But, Mr. President, before consent is given to reconsider the action of the Senate in agreeing to the amendment designated as subsection (d), on page 61, I insist on the reading of the amendment which is to be offered as a substitute for it. I wish to know what is in it. I am not going to consent to a reconsideration until I know what is in the substitute amendment.

The VICE PRESIDENT. Without objection, the Senator from Georgia will offer his amendment to the amendment on page 61.

Mr. ROBINSON. No; I object to its being offered until it has been read. I ask that it be read.

The VICE PRESIDENT. It cannot be read until the Senator offers it.

Mr. ROBINSON. Certainly it can.

Mr. LA FOLLETTE. I ask unanimous consent that the Senator from Georgia may offer his amendment for the purpose of having it read for the information of the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. GEORGE. Mr. President, I have sent to the desk the amendment, which has been prepared by one of the clerks assisting the chairman of the committee.

The VICE PRESIDENT. The amendment will be read for the information of the Senate.

The CHIEF CLERK. In lieu of the matter proposed to be inserted on page 61, line 15, to line 12, on page 62, inclusive, it is proposed to insert the following:

(d) No recovery, recoupment, set-off, refund, or credit shall be made or allowed nor shall any counterclaim be allowed for any amount of any tax, penalty, or interest which accrued before or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless the claimant establishes to the satisfaction of the Commissioner of Internal Revenue, or in the case of a judicial proceeding establishes in such proceeding, (1) that he has not included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, that he has not collected from the vendee any part of such amount, and that the price paid to the producer was not reduced by any part of such amount, or (2) that he has repaid such amount to the ultimate purchaser of the article, or in case the price paid to the producer was reduced by such amount, to such producer; nor shall any judgment or decree be entered by any Federal or State court for damages for the collection thereof, unless the claimant establishes the foregoing facts in (1) or (2) as the case may be, in addition to all other facts required to be established. The provisions of this subsection shall not apply to any refund or credit under subsection (a) or (c) of section 15, section 16, or section 17, of this title, or to any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.

Mr. GEORGE. Mr. President, the amendment now offered, or which it is desired to offer if unanimous consent shall be given to reconsider the committee amendment, simply permits recoveries or recoupments or set-offs or credits for a tax or a penalty paid before the passage of the existing act, or on the date of the passage of the new act, or thereafter, upon the conditions stated in the amendment, which, it is submitted, makes it rather difficult, and places the burden upon the taxpayer; but the view taken, I believe, by practically all Members of the Senate is that there should be no recovery in a case where the tax had actually been passed on.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BARKLEY. On page 62, lines 2 and 3 and part of line 4, appear the words—

and that the price paid to the producer was not reduced by such amount.

It occurs to me that probably there ought to be an insertion there of the words "or any part thereof." How does that strike the Senator from Georgia? It seems that in order to avoid a recovery there it might be necessary to show that the claimant had not collected the exact amount of the tax, or had not reduced the price paid to the producer by the exact amount.

Mr. GEORGE. That had occurred to those who entered the conference, not in precisely that connection, but in connection with substantially the same provision on line 2. It was called to our attention by the experts that the provision here is that no recovery of any amount of any tax shall be made, not of any tax, but of any amount of any tax, so that it was the judgment of the experts that no additional words were necessary to carry out the idea.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. O'MAHONEY. I should like to ask the Senator if there is not an error in grammar here, or, at least, whether the clause beginning in line 7 and running through line 10 does not cover more than the Senator desires? If I understand the proposed amendment correctly, it is intended to provide that no recovery may be obtained unless the claimant establishes the facts set forth in clause 1 or in clause 2. When the Senator comes to say that no judgment shall be rendered, he says, "Unless the claimant establishes the foregoing facts." That, of course, refers to both clause 1 and clause 2. Is it not the intent to provide that no judgment shall be rendered unless the claimant establishes the facts set forth in clause 1 or in clause 2?

Mr. GEORGE. While I had nothing to do with the preparation of the bill, I think that language refers entirely to subsection (2) on page 58, "for damages for the collection thereof." I think that was the intent.

Mr. O'MAHONEY. "The foregoing facts" refers to clause 1 or clause 2.

Mr. GEORGE. The first provision is that no recovery, recoupment, or refund of credit shall be had except upon specified conditions, and if we supply all the omitted thought, second, that no judgment shall be entered for damages unless the same facts are made to appear.

I submit the matter to the chairman of the committee, because that part of it is the committee amendment.

Mr. SMITH. I understand the language in reference to judgments refers to clause 1 or clause 2. The purpose is that it shall refer to clause 1 or clause 2.

Mr. O'MAHONEY. That is exactly what I understood, but the language does not say that.

Mr. SMITH. That is the intent and purpose.

Mr. O'MAHONEY. It seems to me that the author of the amendment should modify it so as to make it read "unless the claimant establishes the fact set forth in the foregoing clause 1 or clause 2."

Mr. SMITH. That would be all right, if that appeals to the Senator to be clearer, because that is the purpose of the amendment.

Mr. GEORGE. That is the purpose of the amendment and I will say to the Senator from Wyoming that he is now

dealing with the committee amendment and not the part of the amendment we considered.

Mr. O'MAHONEY. I realize that. I make the motion, then, that the perfecting amendment I have suggested be made.

Mr. SMITH. I would suggest the language "in clause (1) or clause (2), as the case may be." Then it would be perfectly clear.

Mr. O'MAHONEY. I move that the amendment be so amended.

The PRESIDENT pro tempore. The amendment to the amendment is not in order until the vote by which the committee amendment was agreed to is reconsidered.

Request has been made that the vote by which the committee amendment on page 61 was agreed to be reconsidered. Is there objection? The Chair hears none, and the vote is reconsidered. The question is now on the committee amendment on page 61.

Mr. GEORGE obtained the floor.

Mr. McCARRAN. Mr. President, will the Senator from Georgia yield to me?

Mr. GEORGE. I yield.

Mr. McCARRAN. I am very much in accord with the views of the Senator from Wyoming [Mr. O'MAHONEY], and I should like to know what effect the amendment just offered would have on the committee amendment on page 58, which, as I view it, takes all jurisdiction away from the courts.

Mr. GEORGE. I will say to the Senator from Nevada that if the amendments which are now suggested by the Senator from Idaho, the Senator from Nebraska, the Senator from California, the Senator from Oklahoma, and the Senator from Georgia should be adopted, all the language on page 58 and down to the end of line 5, on page 59, would be eliminated from the bill. The amendment I have offered would be by way of substitute, or rather it would combine in this section which the committee itself inserted, with reference to taxes imposed under the amended act, provision for the recovery of refunds or of overpayments, assessments, and so forth, under the existing act, as well as under the amended act; so that the language of section 21 (a) would be stricken from the bill.

Mr. McCARRAN. I should like to ask a further question, simply for information and enlightenment. Under the Senator's amendment would the courts still be open to litigants? It seems to me the amendment on page 58 would preclude all litigants from an avenue to the courts.

Mr. GEORGE. That would be stricken out.

Mr. McCARRAN. So that the courts would still be open to an adjustment or an adjudication?

Mr. GEORGE. Yes. It is unnecessary now, but the Senator will notice that, on page 59, subdivision (b), which is not under consideration, is a prohibition against the extraordinary remedy of injunction to restrain the collection of the tax, and, of course, it would follow that the complaining taxpayer would be remitted to his legal remedy under subdivision (d), on page 61.

Mr. NORRIS. Mr. President, I did not hear all the debate between the Senator from Georgia and the Senator from Wyoming, and so that there may be no misunderstanding I may say that the intention of those who agreed on the amendment the Senator from Georgia has offered was that if the amendment were agreed to and subsection (d), on page 61, modified in accordance therewith, then the committee amendment, on page 58, would be rejected or withdrawn, because the object of changing the language on page 61 is to take in everything that was intended to be covered on page 58.

Mr. McCARRAN. Mr. President, I ask the attention of the Senator from Georgia to the amendment on page 61. I also ask the attention of the Senator from Nebraska, and I should like to have the attention of the senior Senator from Idaho. If I read it correctly, the provision on page 58 means that there is no avenue by which those who claim redress may resort to the courts, to put it very briefly and concisely.

If my view as to the committee amendment on page 58 is at all correct, then I take it that the amendment offered by the Senator from Georgia is to remedy that condition. I am merely asking the Senator from Georgia and the Senator from Nebraska, and I ask the concurrence of those who are in accord with my views, as to whether or not there will always be open, under the amendment offered by the Senator from Georgia, an avenue to the courts of this country for a redress of wrongs?

Mr. NORRIS. I would say "yes" to that question. The burden of proof, however, is on the plaintiff who commences the action, and he can recover only under the conditions named in the amendment read by the Senator from Georgia. If he has paid a processing tax, he must first show that he has not passed it on to somebody else. He can only recover for what he shows, by proof, he has not passed on. He must also show that in the original purchase he has not pushed the processing tax over onto the producer.

I think the amendment under discussion will accomplish much more than I sought to accomplish by the amendment which I offered on page 58. Under the conditions named in the amendment—there are many other things that the claimant would have to show—the burden of proof would be on the claimant. The courts and the Internal Revenue Bureau would always be open to the claimant.

Mr. McCARRAN. I thank the Senator from Nebraska, and also the Senator from Idaho.

Mr. STEIWER. Mr. President, it has been repeatedly stated that if the Senate shall agree to the amendment offered by the Senator from Georgia on pages 61 and 62 of the bill, it will then be in order to reject the committee amendment on page 58. I think I am able to follow that proposition so far as it goes, but I am not clear as to the effect of rejecting the committee amendment. If the committee amendment which adds material on page 58 shall be rejected, am I to understand that it is the purpose also to reject the committee amendment striking out the language commencing in line 22 on page 57?

Mr. BORAH. That is all part of one amendment. The amendment which we are proposing to strike out is a substitute for the language which appears on the bottom of page 57 and the top of page 58; so that language under this proposal would go out.

Mr. STEIWER. That had not been made clear, Mr. President, but that answers my question.

Mr. McCARRAN. Mr. President, I regret that we cannot hear the colloquy between the Senator from Oregon and the Senator from Idaho. We should like to hear it.

Mr. BORAH. The understanding of those who drew the amendment was that in case the amendment offered by the Senator from Georgia on page 61 should be adopted the language, beginning with section 21, at the bottom of page 57, and including the language on page 58, would be rejected. If that language should not be rejected, the other language would be considered.

Mr. BARKLEY. In other words, if I understand the Senator, the language in subsection 21 which has been stricken out by the committee would be restored and the Senate committee amendment rejected?

Mr. BORAH. No; not restored. The entire section would go out.

Mr. BARKLEY. The House language and the Senate amendment?

Mr. BORAH. Exactly.

Mr. GEORGE. In effect, subsection (d) would become a substitute for subsection (a), beginning with the language on page 57, line 22, down to line 5, on page 59.

Mr. NORRIS. Mr. President, we have been referring to this amendment as appearing on page 58. As a matter of fact, the amendment commences in line 22, on page 57.

The PRESIDENT pro tempore. In the opinion of the present occupant of the chair, the parliamentary situation is that if the committee amendment on pages 58 and 59 should be rejected, the House language would be reinstated.

Mr. BARKLEY. I raise the parliamentary point that merely rejecting the amendment of the committee would

not solve the problem. In addition to that, we should have to reject the original provision in the House bill.

Mr. BORAH. That is understood.

Mr. GEORGE. That is very true.

Mr. BANKHEAD. Mr. President, I regret that I cannot go along with this proposed adjustment of the program. I recognize the motive and spirit of some of the friends of the program in undertaking to adjust it. I have no criticism of anybody. It simply does not meet my views, and I feel that it is my duty so to state.

I am in favor of the committee amendment. It is recognized by every lawyer here who has discussed this question that there exists no right under our system of government for any person to sue the Government unless Congress has given him that right. I think it is recognized by every lawyer in this body that Congress not only has the power to grant that right but it has the power to withhold it, and to withdraw it at any time.

Our entire Federal judicial system, so far as the jurisdiction of the courts is concerned, is based upon and grows out of a grant of jurisdiction by Congress; and unless jurisdiction is granted there is no right in any citizen of this country to bring a suit against the Government in any of the Federal courts.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. BANKHEAD. Mr. President, I have only 15 minutes.

Mr. McCARRAN. I merely wish to make a suggestion which the Senator may use in connection with his discussion. Does the Senator realize that what is involved is not a question of the Government, but a delegation of power that we are now giving to an agency?

Mr. BANKHEAD. Mr. President, I shall proceed with my argument. Let us see whether we are dealing here with highly legalistic ideas, or whether we are dealing with the taxpayers of the country on a basis of fairness and justice to them.

If there is any right of action for the recovery of the processing tax or excise tax, I think practically all of us are in agreement that it is because of the failure of the Congress to make a proper delegation of power to its agents to assess and levy the tax. We undertake to constitute the agent and give the power to levy this tax. There may be some differences about it, but I think the overwhelming judgment is that we had, and now have, the constitutional power to levy this excise tax if it be levied by the Congress, or if the power to levy it be delegated to an agent within proper standards.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. CONNALLY. On page 61, the amendment of the committee provides that the claimant must make proof "that he has not included such amount in the price of the article with respect to which it was imposed." Suppose the claimant should say, "No; I did not include it. I sold it at the same price. I would have made that much more if it had been included." How could that question be determined?

Mr. BANKHEAD. There are many ways in which it would absolutely open up the Treasury to all sorts of raids.

Mr. CONNALLY. Of course, Mr. President, if the tax were declared to be unconstitutional I should be in favor of refunding the tax to those who still have their stocks; but where the goods have entered into the channels of commerce and the tax has been passed on, it seems to me it is absolutely impossible to determine the issues which are raised.

Mr. BORAH. Let me say that in such a case the claimant could not recover under this amendment.

Mr. CONNALLY. It would involve the filing of a million claims with the Bureau of Internal Revenue.

Mr. BANKHEAD. Mr. President, we have the power to levy this tax. If we delegated it to an agent in an irregular or an imperfect way, acting under color of power and authority in our delegation, how has the taxpayer been injured in a really substantial way? Suppose we had made the levy, as we unquestionably had the power to do, would the real substantial rights of the taxpayer be any different than they are merely because the levy was made by our agent, forsooth, under an irregular appointment of the

agent? The rights of the taxpayer would be exactly the same as they are today.

We declare in this bill a ratification of the acts of our agent, which every lawyer knows is based upon the elementary principle of ratification by the principal of the acts of his agent, which has been sustained by the Supreme Court of the United States. The claim here is made that the rights, as some Senators believe—and I know they sincerely believe it—of the taxpayer who has absorbed some of his taxes are based upon a pure technicality, upon merely an irregular or imperfect establishment of the power of agency in the matter of defining the delegation of power.

Why should the doors of the Treasury be opened when they would not have been opened if we had levied the tax as we are doing now, as we have the power to do, and as we sought to do in a legal way but failed to accomplish, as possibly may be decided, in an entirely legal way in the matter of the power vested in the agent?

Mr. President, notwithstanding the legalistic theory, notwithstanding the abstract declaration of lawyers here that every citizen should have the right to sue his Government, I say that is not the law of the land. There are many wrongs for which citizens cannot now bring suits against their Government. Even the Court of Claims has a jurisdiction limited to a certain class of claims. The Congress of the United States is open to any citizen who can make a prima facie showing of an injustice or an injury. At every session the committees are passing upon such claims and then referring them by acts of Congress to the Court of Claims. Our doors are not closed. They are open and entered constantly by the people of the country who have grievances against their Government.

But under the proposed program, as I understand, a taxpayer can recover merely because the tax may be unconstitutional, assuming that the act is declared to be unconstitutional, although it was an exercise of constitutional power in an imperfect or an irregular way. Under that program the taxpayer can recover if he did not pass the tax on to the consumer or take it from the producer; in other words, if he did not make a profit out of his business with the tax deducted.

How can that be done? What are we going to do with the packers, the largest class of taxpayers under the law? What are we going to do with their case? There are several hundred millions of dollars involved. They did not pass the tax on. I want to read the testimony of one of their representatives before the Committee on Agriculture and Forestry, a man by the name of Putnam, representing the Institute of American Meat Packers of Chicago. His official position is economist with Swift & Co. I read:

Senator BANKHEAD. Let me ask you a question there for my own information: You state if the processing tax were eliminated that the price of hogs would immediately increase in the same amount?

Mr. PUTNAM. Yes, sir.

Senator BANKHEAD. I infer from that then that the processing tax was not taken out of the price paid the farmer for the hogs.

Senator CAPPER. I don't see how you figure it any other way. If the price jumps up when you take the processing tax off, certainly the farmer now is paying it.

Senator BANKHEAD. You are correct. The point I want to make is this: Then the consumer is not paying any more on account of the processing tax?

Mr. PUTNAM. He is paying more on account of the present reduction program.

Senator BANKHEAD. I understand, but not on account of the processing tax. If your price to the farmer goes up the same amount as the processing tax, then the packer has the same cost with or without the processing tax, isn't that a fact?

Mr. PUTNAM. Will you restate that, please? I am sorry I did not get it first.

Senator BANKHEAD. I say if the price of the hog goes up the same amount as the processing tax, in the event of the elimination of the processing tax, then the cost to the packer is exactly the same whether they have a processing tax or not?

Mr. PUTNAM. That is correct.

Senator BANKHEAD. And the cost to the consumer is the same?

Mr. PUTNAM. Yes, sir.

Senator BANKHEAD. So the processing tax is not involved in the cost to the consumer, but in the reduction program?

Mr. PUTNAM. Yes; there might have been no processing tax at all, but there might have been an instrument enabling the Government to bring about the same reduction.

Senator CAPPER. Mr. Putnam, you claim that the farmer is not paying the processing tax as the system is now working?

Mr. PUTNAM. A lot of that is sent back to him in the form of a benefit payment.

Senator CAPPER. But the price you pay the farmer for his hog today is less the processing tax?

Mr. PUTNAM. It is the value of the hog for meat purposes, less the processing tax. That is the way it works out.

Under the bill they bring a suit. They prove their right of action by decision of the Supreme Court that the act is unconstitutional, and therefore there was no right to collect that tax, although they paid it voluntarily and without protest. They bring suit and make their proof. Then they show by their records, based upon the cost of the hog, that they did not pass the tax on to the consumer. All right. Then they are asked, "What about taking it out of the producer?" How can that be proved, I ask lawyers in this body?

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. BANKHEAD. Certainly.

Mr. GEORGE. I ask the Senator if he is not a member of the Committee on Agriculture and Forestry?

Mr. BANKHEAD. I am, and the Senator from Georgia knows it.

Mr. GEORGE. Let me say to the Senator that the language which he is now criticizing and the provision to which he is making objection are the language and the provision of the committee itself, to which the Senator from Alabama undoubtedly agreed. If it is an impossible condition or an improper condition, Members of the Senate who are not members of the Committee on Agriculture and Forestry are in nowise responsible for it.

Mr. BANKHEAD. I assume the Senator is talking about the suits brought for taxes hereafter to be paid?

Mr. GEORGE. Both heretofore and hereafter.

Mr. BANKHEAD. Not heretofore. The Senator is proposing to amend the bill so as to make it apply to taxes heretofore collected, but it is not in that section of the bill where it is provided that the taxpayer must make the proof which the Senator is now proposing to require. It was not required. It was the object of the amendment to permit suits by those who had heretofore paid the taxes by making the same proof as those who may bring suit because of taxes hereafter paid.

Mr. GEORGE. It is more unfair as to those who have already paid the tax. They are under no greater hardship, so if the Senator and the Senator's committee thought it proper to impose this provision on the taxpayer of the future and give him notice of it so he could meet it, certainly his argument seems not to be very pertinent when he applies it to the taxpayer who has already acted under the existing law.

Mr. BANKHEAD. The difference, I will say to my very able friend from Georgia, is based upon the fact that this bill has been prepared largely to meet anticipated adverse Supreme Court decisions.

Mr. GEORGE. Suppose it turns out that there is another adverse decision.

The PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. BANKHEAD. I will now speak on the bill.

I will say to the Senator from Georgia that we are not assuming that; otherwise we should not be here trying to pass the bill. We are assuming that we have now adjusted and fixed the tax levy so that the same question will not arise, and there will not be a prima facie right to recovery on transactions after the passage of this bill such as existed before the passage of the bill. That is the distinction between the two subjects.

Mr. ADAMS. Mr. President, may I interrupt to ask a question as to the parliamentary status? My understanding is that a request was made, and a necessary request, to reconsider the adoption of the committee amendment on page 61.

Mr. BANKHEAD. Mr. President, I cannot yield for that purpose out of my time. I am not concerned with the parliamentary question.

Mr. ADAMS. Mr. President, a parliamentary inquiry. The PRESIDENT pro tempore. The Senator will state it. Mr. ADAMS. My inquiry is whether or not the committee amendment on page 58 has been adopted.

The PRESIDENT pro tempore. It has not been adopted. Mr. ADAMS. Inasmuch as it has not been adopted, as I understand, it does not take unanimous consent to consider this amendment, applicable only to circumstances prior to the passage of the bill.

The PRESIDENT pro tempore. That is correct. The amendment was passed over temporarily, and all that is necessary is a vote on the committee amendment on pages 57 and 58.

Mr. BANKHEAD. Mr. President, going back to the meat packers, as I say, there is no way to show that they passed on this tax. They have claimed that they did not do so. If it shall be undertaken to show that they took the tax out of the producer, the burden of proof will be on them; and the question will arise, What would have been the price if the tax had not been imposed?

Mr. BYRNES. Mr. President, will the Senator yield to me for a question?

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from South Carolina?

Mr. BANKHEAD. I do.

Mr. BYRNES. When a gasoline tax is levied there is an advertisement at the filling station stating "gasoline, so much; tax, so much"; and it is plainly shown that the tax is carried on.

When the manufacturer of cotton bills his cotton to the commission merchant in New York he does not segregate the processing tax from the price of the cotton, but merges it, and bills the cotton goods at a price, say of \$100 for a bill of goods.

Do I understand that the manufacturer can claim he paid the processing tax, allege that he did not pass it on—and there will be nothing to show that he did—and be able to collect from the taxpayers the amount of the processing tax which he has already actually passed on and collected from the people?

Mr. BANKHEAD. If he can prove that he did not pass it on, of course the Treasury will pay it back to him.

Mr. BYRNES. He can allege that he did not pass it on. He can show that he billed a certain bill of goods for \$100. That \$100 would include the processing tax, but it would not be segregated. In the cotton trade, certainly, it was argued in the beginning of the processing tax that the manufacturers should itemize it, and state the cost of the goods, plus the processing tax. They did not do that in the great majority of instances; so they could produce bills showing the cost of goods which really included the processing tax, but if they should allege that it was not included how could the Government controvert that statement?

Mr. BANKHEAD. There would be no way in the world to prove it.

Mr. ROBINSON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Alabama yield to the Senator from Arkansas?

Mr. BANKHEAD. I do.

Mr. ROBINSON. It is understood that the Senator from Alabama retains the floor. I am about to move that the Senate proceed to the consideration of executive business.

ANNOUNCEMENT OF SPEECH BY SENATOR LONG

Mr. THOMAS of Oklahoma. Mr. President—

Mr. ROBINSON. I yield to the Senator from Oklahoma.

Mr. THOMAS of Oklahoma. I have just received a telegram from one of our colleagues. Complying with the request made in the telegram, I ask that it be read at the desk.

The PRESIDENT pro tempore. Without objection, the telegram will be read.

The Chief Clerk read as follows:

ATLANTA, GA., July 18, 1935.

Senator ELMER THOMAS:

Please announce for me that I will speak as soon as I can get the floor Friday on issues of the day.

HUEY P. LONG.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. CLARK in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters, which were ordered to be placed on the Executive Calendar.

The PRESIDING OFFICER. If there be no further reports of committees, the calendar is in order.

DIPLOMATIC AND FOREIGN SERVICE

The Chief Clerk read the nomination of Hoffman Philip, of New York, to be Ambassador Extraordinary and Plenipotentiary to Chile.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Anthony J. Drexel Biddle, Jr., of Pennsylvania, to be Envoy Extraordinary and Minister Plenipotentiary to Norway.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Lester A. Walton, of New York, to be Envoy Extraordinary and Minister Plenipotentiary to Liberia.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Cornelius Van H. Engert, of California, to be consul general.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Edwin Carl Kemp, of Florida, to be consul general.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Addison E. Southard, of Kentucky, to be secretary in the Diplomatic Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Leslie E. Reed, of Minnesota, to be secretary in the Diplomatic Service.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The Chief Clerk proceeded to read the nominations of sundry postmasters.

Mr. ROBINSON. I ask that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations of postmasters are confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 38 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Friday, July 19, 1935, at 12 o'clock meridian.

NOMINATIONS

*Executive nominations received by the Senate July 18
(legislative day of May 13), 1935*

BOARD OF TAX APPEALS

William W. Arnold, of Illinois, to be a member of the Board of Tax Appeals for the unexpired portion of a term of 12 years from June 2, 1932, vice Jed C. Adams, deceased.

Arthur J. Mellott, of Kansas, to be a member of the Board of Tax Appeals for the unexpired portion of a term of 10 years from June 2, 1926, vice Edgar J. Goodrich, resigned.

UNITED STATES DISTRICT JUDGE

Edward M. Watson, of Hawaii, to be United States district judge, district of Hawaii, to succeed Edward K. Massee, term expired.

ASSOCIATE JUSTICE SUPREME COURT, TERRITORY OF HAWAII

Emil C. Peters, of Hawaii, to be associate justice, Supreme Court, Territory of Hawaii, vice Charles F. Parsons, term expired.

CIRCUIT JUDGES, TERRITORY OF HAWAII

Albert M. Cristy, of Hawaii, to be second judge, first circuit, Territory of Hawaii. (A reappointment, his term having expired.)

Francis M. Brooks, of Hawaii, to be fourth judge, first circuit, Territory of Hawaii, vice Edward M. Watson, nominated to be United States district judge, District of Hawaii.

Daniel H. Case, of Hawaii, to be circuit judge, second circuit, Territory of Hawaii. (A reappointment, his term having expired.)

INSPECTORS OF LOCOMOTIVE BOILERS

John M. Hall, of the District of Columbia, now assistant chief inspector of locomotive boilers, to be chief inspector of locomotive boilers, vice Alonzo G. Pack.

John Brodie Brown, of Oregon, to be assistant chief inspector of locomotive boilers, vice John M. Hall.

CONFIRMATIONS

*Executive nominations confirmed by the Senate July 18
(legislative day of May 13), 1935*

DIPLOMATIC AND CONSULAR SERVICE

Hoffman Philip, to be Ambassador Extraordinary and Plenipotentiary to Chile.

Anthony J. Drexel Biddle, Jr., to be Envoy Extraordinary and Minister Plenipotentiary to Norway.

Lester A. Walton to be Envoy Extraordinary and Minister Plenipotentiary to Liberia.

Cornelius Van H. Engert to be a consul general.

Edwin Carl Kemp to be a consul general.

Addison E. Southard to be a secretary in the Diplomatic Service.

Leslie E. Reed to be a secretary in the Diplomatic Service.

POSTMASTERS

PENNSYLVANIA

Ruth R. Dufford, Clintonville.

William H. Molloy, Ivyland.

Marie E. Potteiger, Progress.

Edmund P. Lawlor, Terrace.

Claude E. Minnich, Wiconisco.

HOUSE OF REPRESENTATIVES

THURSDAY, JULY 18, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Spirit of God, Father of our souls, be pleased to continue Thy ministrations unto us; with gratitude we praise Thee. Give us voices to speak, not for profit but for the poor; not for self but for service. More and more make us men of loyalty, unselfishness, and of industry. O write the word of the ages in our hearts: "The steps of a good man are ordered of the Lord, and he delighteth in his way." Hold us

firmly to this truth, for where it is violated the social order falls apart. Father in Heaven, may we hear and may we heed: "God shall bring every work into judgment, whether it be good or whether it be evil." We pray in the name of our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7260) entitled "An act to provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes."

The message also announced that the Senate further insists upon its amendments numbered 17, 67, 68, 83, and 84 to the foregoing bill, asks a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5917) entitled "An act to provide for the appointment of additional United States judges."

THE SOCIAL-SECURITY BILL

Mr. SAMUEL B. HILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 7260, the social-security bill, further insist on its disagreement to the amendments of the Senate, and agree to the conference asked for.

The SPEAKER. The Clerk will report the title.

The Clerk read the title, as follows:

H. R. 7260

To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Chair appointed as conferees on the part of the House Mr. DOUGHTON, Mr. SAMUEL B. HILL, Mr. CULLEN, Mr. TREADWAY, and Mr. BACHARACH.

COMMITTEE ON MILITARY AFFAIRS

Mr. ROGERS of New Hampshire. Mr. Speaker, I ask unanimous consent that the Committee on Military Affairs may be permitted to sit today and tomorrow during the sessions of the House.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent that tomorrow, immediately after the reading of the Journal and the disposition of matters on the Speaker's table, I may be permitted to address the House for 7 minutes.

The SPEAKER. Is there objection?

Mr. SNELL. Reserving the right to object, I should like to ask the Speaker what is to be the order of business tomorrow?

The SPEAKER. The rule making in order the so-called "Flannagan bill" and also the rule relating to the promotion of officers may be called up.

Mr. O'CONNOR. Mr. Speaker, there are three rules—the tobacco bill, which was started yesterday, the Mississippi River set-back bill, and the Army promotion bill, and they will probably be called up in that order.

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 18), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. WHEELER to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the end of the bill insert the following:

- 1 SEC. . That in order to develop a national program
- 2 of land conservation and utilization, there is hereby appro-
- 3 priated, out of any money in the Treasury not otherwise
- 4 appropriated, to be used in the discretion and under the direc-
- 5 tion of the President, to be immediately available and to
- 6 remain available until expended, the sum of \$50,000,000.
- 7 This appropriation shall be available for the acquisition and
- 8 the retirement of submarginal land from agricultural use,
- 9 except for grazing purposes.

1 SEC. . In carrying out the provisions of this Act
2 the President may appoint, without regard to the provi-
3 sions of the civil-service laws, such officers and employees,
4 as may be necessary, prescribe their authorities, duties,
5 responsibilities, and tenure, and, without regard to the
6 Classification Act of 1923, as amended, fix the compen-
7 sation of any officers and employees so appointed; and he is
8 authorized to make the necessary expenditures for the
9 salaries of such officers and employees, and their expenses,
10 including travel expenses, rental, office equipment, printing,
11 title abstracting, and such other expense as he may deter-
12 mine necessary to accomplish the objectives of this Act.

13 SEC. . In carrying out the provisions of this Act,
14 the President is authorized (a) to establish and prescribe
15 the duties and functions of governmental agencies necessary
16 therefor; (b) to delegate the powers conferred on him
17 under this Act to any governmental agency.

18 SEC. . In carrying out the provisions of this Act
19 the President is authorized (a) to make contracts and
20 grants, or both; and (b) to acquire, by purchase or
21 by the power of eminent domain, any real property or
22 any interest therein and improve, develop, maintain, grant,
23 sell, exchange, lease (with or without the privilege of pur-
24 chasing), or otherwise dispose of any such property or
25 interest therein.

1 SEC. . The President is authorized to prescribe such
2 rules and regulations as may be necessary to carry out this
3 joint resolution, and any violation of any such rule or regu-
4 lation shall be punishable by fine not to exceed \$1,000.

5 SEC. . Any proceeds or receipts derived by the Pres-
6 ident by virtue of the activities conducted pursuant to this
7 joint resolution shall be available to the President as a
8 revolving fund to be used in the furtherance of this joint
9 resolution.

10 SEC. . The Secretary of the Treasury, upon order of
11 the President, shall pay annually to each municipality or
12 other political subdivision of any State, including (but not
13 hereby limiting the generality of the foregoing) any county,
14 parish, township, unincorporated tax or special assessment
15 district, and any school, drainage, irrigation, reclamation,
16 levee, sewer, paving, sanitary, port, improvement, or other
17 district (hereinafter referred to as a "taxing district"), in
18 which lands in private ownership are acquired by the Presi-
19 dent pursuant to this joint resolution, an amount equal to the
20 amount of the taxes that would have accrued to such taxing
21 district if such lands had remained in private ownership and
22 taxable.

23 SEC. . The President may ascertain from the proper
24 officials of each such taxing district the rate of taxation
25 prevailing therein for each taxable year and the assessed

1 value of the lands with respect to which the payments
2 authorized by section 7 may be made. Upon the basis of
3 such rate of taxation and such value, the President may
4 determine the amounts which may be paid, the time and
5 conditions of payment, and the persons to whom they are
6 to be paid; and shall have authority for such purpose to fix
7 the value of, and to require the taxing district to furnish
8 services in connection with, the lands on account of which
9 payments are made. If, in the determination of the Presi-
10 dent, the assessed value determined as aforesaid is excessive,
11 then the President may determine the value of such lands
12 for the purpose of such payment. The determination by
13 the President that payments be made, of any amount to be
14 paid, and the conditions of the payment shall be final, and
15 each amount so determined shall be submitted to the Secre-
16 tary of the Treasury together with a report thereon and an
17 order for payment.

18 SEC. . All transactions of the Treasury Department
19 with respect to such payments shall be final and conclusive
20 upon all officers of the Government.

21 SEC. . No payment shall be made to any taxing
22 district under the provisions of this joint resolution unless
23 such taxing district maintains books, records, accounts, and
24 memoranda, and permits the examination of and produces
25 such books, records, accounts, and memoranda in accordance
26 with such regulations as the President shall prescribe.

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 18), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. O'MAHONEY to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz:

- 1 On page 56, line 19, after "the" insert "and by
- 2 adding at the end of the proviso the following: 'but post-
- 3 ponement of all taxes covered by returns under this title
- 4 for a period not exceeding one hundred and eighty days
- 5 may be permitted in case in which the Secretary of the
- 6 Treasury authorizes such taxes to be paid each month on
- 7 the amount of the commodity marketed during the next
- 8 preceding month'."

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 18), 1935

Ordered to be printed

AMENDMENT

Proposed by Mr. GEORGE to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: In lieu of the matter proposed to be inserted on page 61, line 15, to line 12, page 62, insert the following:

1 “(d) No recovery, recoupment, set-off, refund, or
2 credit shall be made or allowed nor shall any counter claim
3 be allowed for any amount of any tax, penalty, or interest
4 which accrued before or after the date of the adoption of
5 this amendment under this title (including any overpay-
6 ment of such tax), unless the claimant establishes to the
7 satisfaction of the Commissioner of Internal Revenue, or
8 in the case of a judicial proceeding establishes in such pro-
9 ceeding (1) that he has not included such amount in the

1 price of the article with respect to which it was imposed or
2 of any article processed from the commodity with respect
3 to which it was imposed, that he has not collected from the
4 vendee any part of such amount, and that the price paid
5 to the producer was not reduced by any part of such amount,
6 or (2) that he has repaid such amount to the ultimate pur-
7 chaser of the article, or in case the price paid to the pro-
8 ducer was reduced by such amount, to such producer; nor
9 shall any judgment or decree be entered by any Federal or
10 State court for damages for the collection thereof, unless the
11 claimant establishes the foregoing facts, in (1) or (2) as
12 the case may be, in addition to all other facts required to be
13 established. The provisions of this subsection shall not
14 apply to any refund or credit under subsection (a) or (c)
15 of section 15, section 16, or section 17 of this title, or to
16 any refund or credit to the processor of any tax paid by
17 him with respect to articles exported pursuant to the pro-
18 visions of section 317 of the Tariff Act of 1930."

payers. In any year in which a taxpayer could not use a travel certificate his name should, upon request, be omitted from the drawing list. This system of drawing is simple. It would have the great advantage that where more than one member of a family paid income taxes, and would therefore be entitled to a certificate, such members of a family would receive their trips at the same time. To allow planning ahead certificates should be good for 15 months.

Of course, variations of this method are possible. If you think more of equity than of equality, you would divide the taxpayers into several classes by the amount they pay, and give certificates of greater value to those who pay much than to those who pay little. If you do not blink at admitting that the human race loves to gamble, you might add zest to the affair by giving every tenth person on the list a certificate of double value and every hundredth person a quadruple one. Because of its educational value, some of this travel might well be given to school teachers. As their salaries are exempt from income tax, very few of them would be on the Treasury's list.

The third method of receiving payment was put forward by John Crowe Ransom. It is that we take some 5,000 foreign scholarships a year. These would be distributed free to the high-school graduates throughout the country who would be most likely to profit from them. I think this is an excellent idea. It could be used in conjunction with either of the foregoing plans.

Perhaps you can think up other acceptable extra services. For instance, I could suggest that the debtor nations take some millions of our unemployed to feed and clothe in their own countries until we needed them again. However, I think that plan would appeal to very few; it certainly does not appeal to me.

Some selfish persons will claim that one or another of these plans would be detrimental to their business, but I believe that if any of them were carefully worked out, it would be found that the injuries to American interests would be extremely small in comparison to the benefits derived. The babbitt type of mind will label the whole idea impractical, because it calls for no cash payments. But to me it seems much more practical to take something of real value in return for these debts than to force them into default or cancellation by demanding the impossible.

The real war loans were products of American natural resources and American toil. Until we get back an equal amount of the products of foreign natural resources and foreign labor we shall have received no real payment.

THE GUFFEY COAL BILL

Mr. GUFFEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Gen. Hugh S. Johnson, appearing in the Washington Daily News of July 18, 1935, relative to the so-called "Guffey coal bill."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONE MAN'S OPINION

By Hugh S. Johnson

"There is every reason in economics, government, and humanity to pass the Guffey bill promptly. The argument for not passing it is a desire to preserve an unregulated zone of license."

Great pother is made about the administration urging to pass the Guffey bill, on the following arguments:

The bill is unconstitutional. To ask for its passage is to violate the oath of the urger to support and defend the Constitution, and to suborn a violation of his oath by every legislator who is urged.

To support this dictum the argument is that the Guffey bill purports to regulate mining within a State, that the Supreme Court in the "sick chicken" case decided that the Federal Government could not, under the Constitution, regulate mining within a State, and therefore that a vote for the Guffey bill is a vote to violate the Constitution.

"The Constitution is what the Supreme Court says it is"—so asserted the outstanding legal luminary of the law.

It is not what Congress says or what any legislator may think it is. If a bill was proposed to restore slavery, a man would be impeached if he voted for such a clear-cut violation.

But in the vague and cloudy air of the extent of Federal power under the commerce clause, nobody but the Supreme Court knows the answer.

The Supreme Court has never said that the Federal Government may not regulate coal mining in a State. In fact, coal mining within a State has been regulated under the commerce clause and the Supreme Court has upheld the regulation—not once but several times.

The Court in the "sick chicken" case did not decide that Congress cannot regulate the bituminous-coal industry. It only decided that it cannot regulate wages of a shoachim butcher who kills a chicken in Brooklyn for sale in that city—which is a very long way from saying that a great national natural resource industry, which is dying for want of regulation, and which no State can possibly regulate, must go on and die, to the acute distress of millions of people, because there is no power in our system—either in any State or in the United States—to protect it from suicidal abuses.

In argument in the "sick chicken" case, the court quoted language from another case in which it was said that mining was too remote from interstate commerce to bring it within the Sherman

Act, and it probably was shown to be exactly that remote in the circumstances of that quoted case.

But, on the very same day that it decided the "sick chicken" case, the court warned that such language so quoted from another case does not make the law or confine its decision in a subsequent case.

The disclosures of N. R. A. prove that, unless the Federal Government can regulate these great national industries, there is no power in this country that can regulate them. The court cannot, and will not, in a case clearly presenting this outstanding fact, decide that in this Government alone, of all the governments on the globe, there exists any such vast zone of economic anarchy.

N. R. A. can't be brought up again to present that problem. The Guffey bill, if enacted and promptly brought before the court, would present it. It must be presented and presented quickly, for if we have any such insane blind spot as that in our Constitution (which is an absurd idea), then we must amend the Constitution and do it quickly.

There is every reason in economics, government, and humanity to pass the Guffey bill promptly. The argument for not passing it is the urging of those who would like to preserve exactly the unregulated zone of license which any uncertainty on this fundamental point permits.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. BANKHEAD. Mr. President, as I understand the parliamentary situation, the pending question is the adoption of the committee amendment to section 21 (a). Is that correct?

The VICE PRESIDENT. The Chair decides that the parliamentary situation is this: To the committee amendment on page 61, beginning in line 15, the Chair understands the Senator from Georgia [Mr. GEORGE] has offered an amendment in the nature of a substitute, and that is the pending amendment.

Mr. BANKHEAD. What has become of the committee amendment to section 21 (a)? That is the question I am discussing.

Mr. GEORGE. It was passed over temporarily.

The VICE PRESIDENT. The parliamentary clerk advises the Chair that that amendment was passed over.

Mr. BANKHEAD. I ask to have it taken up now.

The VICE PRESIDENT. The amendment of the Senator from Georgia to the committee amendment on page 61, line 15, is now pending. The amendment to which the Senator from Alabama refers can only be taken up at this time by unanimous consent.

Mr. BANKHEAD. I think what I have suggested would be the orderly way in which to proceed, because if section 21 (a), the committee amendment, should be eliminated, then there would be no controversy about the amendment of the Senator from Georgia.

The VICE PRESIDENT. The Chair is not sufficiently familiar with the legislation to know what it is best to do. He will put the request for unanimous consent if the Senator from Alabama so desires.

Mr. GEORGE. Mr. President, I will say to the Senator from Alabama that the only purpose in the world in offering this particular amendment to subsection (d) on page 61 was that in the event of its adoption it would simply prevent duplication, because it is desired by the Senator from Nebraska [Mr. NORRIS], who has suggested an amendment, that substantially the same provision be inserted in section 21 (a), on page 58, and we were simply endeavoring to prevent a duplication of language.

Mr. BANKHEAD. I understand the purpose of the Senator, but I submit to him the orderly way would be to consider first section 21 (a). If that committee amendment shall be adopted, there will be no necessity for the compromise amendment; if it shall not be adopted, I will favor the compromise amendment. So the real test is on the adoption first of the amendment as to foreclosure from the courts.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield; but we are dealing with a parliamentary question now, and I hope this discussion will not be taken out of my time.

The VICE PRESIDENT. The Senator is yielding.

Mr. NORRIS. I will not ask the Senator to yield.

Mr. BANKHEAD. I ask unanimous consent that section 21 (a) be now considered.

Mr. GEORGE. I shall have to object to that, because, in the interest of preventing a duplication, the bill should be dealt with in the way in which we are now proceeding.

The VICE PRESIDENT. Objection is made.

Mr. BANKHEAD. The real test involved is whether the committee amendment contained on pages 57, 58, and part of page 59 shall be eliminated from the bill or retained. If that amendment should be retained, then, of course, there would be no occasion for the compromise amendment, because no suits could be brought on account of transactions which took place under the present act. If that committee amendment should not be retained, then I quite agree that the compromise amendment should be adopted, because it would apply then to past transactions the same rule that it is proposed to apply to future transactions under the bill.

Mr. President, how much time have I?

The PRESIDENT pro tempore. The Senator's time will expire at 12:30 o'clock.

Mr. BANKHEAD. I am addressing myself now to the proposition which I have just stated and to the importance of retaining section 21 (a) in the bill. That is the provision which would foreclose suits for the recovery of taxes under the existing law.

I desire to point out to Members of the Senate in the beginning that in a few days we are going to have this very same question before the Senate in another bill. Yesterday the House passed the bill known as the "gold-bond bill." Doubtless it will be before the Senate in a few days. That bill adopts the same policy that is contained in the committee amendment to the pending bill, namely, to foreclose the bringing of suits in the courts as the result of the act of Congress in devaluating the gold dollar. It involves the same questions that claimants are injecting here, namely, that they have a right to show they have been damaged by that action. It is proposed by that bill—and I am in favor of the bill—to do exactly the same thing we are proposing to do in this bill.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. BANKHEAD. I yield.

Mr. NORRIS. I agree with the Senator as to being in favor of the other bill, but I do not agree with him when he says that it is proposing to do just the same thing as we are now trying to do here.

Mr. BANKHEAD. I say the same principle is involved.

Mr. NORRIS. I do not like to take the Senator's time.

Mr. BANKHEAD. I say the same principle is involved, foreclosing the courts to that kind of claim.

This is not a new proposition. There is a precedent power for it in legislation and in a decision by the Supreme Court of the United States in what we call the Philippine tariff case. Following the war with Spain the President levied tariffs for the Philippines after we obtained possession of the islands. Later, after the ratification of the peace treaty, those tariffs were continued. The Supreme Court held that before the ratification of the treaty the President had the power, as the commander in chief of the colony, to levy the tax, but after the ratification of peace he did not have that power. The tariffs, however, were continued and payments were made under the order of the President. Suit was brought in a case known as *United States v. Heinszen & Co.* (206 U. S. —). After the decision of the Supreme Court that the tariff collections were illegal after the ratification of the treaty, Congress then passed an act providing as follows:

That the tariff duties, both import and export, imposed by the authorities of the United States or of the provisional military government thereof in the Philippine Islands prior to March 8, 1902, at all ports and places in said islands, upon all goods, wares, and merchandise imported into said islands from the United States, or from foreign countries, or exported from said islands, are hereby legalized and ratified, and the collection of all such duties prior to March 8, 1902, is hereby legalized and ratified and confirmed as fully to all intents and purposes as if the same had by prior act of Congress been specifically authorized and directed.

My time is so limited that I shall not have time to read the portions of the opinion which I should like to present to the Senate, but the Court held:

That where an agent, without precedent authority, has exercised in the name of a principal a power which the principal had the capacity to bestow, the principal may ratify and affirm the unauthorized act, and thus retroactively give it validity when rights of third persons have not intervened, is so elementary as to need but statement. That the power of ratification as to matters within their authority may be exercised by Congress, State governments, or municipal corporations is also elementary.

Then the Court proceeded to a discussion in which it pointed out and held that, although there was no authority for collection of the taxes sued for, yet by the act of ratification the taxpayer was foreclosed from sustaining a suit for a refund of taxes.

I submit that the question has not only received the attention of the Congress of the United States for the avowed purpose of cutting off and foreclosing recovery of taxes which might have been authorized by Congress, but which had not been legally authorized in a constitutional way, but the Congress then fully ratified and confirmed the levy and collection of the taxes in an irregular and unauthorized way under color of authority and by an order of the President which he had no power to execute. The Supreme Court fully sustained it.

There we have the precedent, both by Congress and by the highest court of our country, for foreclosing suits of this character upon claims which have grown out of the collection of taxes under color of authority in cases where the Congress did have the power, but had not properly executed it.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BANKHEAD. I cannot yield. I have only a few minutes. Please permit me to finish my legal argument.

Mr. President, why be so technical in preserving the rights of the processors who are involved in this program? If the taxes have been passed on, I hear of no effort to protect the rights of the consumers who have paid the illegal taxes. If the taxes have been taken from the producers and there is a sacred right to have a refund of such taxes, I hear of no efforts to protect the producers in the recovery of taxes which have been illegally taken from them when the tax was deducted from the sale price.

If we are ratifying, as we are, the collection of the taxes levied by an agent of Congress, then I ask why we should strain at a legalistic view, why we should go so far as we are probably about to go to give a right of action to refund taxes to those who have voluntarily paid them?

There are, of course, many difficulties involved in this program. Here confessedly, I submit, under the authority of the Supreme Court in the case I have cited, there is no cause of action on the part of the processors who have paid this tax. Then why not meet the issue squarely? Why not, in ratifying the action of our agent, close up the whole question, and not leave it to the judgment and views of different district court Federal judges throughout the country?

We have a section in the code which expressly prohibits injunctions on the collection of taxes; yet, notwithstanding that express prohibition in the law, Federal judges all over the country are ignoring and violating it and issuing injunctions day after day on flimsy excuses or justification for ignoring that law. In Pennsylvania, day before yesterday, a Federal judge with a series of these injunction applications before him, in order to avoid this section, issued a declaratory judgment in each of 16 cases and notified the collector that if he attempted to collect the tax he would not give him a certificate of probable cause, and therefore he would be personally responsible for his action.

So that is the situation with which we are dealing here. If we are going to ratify this matter, let us close it up. Let us not leave it to the uncertainty involved in the determination of who passed on the tax or who took it out of the producer, a subject most difficult of ascertainment, and one on which different judges—and this is a question for the judges and not for the jury—would establish different formulas for reaching conclusions.

A processor comes in and says, "I did not pass on this tax." How is that positive statement in testimony to be

overcome? Can the fact be ascertained by whether or not he has made a profit in his business? Are we going to establish the doctrine that the man who is inefficient in his business operations—inefficient as a result of obsolete machinery, bad management, inefficient sales management, and so forth—simply because he does not show a profit in his sales, because he does not show a sales price in excess of his other costs, not including this tax, is entitled to have this tax returned? Are we going into what is a reasonable cost, what salaries are paid to officials, what improper management exists all through the operations of the business; or are we going to establish whether or not various processors got the same price for their goods? If they did, of course, it would be conclusive evidence that they did pass on the tax, or else that none passed it on, unless the loss which is claimed to be absorbed is a result of inefficiency in operation.

So I submit that under this program we are simply going to open the courts to all sorts of claims all over the country, to be submitted to all sorts of judges all over the country. If we had the power—and I think few, if any, in this Chamber doubt it—to levy this excise tax; if we vested that power in an agent; if we executed a power of attorney to the Secretary of Agriculture, but the execution was faulty, the acknowledgment may not have been correct, some strict requirements of the law with reference to the terms and provisions of that power of attorney may not have met the legal requirements, why should we not ratify and confirm what was done?

That is what our situation is here. We did execute that power of attorney to our agent. We had the right to levy this tax ourselves. If we had done it either directly or, under proper standards, under a proper power of attorney, there would be no cause of action here. If we are going to ratify, as we are proposing to do in this bill, the acts of our agent, I submit to the Senate that no injustice will be done anyone, no harm will be done any taxpayer, by simply wiping out the whole transaction, and then looking to the future under the new bill which we have pending here.

If we ourselves had levied the tax there would be no claim of any kind; there would be no cause of action by those who have been operating under it, and who absorbed all or part of the tax. The only contention here is that some did absorb it. If we had prescribed in the law the exact amount of the tax, they would have absorbed it just the same, without any right of action. Simply because we levied the tax through an agent, in an indirect way, it is now claimed here that there is merit in making a distinction between an irregular and imperfect levy and one which we could have made regular and perfect.

I submit that such a distinction is technical, is without merit, and that we are about to vote a contingent liability against the Treasury of the United States of nearly a billion dollars already collected, and five or six or seven hundred million dollars to which the Government is committed for next year.

The PRESIDENT pro tempore. The time of the Senator from Alabama has expired.

Mr. GEORGE. Mr. President, I am much astonished that my very good friend the distinguished Senator from Alabama [Mr. BANKHEAD] should be so exercised about this matter. If his sympathies were exercised on the other side of the question I might be able to understand it. He concludes his argument with the admonition that we are about to involve the Treasury in a liability of a billion dollars already paid, and yet we have been constantly reminded that all processing taxes have been passed on to the consumer; and under the amendment which is offered by way of substitute and solely for the purpose of preventing duplication in language, no taxpayer who has passed on the tax can recover a dime from the Treasury of the United States.

The Senator also—and that seems to have been the burden of some other speeches made—is greatly disturbed because the processors are likely to come in and have a recovery of taxes paid. I am wondering whether he would be willing to apply the same logic to the farmers who have directly and

expressly absorbed the processing tax on all the hogs they have sold and on other commodities.

In virtually every case where hogs were sold in my State since the passage of the A. A. A. Act the market price was reduced by exactly the amount of the tax. I have sold hogs myself, and in every instance but one I have had to take the market price less the processing tax. I have done that repeatedly, and everyone else who sells hogs must do the same thing; so the producer, not the processor, has absorbed the tax, and not even the ultimate consumer has absorbed it.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. GEORGE. I shall be glad to yield, but the Senator knows I am under limitation of time.

Mr. BARKLEY. Under the language which has been agreed upon, or under the language before there was any change, the farmer who absorbed the tax has no right to sue the Government, because he has not actually paid it into the Treasury, has he?

Mr. GEORGE. I understand; that possibly may be true, because I am going to say frankly to the Senator that this amendment does not altogether suit me. I should rather stand squarely and say to the Government, "If you wish to impose a tax that you have no authority to impose, and make some of our citizens pay it, while others of them are escaping it, you will have to take the consequences." That, however, is not the view of the Senate; so this amendment does not permit anyone who has not paid the tax to recover it.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. ROBINSON. Does the Senator mean by that statement to imply that he would be in favor of permitting the taxpayer to recover the processing tax even though he had passed it on?

Mr. GEORGE. In the long run it would be better for the Government to do it rather than to deny the citizen a right to go into the courts. In the long run we should have more careful legislation. In the long run we should have juster and fairer laws, and I am not prepared to say that in the long run it would not be better simply to face the issue as it is; and, for myself, I regret that a Democratic administration has even advanced this proposal.

Mr. President, we allow the man who distills liquor and the man who sells liquor to go into court and say, "I do not owe this tax", and we give him his day in court. We give every income-tax payer in this Nation his day in court. So far as I know, we have never imposed a tax upon the American citizen without giving him his day in court.

The very men who on July 4, 1776, issued a famous declaration complained of taxation without representation and the closing of the courts to the citizens of these free States, and we are asked to do that against which they were protesting.

I would not open the Government to every possible cause of action. I would not say that any court—and certainly not all courts—should have jurisdiction of all claims arising in contract or sounding in tort, and so forth. Certainly we would stop the orderly processes of government if we did that. But when the Government runs its hand down into the pocket of an American taxpayer and then says to him, "You cannot have your day in court", it is dishonest; it is not only dishonest but it is undemocratic; and I will go further and say no free government can last if once that policy has been adopted.

I can understand why the Government does not want suits against it, and I can understand why it is necessary to say frequently, whether it altogether accords with our theory of government, that the Government can do no wrong, or at least that it does not consent to be sued; but when it comes to taking the money of the citizen out of his pocket under an invalid tax act, then I do not understand how anyone, Democrat or Republican, can defend it.

Search the tax acts from beginning to end and it will be found that the most miserable barroom dealer in this Nation,

under all of the revenue acts, has his right to a day in court. Yet we are asked to say now that our manufacturers and our farmers who have absorbed this tax, or who have paid it—because many farmers have sold their own products—shall have no rights whatever.

I do not deny the power of the Government to say that it will not be sued even for the recovery of taxes, but I do deny that any government can remain a free government which denies that right to its citizens. It is more than a fiction to say that the power to tax is the power to destroy. It is the power to destroy men; it is the power to destroy property; it is the power to destroy human liberty.

Then, when we are exercising that extraordinary power, the power to destroy the citizen, to run the hand of the tax gatherer into the pockets of our citizens and say, "You shall never be heard in any court", is to destroy our country; is to destroy free government. It necessarily follows that there can be nothing left of a free government which does not permit its citizens to say whether taxes are being illegally exacted or wrongfully exacted or fraudulently exacted of the taxpaying citizen.

Mr. President, this particular matter has not any direct relation even to the so-called "gold-clause case", to which the distinguished Senator from Alabama adverted, or the resolution which yesterday was considered by the House of Representatives. This is a tax bill. This is a bill under which the Government will levy a tax and take the property of the citizen, and the citizen justly says, and always can say, and always will say in the United States, "I have a right to my day in court." We do not have to give him the right before we take the money from him. If subsequently we give him full right to go into court, we satisfy not only our doctrine but even our constitutional provisions themselves.

We may properly say that we will not let the citizen resort to the extraordinary remedy of injunction to stay the hand of the Government in the quick and often necessary collection of revenues which must be had to support the Government; but in the case of a piece of legislation dealing with the question of taxation of the citizen and say, "With respect to all taxes paid you shall not be heard, and are wholly without remedy in all the courts of this country, both State and Federal", is a proposition to which I could not for one moment give my assent.

In the bill before us, with respect to all taxes paid hereafter; that is, after the adoption of the pending amendment, the citizen, under conditions which, for the sake of this matter, we say are reasonable and which we accept, would be given his right to go into the courts. Here is an act of the Congress, and up to the date we amend it, it provides, "No citizen shall be heard, no citizen shall have his day in court." From the date when we amend it we will say, "The citizen may come into court and may be heard on these same questions." If we do not so amend it, it will destroy the whole theory of equality before the law, for which our entire system of Government certainly stands. The citizen who paid yesterday is without relief, the citizen who will pay tomorrow, after we shall pass this bill as amended, will be entitled to relief. That is the situation.

We are not asking that the bars be let down and the Government and its officers harassed. The bill provides that there may not be extraordinary remedies against them; they may not be stayed by injunction. The bill provides that only after the wrong is done may the citizen come in and have his hearing in court. It is a right which has been universally accorded from the beginning of the Government to this hour in all matters of direct taxation of the citizen for the support of his Government.

Our friends make much ado about the language which provides, in substance, that if the taxpayer who claims against the Government has passed on the tax, or if he has placed the tax upon the consumer by forcing him to pay it, he can have no recovery, and it is asserted that it would be a hopeless and a useless and a futile task to open up the inquiry at the hands of an aggrieved citizen. That may be. But we have taken that provision from the bill itself, from

the very language of the Committee on Agriculture. We have taken the very language of those who now complain against the amendment which we offer, and we have said, "If under the conditions which you state the taxpayer, after the amendment of the law, may be heard, we simply insist that the taxpayer who paid his money before the amendment to the law may also be heard."

Mr. President, it is unnecessary to do so, and I do so only for the sake of entering in the Record my own position upon the question, but I wish to say that I think this provision would be held to be wholly nugatory—

The PRESIDENT pro tempore. The Senator's time on the amendment has expired.

Mr. GEORGE. I will take 5 minutes on the bill, if I may split my time.

Mr. NORRIS. Mr. President, if the Senator takes 5 minutes on the bill he cannot speak again on the bill. I merely mention this in order that the Senator may have warning of it.

Mr. GEORGE. I did not understand the Senator's suggestion.

Mr. NORRIS. The unanimous-consent agreement provides that only one speech may be made on the bill by any Senator.

Mr. CONNALLY. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. CONNALLY. Could not the Senator from Georgia count the 15 minutes he has already consumed as having been used on the bill, and then speak 15 minutes more on the bill if he desired?

The PRESIDENT pro tempore. There can be but one speech on the bill by any one Senator.

Mr. GEORGE. I shall speak on the bill in my time. I am not opposed to the bill. I have some serious doubts about certain provisions of the measure, but I have desired to support the bill. I do desire to have it in reasonably good shape in order that I may be able to support it.

Mr. President, not for the purpose of raising any additional argument, because I think the argument out of place at this point, but in order to make my own position entirely clear I wish to repeat the statement I made before the Chair reminded me that my time on the amendment had expired, and that is, that the provision in this bill to be found on page 58, in my opinion, would be held by the court to be void if the court should decide against the power of the Congress to levy the particular tax and for the particular purpose originally authorized in the Agricultural Adjustment Act. In other words, Mr. President, the provision in question is not precisely nor exactly a denial of consent to be sued, but it is rather the denial of the jurisdiction of the court to entertain the suit. In the same section there is a provision which takes certain specified cases out from under the language contained in the committee amendment.

For myself I am fully convinced that if the Supreme Court should finally hold that the power delegated by the original Agricultural Adjustment Act to levy the particular tax—not to levy an excise tax, because that is not in dispute—but to levy a particular tax and for the particular purpose specified in that act is wholly wanting, then this provision in the bill would likewise be entirely void.

Mr. President, for some of the reasons which have been stated by others much better than myself, and for some of the reasons which I have tried feebly to indicate, I do not wish to be a party to the passage of any tax bill which exacts such payments from the citizen, be he the farmer who is raising hogs and selling them on the market and himself paying the processing tax or the processor who processes any of the commodities on which the tax is imposed.

For the benefit of the distinguished Senator from Kentucky [Mr. BARKLEY], who earlier directed the inquiry to me raising the question whether the farmer who had absorbed the tax could have any redress under this bill as drawn, I may say to him that in my judgment, if the bill shall be properly and liberally construed in favor of the taxpayer, he might have redress, for, if in lieu of paying the tax himself he creates the purchaser his agent to pay the tax for him, and hands

him over the money, or says, "Take it out of the price of my hogs", he is the payer of that tax.

Mr. ASHURST. Mr. President, I was called from the Chamber and have not heard all of the speech of the able Senator from Georgia. I agree in toto with that portion of the speech which I have heard. I wonder if the Senator will distinguish—or has he done so during my absence—between the instant case and the bill to bar suits on Government bonds? They are not comparable at all. There is no similarity. Has the Senator made that argument?

Mr. GEORGE. I made that statement, but without argument.

Mr. ASHURST. I did not hear it.

Mr. GEORGE. I did not care to go into it at length. There is no similarity between them whatever.

Mr. ASHURST. I agree with the Senator.

Mr. GEORGE. The Senator is correct. One would hardly afford any support to the other on principle or even in sound morality.

Mr. ASHURST. I did not hear that statement. I am glad to know that it is in the RECORD.

Mr. GEORGE. Yes, Mr. President; I made that statement.

I have spoken a brief period beyond the 15 minutes allotted me, and at the same time I have finished all I desire to say on this amendment. It seems to me that the Senate should be glad to accept this amendment, and until the Senate acts to the contrary I cannot believe that it will not do so.

Mr. NORRIS. Mr. President, let me say, to begin with, that I agree fully with the Senator from Alabama [Mr. BANKHEAD] that the Senate has the right to adopt the amendment on page 58. I am not bothered about our right to do so. I think we have a perfect constitutional right to do that. Of course, if the whole law should be declared to be unconstitutional that amendment, if agreed to, would go down with the rest of it. If the pending amendment should be defeated I should vote against striking out the committee amendment on page 58, though I should dislike to see that amendment, unmodified, go into the law.

The provision on page 58 of the bill denies to certain taxpayers any right to go into court and takes away the jurisdiction of the courts. On page 61, with respect to the same taxpayers who have paid on a different date, the right is given them to go before the Internal Revenue Bureau and also to go into court in an effort to recover payment of a tax which under the bill they are given the right to recover.

The amendment on page 61, if agreed to, would put all the taxpayers in the same class. Those who have paid a tax before the passage of this bill and those who may pay a tax after the passage of the bill are all put together in the same class. That is the effect of this amendment. It seems to me it provides a fair solution of the difficulty. It seems to me it ought not to be objected to by anyone.

I am not one who claims that the Government ought to throw down the bars and let everyone sue it. I tried to make my position plain on that question yesterday. For its own preservation, the Government must, as a rule, deny to the citizen the right to sue it unless the Government consents to be sued.

I think in every State of the Union there is a provision or a method adopted by law for the recovery of taxes which may be found, after collection, to have been illegally or wrongfully collected. All the States do not provide the same remedy. They provide different methods. I think the right to recover taxes illegally or wrongfully collected is given to the citizens in every State of the Union and is given by the Federal Government, so far as I know. If the income-tax payer is compelled to pay too much or is wrongfully or illegally compelled to pay, we provide by law a method for him to recover those taxes which have been wrongfully collected. That is fair and right, is it not? Would it be fair to deny the citizen that right? To deny him that right would be unfair and unjust, would it not?

The only thing this amendment does is to give the proper remedy to recover to the citizen who claims his taxes were wrongfully or illegally collected, or who claims to have paid too much.

In one section of the bill the right is given to him to sue to recover if he shall pay the tax after the passage of this bill, but denies it to him if he has paid the tax prior to the passage of this bill.

What must the citizen now show with reference to the processing tax? If he has paid a processing tax and is trying to recover it, the burden of proof is on him to show that he has not passed it on to somebody else. He must show that he has not taken it out of the man from whom he purchased the product. He must show several other things, all of which I think are necessary, all of which are fair. The burden is placed entirely upon him. It that not right? Is there anything unfair about that? Is there anything unjust in it? If he has paid in any given case \$10, we will say, whereas the law provides that he should only pay \$5, should he not get back the \$5? Will the Government of the United States deny him that right? No citizen, no business man, if he is honest, would deny it to his neighbor or to his fellow citizen. If he has paid a processing tax and passed it on to the consumer, then he ought not to recover, and this amendment will not permit him to recover. If he paid a processing tax, and when he bought the article upon which the tax is levied from a producer deducted it from the price he paid the producer, he could not, under this amendment, recover that tax, and, of course, he should not.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. CONNALLY. From a practical standpoint, suppose a processor says, "No; I did not take this tax out of the producer, and I did not pass it on. I just figured it in my cost." There are a great many elements of cost. How is the Government going to contest that claim? How is it going to disprove that statement?

Mr. NORRIS. In the first place, the processor has got to prove the fact; he has got to prove that he did not deduct the tax or pass it on. Suppose he bought a hog of me and the market price was so-and-so, as the Senator from Georgia has already described; suppose that the price of the hog at the place of sale was 5 cents a pound, and he deducted from that 5 cents a pound, the amount of the processing tax. There is a transaction that could easily be shown by proof; and when he comes to make his proof he would run right up against that snag; he could not prove it, because it is not true, and he would not be entitled to recover.

Mr. CONNALLY. Suppose the next man who bought a hog there did not take out the processing tax?

Mr. GEORGE. Mr. President, if I may be permitted to answer that question, the processor has got to pay the tax; and he either pays it out of his own pocket or out of the price.

Mr. CONNALLY. Exactly. The point I was trying to make is that the processor will come along and say, "No; I did not take it out. I simply would have made more profit if I had not been compelled to pay the tax." How is the Government going to come back at him?

Mr. GEORGE. The market price on the given date is a matter of record.

Mr. NORRIS. It would be very susceptible of proof; the markets every day of the year are known in every place in the United States, and it is not for the Government to prove that he did not deduct or pass on the tax; he himself has got to prove that he did. He must make the proof; the Government does not have to make it. There would be, as there always is in every litigation, some difficulty, it is true; but I do not know why we should deny an honest man the privilege of getting back what has been illegally collected from him just because there might be some difficulty on account of the dishonest man. The whole fabric of government is burdened with the dishonest man; that is true in every line of business. If we had no burglars or thieves or men who commit other crimes, if there were no men of that kind, it would lessen the burden of the honest taxpayer who obeys the law and never disobeys it.

His burden is increased; it might be in this case. I can imagine that someone might go into court and allege that he had not passed the tax on; that he had not taken it out

of the producer, and perhaps prove it; and I can imagine that he would probably have to offer perjured testimony in order to do it. He might be so cute about it that he could not be discovered. That is true of all litigation; we run that risk everywhere.

Mr. BANKHEAD and Mr. RUSSELL addressed the Chair.

The PRESIDING OFFICER (Mr. CHAVEZ in the chair). Does the Senator from Nebraska yield; and if so, to whom?

Mr. NORRIS. I yield first to the Senator from Alabama.

Mr. BANKHEAD. The Senator made a statement which I hardly think is accurate; that if a man had paid \$10 when he should only have paid \$5 he would be denied the right to recover. I call the Senator's attention to the fact that suits of that character are not barred by this section, as the Senator will see if he will examine the provision at the bottom of page 58. I ask him to note this provision:

The provisions of this subsection shall not apply to (1) any overpayment of tax which results from an error in the computation of the tax, or (2) duplicate payments of any tax, or (3) any refund or credit under subsection (a) or (c) of section 15.

Mr. NORRIS. Of course, the case I gave probably never would happen; it was only given as an illustration.

Mr. BANKHEAD. I wanted to point out to the Senator that provision.

Mr. NORRIS. If we concede now, as I think we ought to concede and will have to concede, that there may be cases where a processor has paid a processing tax and has neither passed it on nor taken it out of the producer and still has unsold the goods on which the tax was paid, in that kind of case, who will say that he should not recover a tax wrongfully paid?

Mr. BANKHEAD. Mr. President, I will say to the Senator that the whole object of this provision is to prevent the refunding of a tax on account of invalidity that may result from a decision that this is an unconstitutional delegation of power.

Mr. RUSSELL. Mr. President—

Mr. NORRIS. I do not know how much time I have left, and I should dislike my time to be taken up by questions; but I do not wish to be discourteous to the Senator, and I yield.

Mr. RUSSELL. I merely wish to inquire of the Senator from Nebraska if there is any general statute of limitations on the time within which a suit may be filed for the recovery of taxes illegally collected?

Mr. NORRIS. I do not think there is in this bill.

Mr. RUSSELL. It occurs to me there certainly should be some definite time limit fixed.

Mr. NORRIS. There is the general statute of limitations.

Mr. GEORGE. Mr. President, there is such a provision in the original act, to which the pending bill is merely an amendment.

Mr. NORRIS. A man pays a wrongful tax today; we pass this bill tomorrow; and the next day his neighbor pays a wrongful tax. We deny one the right to recover and we accord the right to the other. I do not know how anybody can defend that discrimination.

Moreover, I will say to the Senator, I have no doubt that if the original amendment on page 58 had gone to a vote it would have been overwhelmingly defeated, and I was anxious to save the situation. I am a friend of this bill; I believe in it; and I am startled and amazed at some of the objections that are urged against it. I realize it is very difficult to understand it all; perhaps no man, unless it be the administrator of the law, can understand all its ramifications; but this bill is a sincere, honest effort to help the producer, to give the farmer some recompense for his toil, and I should very much dislike to have it contain an injustice which might drive votes away from it. I am seeking to help pass the bill; I want it enacted into law; I am grasping at it almost as a drowning man grasps at a straw; but it seems to me that when we put into the measure something that is admittedly unjust we will drive votes away from it and perhaps defeat it entirely.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

LOUISIANA'S RIGHTS

Mr. LONG. Mr. President, yesterday I was away from the city when I read an announcement in the public press, sent out by the news agencies, confirming what had been sent out the day before while I was in the city of New Orleans. The announcement was to the effect that President Roosevelt and his Secretary of the Interior, Mr. Ickes, had sent me word that I would have nothing to do with spending any P. W. A. money in Louisiana. I do not know just how the President sent me word. According to the newspaper headlines, this is my official notice. I do not know why the Secretary of the Interior should continue to address me in communications through these circumlocutious routes, but, nevertheless, that is their privilege apparently. I have no direct diplomatic contact with the gentleman, and I am not seeking any, and, therefore, since, apparently, these pronouncements are intended for the public, I will undertake to respond in kind.

The way the President talks to me and the Secretary of the Interior talks to me reminds me of a mother-in-law and a son-in-law who lived together in Shreveport, La., and who did not speak to each other. Quite often the daughter of the mother-in-law, the wife of the son-in-law, would go out of town, and there would be no one there except the mother-in-law and son-in-law, and they would have to eat together.

They had a means by which they would communicate one with the other by talking to the cat. The mother-in-law would address her remarks to the cat and the son-in-law would respond by addressing his remarks to the cat, and then the mother-in-law would reply by telling the cat something else. Apparently such a practice has grown up in the city of Washington, because I constantly read of various and sundry ultimatums addressed to me by the President, but I never see the handwriting of the President, I never hear his voice, and no direct communication comes to me. I am merely advised through the front pages of the newspapers that the President has told me something I can do, or something I cannot do, or something that he will not do, or something that he will not let anybody else in the United States do. So I must, in view of the circumstances, undertake to make some answer to what has been said by the only means that is left to me. I will not, however, take a great deal of the time of the Senate, because the National Broadcasting Co. has very agreeably given me from 8 until 8:30 o'clock tonight to speak over its Nation-wide system, and so I will not have to belabor the Senate; I will take my time addressing the American people over the radio; and the remarks which I now undertake to deliver will be addressed to my colleagues of the Senate.

The State of Louisiana, Mr. President, does not bow low, particularly, in order to get funds distributed by the Government; and I do not see why the President continues to make these announcements; I do not see why Mr. Ickes continues to make them. Several weeks ago on the floor of the Senate I made answer to one such pronouncement. It has already been stated that I have nothing to do with the funds they spend in Louisiana, that they will not spend any money in Louisiana, and that various and sundry dire consequences will be visited upon the people of Louisiana unless something is done, I presume to me or somebody else down there.

Now, as we approach the period of only 5 months before an election, we receive the statement that the State of Louisiana is to have none of the P. W. A. funds. That is not a gracious answer or gesture to the generous attitude we took last year, when we allowed five of our eight Representatives in the other branch of Congress to come back, on the ground that they had deserted me and had hooked up with Mr. Roosevelt. We allowed those gentlemen to come back under the understanding that, inasmuch as they were avowedly anti-Long and pro-Roosevelt, they could get money from the Public Treasury which otherwise would not be available to Louisiana.

Now, he has announced that these five deserters, unlike Judas Iscariot and Benedict Arnold, are not to get their 30 pieces of silver, and, therefore, we will have to remove the five of them from public office unless he changes his attitude between now and election day. It is very unkind. Judas

by water carriers operating in interstate and foreign commerce, and for other purposes, which was ordered to lie on the table.

NEEDS OF THE OLDER YOUTH GROUP

Mr. WALSH presented a letter from Frank W. Barber, of Springfield, Mass., with an accompanying outline relative to the needs of the older youth group, which, with the accompanying paper, was referred to the Committee on Education and Labor and ordered to be printed in the RECORD, as follows:

FEDERAL EMERGENCY RELIEF ADMINISTRATION,
Washington, D. C., July 17, 1935.

HON. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

DEAR SENATOR WALSH: Enclosed is a brief outline concerning the needs of the older youth group, about which I spoke with you briefly on last Thursday. Something must be done for this group of most distressed young people.

Very sincerely,

FRANK W. BARBER.

THE LOST GENERATION—WHAT CAN BE DONE ABOUT IT?

The age group 25 to 29 is in serious danger and may represent the gravest danger to the country. This group normally represents enthusiasm, determination, vision, and power. Here are found those highly trained, prepared people with daring, courage, and untiring industry. Here is laid the foundation of home and success.

With opportunity removed, vision is lost, courage slips, enthusiasm turns to cynicism, power is wasted, homes are broken; doubt, disgust, fear, and "don't care" are mixed and mingled until life becomes an impossible tangle. This cannot go on. Something must be done, and that quickly, if this group is to be saved for America.

Statistics show this age group next to the highest in unemployment, the highest being age 21 to 24.

A study in two States shows:

Unemployed

In Massachusetts:	
Age 20 to 24-----	80,444
Age 25 to 29-----	48,725
Age 30 to 34-----	37,263
In Pennsylvania:	
Age 20 to 24-----	197,838
Age 25 to 29-----	106,150

The new Youth Administration aims to reach the age group 20 to 24, while perhaps a more distressed group is left with no plan.

It is not enough to say that these people will be reached through regular channels of relief. The problem is a specific one and demands specific attention. These young people must not be forced to accept welfare, dole, nor mere relief work. They must have experience and opportunities that are real. Many must be rehabilitated, retrained, brought back into right relationships with home and community. They must be counselled, guided, readjusted, and set straight.

A PROPOSAL

Organize a supplementary youth service to go hand in hand with the National Youth Administration. This service might be an extension of the National Youth Administration, to include ages up to 30, with a program adapted to the needs of the older group.

The program should include:

1. Occupational guidance and vocational adjustment.
2. Opportunities for retraining and additional training.
3. Rehabilitation and resettlement opportunities to enable them to take part in actual production. This might include—
Industrial rehabilitation.
Agricultural production.
Housing.
4. New communities might be built up, and broken-down communities, both industrial and agricultural, rehabilitated.
5. Public Works Administration projects devised, especially to provide experience, training, and production opportunities.
6. Opportunities for leadership in connection with the National Youth Administration.

In every case opportunities should include sufficient income possibilities to enable those in the program to carry their obligations and to live satisfactorily with a challenge calling for best effort and normal expectation of success.

The national resettlement might carry this program for industrial centers as well as for the rural areas.

The present generation, ready to take its place in the life of the Nation, must not be lost. It must be rehabilitated. Youth will not wait. It must use its power or it will break.

FRANK W. BARBER,
Springfield, Mass.

REPORTS OF COMMITTEES

Mr. LONERGAN, from the Committee on Finance, to which was referred the bill (S. 2044) for the refund of income and profits taxes erroneously collected, reported it with an amendment and submitted a report (No. 1143) thereon.

Mr. POPE, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 3183) to amend the Agricultural Adjustment Act to make all varieties of pota-

toes included in the species *Solanum tuberosum* a basic agricultural commodity, to raise revenue by imposing a tax on the first sale of such potatoes, and for other purposes, reported it without amendment and submitted a report (No. 1144) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SCHALL:

A bill (S. 3294) to amend the World War Adjusted Compensation Act, as amended, to permit payments to the estates of veterans in certain cases; to the Committee on Finance.

By Mr. McKELLAR:

A bill (S. 3295) to amend sections 181 and 186 of the Criminal Code; to the Committee on Post Offices and Post Roads.

By Mr. MINTON:

A bill (S. 3296) to provide for the payment to the American War Mothers of interest on the fund known as the "Recreation Fund, Army"; to the Committee on Military Affairs.

By Mr. TRUMAN:

A bill (S. 3297) to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near St. Charles, Mo.; and

A bill (S. 3298) to extend the times for commencing and completing the construction of a bridge across the Missouri River at or near Arrow Rock, Mo.; to the Committee on Commerce.

By Mr. WALSH:

A bill (S. 3299) to authorize the construction of a bridge as a memorial to Calvin Coolidge; to the Committee on the Library.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—AMENDMENT

Mr. McCARRAN submitted an amendment intended to be proposed by him to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, which was ordered to lie on the table and to be printed.

ASSISTANT CLERK TO IMMIGRATION COMMITTEE

Mr. COOLIDGE submitted the following resolution (S. Res. 173), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Immigration hereby is authorized to employ for the remainder of the present session an assistant clerk to be paid from the contingent fund of the Senate at the rate of \$2,400 per annum.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the motion of the Senator from Georgia [Mr. RUSSELL] to reconsider the vote whereby section 15, beginning on line 17, page 45, was stricken from the bill.

Mr. RUSSELL. Mr. President, the original act creating the Agricultural Adjustment Administration vested in the Secretary of Agriculture power to levy what are known as "compensatory taxes" on fabrics or vegetable fibers which come in competition with cotton.

It was recognized that in adopting the program of drastic reduction in the amount of cotton produced in this country it was wholly probable, if not inevitable, considering that the processing tax of 4.2 cents a pound is passed on to the consumer of cotton fabrics, that there would be a shifting to the consumption of other fabrics or fibers which were less expensive than cotton. The committee adopted an amendment which provided for the imposition of a compensatory tax on rayon, but when the matter was pending before the Senate the committee amendment was voted down.

Mr. President, the cotton-mill operators and the operatives in the mills, those who toil at the looms, and the cotton producers of my State are firmly convinced that the processing tax on cotton has caused an increased consumption of rayon in this country, and therefore it is necessary,

if the cotton industry is not to be permanently injured, that this compensatory tax be levied upon rayon.

I have received a great number of communications from citizens of my State on this subject. It is not my intention to clutter up the RECORD by offering all these communications as part of my remarks, but, as representative of all the letters which have been received from the cotton-mill operators of my State, I wish to read some extracts from a letter written to me by Mr. Julian K. Morrison, president of the Southern Brighton Mills, located at Shannon, Ga. Mr. Morrison states in this letter:

SOUTHERN BRIGHTON MILLS,
MANUFACTURERS OF COTTON AND SPECIAL FABRICS,
Shannon, Ga., July 5, 1935.

Hon. R. B. RUSSELL, Jr.,
United States Senate, Washington, D. C.

DEAR SENATOR RUSSELL: I am writing to urge your cooperation in the matter of securing protection to the cotton textile industry by fixing in the proposed A. A. A. amendments adequate compensatory taxes on silk, rayon, jute, and certain paper products. If the cotton textile industry is to be expected to continue to carry the terrific burdens which have been placed on it through the processing tax on cotton, it certainly seems only reasonable to demand and expect to receive adequate protection which could be afforded by the fixing of compensatory taxes on its principal competitors.

No doubt you are well informed as to the present deplorable state of the textile industry. It would be difficult to conceive of a more horrible condition than that which now exists in this industry. For instance, in our own plant, which had established an enviable record for continuous operation prior to the last 2 years, we are at present operating at less than 50 percent of capacity, and we have during recent weeks faced the tragic necessity of laying off scores of our employees, some of whom have been employed by this company for many years. Our individual situation is but a duplicate of that which exists practically throughout the industry.

I ask, Mr. President, that the remainder of the letter be incorporated in my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The remainder of the letter is as follows:

There seems little which can be hoped for in the way of relief as a result of the many investigations which have recently been conducted through Federal agencies. It is significant to note that no report has been made as to the result of the recent investigation by the Cabinet committee, and it seems safe to conclude that the industry may expect no relief from the many unfortunate and unfavorable conditions which were disclosed during those hearings.

It would seem, therefore, that the industry could reasonably expect to receive at least that amount of protection which would be afforded through the fixing of compensatory taxes on the products of its chief competitors.

It is my own candid opinion that this industry is facing complete annihilation unless some relief is granted it. Certainly it is a fact that present conditions cannot continue indefinitely if the complete collapse of the industry is to be avoided.

I certainly hope, therefore, that you will be willing to lend your efforts in this matter which affects so vitally an industry which constitutes the principal industrial activity of this State and on which tens of thousands of its citizens are dependent for their sole means of employment and support.

Very truly yours,

JULIAN K. MORRISON, President.

Mr. RUSSELL. Mr. President, this is one case where the interests of the cotton farmer, the interests of the cotton-mill owner, and the interests of those who toil in the cotton mills are common, where they have a common cause and are entitled to mutual protection against a shift of consumption to this competing fabric known as "rayon."

It is true cotton linters in large part enter into the manufacture of rayon, but, as I understand, the processing tax is not even levied and assessed on the cotton that goes into the manufacture of rayon, the article which is in competition with the cotton product, on which the processing tax has been paid.

I think the cotton farmers and the cotton manufacturers are entitled to the protection of this tax. The farmers of Georgia and of the South generally are in favor of the Agricultural Adjustment program, but the fact remains that when we analyze the program in all its details the cotton farmer of the South is receiving less benefit from the program than is the producer of any other basic commodity included in the bill. For this reason the cotton farmer is entitled to the protection this amendment will afford.

The average benefit payments made to the cotton farmers of my State who have signed contracts with the Agricultural Adjustment Administration amount to but \$77.65 per farmer. In our sister State of South Carolina the average payment to the holder of the cotton contract with the Agricultural Adjustment Administration amounts to only \$80.97 per farmer. The great State of Texas is the leading State of the Union in the production of cotton. The producers of cotton in Texas receive the highest average benefit payment of any cotton producers in the country, and yet the average payment made to cotton producers in the State of Texas amounts to only \$109.02.

The cotton farmer is required to make a reduction in the amount of his products for this year amounting to 35 percent of his total production. In addition to that cotton is the only great basic necessary commodity where the farmer has imposed upon him a compulsory restrictive program which limits the amount he might produce.

On the other hand, when we see the benefits paid to producers of other commodities it makes all the more clear and all the more glaring the proof of the statement that the cotton farmer is not receiving an equal share in the benefits distributed by the Government through its agricultural program.

In the State of Kansas, the great wheat-producing State, the average payment to the average wheat farmer under this program in 1934 amounted to \$323.16. There is no compulsory restrictive program in wheat and only a 10-percent reduction in production is required of contract signers. In the State of Montana—

Mr. MCGILL. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Kansas?

Mr. RUSSELL. I am glad to yield.

Mr. MCGILL. I am in sympathy with the Senator's proposal, but is it not true that the number of cotton farmers is greatly in excess of the number of wheat farmers?

Mr. RUSSELL. That statement might be true; but it so happens that in the case of Kansas, with less than 2,000,000 people, there were 94,000 contract signers of wheat contracts. In the State of Georgia, with approximately 3,000,000 people, there are only 105,000 contract signers of cotton contracts with the Agricultural Adjustment Administration.

Mr. MCGILL. Is it not true, however, that the wheat farmer cultivated a much larger acreage than did the cotton farmer?

Mr. RUSSELL. I am not informed as to that; but I do not think the total acreage planted to wheat in Kansas, as compared with the total acreage planted to cotton in Georgia, will anywhere near justify the disparity in these figures. Understand, I am not complaining of the payments made to the wheat farmers of Kansas or the corn farmers of the West. I am happy to see the farmer receive large benefit payments, whatever he may be producing, anywhere in the United States.

But I am seeking justice for the cotton farmer and equality for him with the other producers of the country. Why should the producers of cotton receive only the crumbs? Under the corn-hog program the average amount paid to 172,728 contract signers in the State of Iowa was \$228.18 to each contract signer. Iowa has less than two and one-half million people, yet payments by the Government in that State totaled nearly \$40,000,000 in 1934.

What I am doing is insisting on giving the cotton farmer something approximating a fair share of the profits derived from the program. When we take into consideration the total amount paid the discrepancy is all the more glaring. In the State of Georgia, with 105,000 contract signers under the cotton program, the total payments were \$8,153,000. In the State of Kansas, with a million people less than live in Georgia, the total payments made to the wheat farmers in 1934 amounted to \$30,377,000.

Mr. MCGILL. I recognize all the Senator has said as being quite accurate; and as I stated in the beginning, I am in sympathy with his proposal.

Mr. RUSSELL. I appreciate the fair attitude on the part of the Senator from Kansas.

Mr. MCGILL. However, is it not true that more money has been paid in the entire country in benefit payments on cotton to the cotton farmers than has been paid in benefit payments on wheat to the wheat farmers?

Mr. RUSSELL. I am not in a position either to deny or affirm that statement because I have not compared the figures.

Mr. MCGILL. I think the Senator will find that the processing tax on cotton has yielded more than has the processing tax on wheat, and that the cotton farmers as a whole have received more money in benefit payments than the wheat farmers have received. Nevertheless, I do not want to interfere with the Senator's argument and shall support his motion.

Mr. RUSSELL. I appreciate the support of the Senator from Kansas.

Mr. WAGNER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from New York?

Mr. RUSSELL. I yield.

Mr. WAGNER. Which of the amendments that have already been disposed of by the Senate does the Senator from Georgia advocate, the committee amendment or the amendment offered and afterwards withdrawn by the junior Senator from South Carolina [Mr. BYRNES]?

Mr. RUSSELL. I shall advocate the adoption of the committee amendment in the event the Senate sees fit to reconsider the vote by which it rejected the committee amendment.

Mr. WAGNER. The Senator appreciates, no doubt, that those affected by the processing tax in the rayon industry have never had a chance to be heard before the Committee on Agriculture and Forestry upon the subject of the imposition of this tax upon their industry.

Mr. RUSSELL. I am not responsible for that. The chairman of the committee is opposed to any tax on rayon. I am not a member of the committee.

Mr. WAGNER. Knowing that we have no information on the subject because the industry has never had a chance to present its side of the question and to show the effect this tax would have on their industry, does the Senator think the Senate ought blindly to vote for the imposition of this definite tax, despite the fact that the Agricultural Adjustment Administration today has the power to impose the tax if it determines that the competitive conditions justify it, and despite the further fact, if the Senator will indulge me, that the Agricultural Adjustment Administration had hearings upon the subject over a period of a year—

Mr. RUSSELL. More than a year.

Mr. WAGNER. Yes; longer than a year, to ascertain whether or not there is anything to the contention of the cotton growers that rayon competes with cotton to the extent that this processing tax or this compensatory tax ought to be imposed? It seems to me to be quite an unreasonable request to make of the Senate under the circumstances.

Mr. RUSSELL. The mere fact the Agricultural Adjustment Administration after these prolonged hearings has made no report and taken no action whatever in the matter is to my mind the strongest evidence of the necessity for the Senate of the United States going into it. Evidently there is in the Department of Agriculture no person in a position of authority who is familiar with the economy of the cotton farmer. For that reason, in my judgment, the cotton farmer has been neglected and there is this glaring disparity in the benefits he has received and also in the protection which should have been afforded him with these competing fabrics.

I am using the only means at my command. I cannot operate the Agricultural Adjustment Administration. For a period of more than 12 months I have complained time after time to the Secretary of Agriculture and those to whom he delegated the right to hold these hearings that this compensatory tax should be levied, that some decision one way or the other should be rendered, giving his reasons therefor.

The only place where I can make my voice heard in behalf of the cotton farmers and the cotton-mill operatives of the South in on the floor of the Senate, and I am utilizing the only means at my command.

Mr. CONNALLY. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Texas?

Mr. RUSSELL. I yield.

Mr. CONNALLY. In answer to the Senator's statement that no one in a position of authority in the Department is familiar with this matter, I may say that I understand that Mr. Cobb, the Cotton Administrator, is strongly in favor of this tax; but, of course, he does not dominate the whole Department.

Mr. RUSSELL. Unfortunately, he has merely a small administrative position in handling the contracts which are in his hands under the cotton program.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield first to my colleague from Idaho [Mr. POPE], who desires to ask a question.

Mr. POPE. Mr. President, the representatives of the rayon industry have repeatedly said there is no real competition between the products of cotton and rayon. They estimate that there is not over 6 percent of real competition; that the real competition comes between rayon products and silk products. Has the Senator any information as to the extent, if any, to which there is competition between rayon products and cotton products?

Mr. RUSSELL. I have just as good information as that furnished the Senator from Idaho by the manufacturers of rayon. Of course, when the rayon manufacturers have known for a long time about the provision in this bill permitting the levying of a tax on rayon if it comes into competition with cotton, the last thing on earth we could expect would be that the rayon manufacturers would come in and say, "We are in competition with cotton." They would deny it to the last to escape this tax. I have here, and have had put in the RECORD, and could fill the RECORD with similar letters, letters from cotton-mill operators who say that rayon is directly in competition with cotton, and that it is reducing the consumption of cotton on account of the fact that the processing tax is levied on the material that goes into cotton goods. It is as reliable as the information furnished by the rayon manufacturer.

The PRESIDENT pro tempore. The Senator's time on the motion has expired.

Mr. RUSSELL. I do not desire to use my time on the bill at this time, as I have another amendment which I may find it necessary to offer. I hope that the Senate will reconsider the vote by which this amendment was rejected, in order that we may fix a tax on rayon adequate to protect the cotton farmer and the cotton textile industry.

I ask unanimous consent that the text of the committee which was rejected may be printed in the RECORD at this point.

There being no objection the amendment as reported by the committee was ordered to be printed in the RECORD, as follows:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of any material which results in the production of rayon or other synthetic yarn, at the rate of 125 percent of the per pound rate of the processing tax which is then in effect on cotton.

"(1) The tax shall be measured by the yield in pounds of finished rayon or other synthetic yarn.

"(2) The term 'first domestic processing of any material which results in the production of rayon or other synthetic yarn' means that amount and degree of manufacturing or other processing of such material from the spinnerette up to the point where the rayon or other synthetic yarn is in form either to be packaged and sold as such, or to be used in further manufacturing or other processing.

"(3) The term 'rayon or other synthetic yarn' means yarn suitable for commercial winding of a denier size exceeding 112 deniers. The term 'rayon yarn' shall not be deemed to include rayon ropes of more than 500 filaments.

"(4) The provisions of paragraph (1) of subsection (a) of section 16 shall not apply in the case of rayon or other synthetic yarn, or the products thereof."

Mr. SMITH. Mr. President, I do not think my colleagues in the Senate will accuse me of not looking out for the interests of cotton. I admit that at first blush I thought perhaps this was a very fair amendment; but I hope the Senate will not reconsider the vote by which we eliminated this provision, because, upon investigation, I find that the cotton growers of the country will stand to suffer a great deal more through the imposition of this tax on rayon than they would if it were left out. Fifty-five percent of our production is sold abroad, and the purchase of this proportion of the crop is largely financed by the sale of the products of certain countries which import our cotton; and such a provision would render them unable to take our stuff.

I do not care to go into details. It is not necessary. I want my friends here who believe that I have been sincere in my efforts, and somewhat successful, to vote down this motion. I started a while ago to move to lay the motion on the table; but I am content to let the Senate take a vote as to whether or not it will reconsider its action in this matter.

Mr. WALSH. Mr. President, I send to the desk a telegram in connection with this subject which I ask to have read and which I hope will contribute some arguments against reconsideration.

The PRESIDENT pro tempore. Without objection, the telegram will be read.

The legislative clerk read as follows:

[Telegram]

JULY 3, 1935.

Senator DAVID I. WALSH:

Have heard that the Senate Agricultural Committee has attached a rider on H. R. 8492 calling for processing tax on rayon of 5¼ cents per pound. If this thing goes through it is just another factor that will contribute great confusion to the textile industry, with the resultant unfortunate effects. It certainly has never been established as a fact that rayon has reduced cotton consumption, and, if anything, it is competitive with silk. These taxes are unnecessary, but if they had to be applied should be applied in proper proportion with silk. How on earth can Congress suddenly decide to tax rayon without giving the industry an opportunity to be fully heard, and without making a thorough investigation of the business situation? If anybody looked into this thing at all, they would find that rayon competes with silk, and that it is used as a decorative fiber instead of silk in woolen goods, and that a compensatory tax on rayon is absolutely unjust.

SHAWMUT WOOLEN MILLS,
R. H. WYNER, President.

Mr. WALSH. I ask permission to have inserted in the RECORD certain letters and telegrams in connection with the same subject, and which reflect my views on the subject of a processing tax on rayon.

The PRESIDENT pro tempore. Without objection, the letters and telegrams will be printed in the RECORD.

The letters and telegrams are as follows:

HATHAWAY MANUFACTURING CO.,
New Bedford, Mass., July 2, 1935.

Hon. DAVID I. WALSH,

The Senate, Washington, D. C.

DEAR SENATOR: We have wired you today as follows:

"Senate amendment to H. R. 8492 just reported provides an excise tax of 5¼ cents per pound on rayon, including floor stocks and stock in process. No provision made for equivalent tax on silk. Tax on rayon will not help cotton consumption. Real competition is between silk and rayon. Taxing rayon will not increase cotton consumption but taxing rayon without taxing silk is discrimination against American-made product in favor of foreign product. If tax on rayon cannot be blocked, must have equivalent tax of 10½ cents per pound on silk. Letter follows."

The question of a compensatory tax on rayon has been gone over in detail by the National Rayon Weavers' Association, representing approximately 43,000 looms out of a total of slightly over 50,000 engaged in weaving rayon, with Secretary Wallace and the Agriculture Department and the fact has been definitely established to the Secretary's satisfaction that there has been no shift from cotton to rayon due to the processing tax on cotton. Rayon is a popular product owing to style, not price, since the price of a rayon fabric is very much higher than the price of the equivalent construction made with cotton, including the cotton processing tax.

The two most popular sizes of rayon are 150 denier, which is equivalent to 35/1 combed cotton yarn, and 100 denier, equivalent to 53/1 combed cotton yarn. Prices on these numbers compare as follows:

On cones or parallel tubes

	Cents
150 denier rayon.....	55
35/1 combed peeler cotton yarn.....	42
100 denier rayon.....	77
53/1 combed peeler cotton yarn.....	52

The production of rayon in the United States during 1934 amounted to 210,330,000 pounds. From a 500-pound bale of cotton the average mill gets from 380 to 400 pounds of yarn. Converting the total rayon production to cotton yarn on this basis gives a figure of approximately 525,000 bales.

Obviously if no rayon at all were used and if the 1934 production of rayon were entirely replaced by cotton the increase in consumption of cotton would have been only 525,000 bales for the 12 months ending December 31, 1934, or slightly less than 44,000 bales per month.

The only actual competition between cotton yarn and rayon from a price standpoint is in the mercerized cotton yarn business, most of which is used by hosiery manufacturers. The writer has not the actual figures of mercerized cotton yarn production over a period of years, but they can easily be obtained. The poundage is so small in bales of cotton that it should be considered negligible as a factor.

Competition between cotton and rayon is one of style entirely, as is also proven by the fact that the shift from cotton to rayon began in volume in 1928 and 1929, long before a processing tax was even heard of, as statistics will show.

Competition between silk and rayon is largely a matter of price, since the appearance of rayon fabrics in many instances very closely approximates the appearance of silk fabrics. With rayon at its present level when the silk market drops below \$1.30 per pound, the consumption of silk immediately cuts into the consumption of rayon. If a processing tax were placed upon rayon, with no compensating tax upon silk, the rayon industry would suffer tremendously, as a definite switch from rayon to silk would immediately follow.

This would constitute discrimination against an American-made product and in favor of a foreign-made importation, and would be grossly unjust from every point of view.

The working capital required by a weaving mill running rayon is far greater than that required by a cotton mill operating only on cotton. A tax of 5¼ cents on rayon, which is approximately 10 percent of the price of rayon yarn, would increase the working capital required by the rayon-weaving mills, so that large numbers would have great difficulty continuing in operation.

Irrespective of the justice of taxing cotton mills for the benefit of the cotton farmer, there is certainly no justice in taxing rayon mills for the benefit of the cotton farmer, who has never had anything to do with rayon, and never will have.

Information and statistics with regard to this matter are on file in the Department of Agriculture and can be obtained from the National Rayon Weavers' Association, 40 Worth Street, New York, N. Y.

Congressmen and Senators obviously cannot be familiar with these details and should take no action without allowing the rayon industry to present their case, which must be sound, or the Secretary of Agriculture would have placed a compensatory tax on rayon long ago under the original Agricultural Adjustment Act.

The Hathaway Manufacturing Co., which the writer represents, operates one-half of its plant on the spinning and weaving of cotton and the other half on the weaving of rayon fabrics and is, therefore, in a position to speak authoritatively and from experience with regard to this matter.

Yours truly,

SEABURY STANTON, Treasurer.

NEWMARKET MANUFACTURING CO.,
Lowell, Mass., July 2, 1935.

Hon. DAVID I. WALSH,

Senator from Massachusetts, Washington, D. C.

DEAR SIR: Referring to amendment by Senate to H. R. 8492 imposing an excise tax on rayon of 5¼ cents per pound, including floor stock and stock in process:

I desire to call to your attention the fact that this tax on rayon will be of little, if any, benefit to the manufacturers of cotton cloth as the field in which the two fabrics compete is very limited, if it exists at all. The true injury which the processing tax on cotton does to the cotton industry is the raising of the price of the cloth to the consumer, thereby discouraging purchases and limiting the number of yards they can purchase for a given sum of money. Purchasers have a definite amount of money they can spend for a certain purpose. If the price of any commodity increases, they do not spend more money on it—they purchase smaller quantities. Customers, generally speaking, on account of difference in price, do not shift their purchases from cotton to rayon; they limit the total number of yards of cotton they buy.

This tax on rayon will place a heavy burden on the finances of many rayon mills and will, undoubtedly, force some of them out of business, thereby decreasing employment.

There is competition between rayon and silk in a broad way. If any tax is to be imposed on rayon, an equivalent tax should also be imposed on silk. I am advised that this equivalent should be 10½ cents per pound.

This tax, as it stands, burdens a domestic industry for the benefit of foreigners. It does no American industry any material good

and merely tends to bring the rayon industry down to the same distressing state of depression that the cotton industry now is in.

We protest against this tax and urge you to do all in your power to prevent it from becoming law. If you cannot accomplish this, at least see that it is so changed that it does not discriminate against American workmen in favor of foreigners.

Yours truly,

CHARLES WALCOTT, *Treasurer.*

FRANKLIN RAYON CORPORATION,
Providence, R. I., July 3, 1935.

Hon. DAVID WALSH,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR WALSH: Confirming telephone conversation of this morning, the writer will call at your office Monday, July 8, at 10 o'clock eastern standard time.

So that you may have the background of the case under discussion in advance, the following facts are pertinent:

1. The original A. A. A. bill authorized the Secretary of Agriculture to apply compensating taxes on products competing with basic agricultural commodities on which processing taxes were placed in the act.

2. The Department of Agriculture held hearings on July 31, 1933, and November 10, 1933, to develop factual evidence regarding the alleged competition of rayon with cotton. As the findings apparently did not justify a compensating tax on rayon no further action has been taken by the Secretary of Agriculture during this 2-year period.

3. In H. R. 8492 carrying the A. A. A. amendments requested by the Department of Agriculture the House passed this bill with no reference being made to a rayon tax.

4. This week in the Senate's Agricultural and Forestry Committee we understand that a rider has been added to H. R. 8492 proposing a processing tax of 5¼ cents per pound on rayon. We further understand that this bill may be reported to the Senate and voted upon on Monday, July 8.

5. If such a bill were to be railroaded through the Senate it would constitute a special assessment of \$12,500,000 annually against one industry to be used for the benefit of other interests without giving the rayon industry due notice or a public hearing before passage.

6. Before the final passage of the original A. A. A. bill every industry affected by its provisions was given the opportunity of a public hearing. Why should the rayon industry be discriminated against?

7. Should the Senate decide to place a processing tax on rayon, it would be grossly unjust to American industry and American labor to do so unless at least 15 cents per pound processing tax or import duty is simultaneously applied to raw silk and manufactured silk yarns and goods. It is obvious to any impartial observer that rayon and silk are highly competitive compared with rayon and cotton. We feel certain that an American legislative body will hesitate to crucify a young but growing American industry with its 200,000 associated employees for the benefit of Japanese capital and cheap labor. Japanese manufactured goods are already pouring into this country, and a processing tax on rayon would greatly increase the volume of Japanese silk yarns and cloth sold in the United States.

Due to the unfair method used in slipping a rayon processing tax rider into H. R. 8492, it will probably be necessary to take forceful action on the floor of the Senate Monday, July 8, against this measure. May we count on your valued support?

Besides representing the Franklin Rayon Corporation, the writer is the president of the National Rayon Yarn Processors Association, composed of 70 small concerns engaged in the dyeing and converting of rayon yarns in every textile-producing State in the Union.

Yours very truly,

ROYAL LITTLE.

HOLYOKE, MASS., July 3, 1935.

Hon. DAVID I. WALSH:

Excise tax on rayon is another blow to Massachusetts, and is entirely unjustified. Tax on rayon will not help cotton. But were it justified there should be an equivalent tax on silk. Grossly unfair to discriminate against a product made in the United States in favor of a foreign product.

FARR ALPACA CO.

LEWISTON, MAINE, July 3, 1935.

Senator DAVID I. WALSH:

Strongly urge your opposing rayon tax rider on A. A. A. bill. If passed, will cause untold harm.

N. M. MITCHELL.

PROVIDENCE, R. I., July 3, 1935.

Hon. DAVID I. WALSH,
Senate Building:

Understand there is a possibility of a 5¼-cent processing tax on rayon, as per amendment to bill H. R. 8492. Apparently no similar tax is proposed for real silk, with which rayon competes. Urgently request you act to prevent passage of this bill, at least until the rayon industry has an opportunity to be heard. This bill places a very great burden on the rayon industry and not on others with which it competes.

L. R. BUCKNER.

NEW BEDFORD, MASS., July 3, 1935.

Hon. DAVID I. WALSH:

Senate amendment to H. R. 8492 provides an excise tax of 5¼ cents per pound on rayon, including floor stock and stock in process. There is virtually no competition between rayon and cotton, so a tax on rayon will not increase cotton consumption. As a manufacturer who uses both cotton and rayon, we protest this as unjust unless an equivalent tax of 10½ cents per pound is put on silk.

BOOTH MANUFACTURING CO.

BOSTON, MASS., July 3, 1935.

Hon. Senator DAVID I. WALSH:

If tax placed on rayon, strongly urge similar tax on commodities, jute, paper, etc., competing with cotton; also on silk competing with rayon, although rayon tax entirely improper. If enacted, should be placed on silk to maintain fair basis between these fibers and protect domestic rayon from foreign silk.

CABOT MANUFACTURING CO.,
NATHANIEL F. AYER, *Treasurer.*

Mr. CONNALLY. Mr. President, as I understand, the pending motion is to reconsider the vote by which the Senate refused to incorporate in the bill the proposed tax on rayon, contained in what is known as "section 15."

The PRESIDENT pro tempore. The Senator is correct.

Mr. CONNALLY. I wish to urge the Senate to reconsider its action, which really had little consideration the other day, because the Senator from South Carolina [Mr. BYRNES] withdrew his proposed amendment, which included a tax on rayon and on silk.

Mr. President, so long as a processing tax is levied on cotton, unless a similar tax is levied on rayon, which is a highly competitive product, it amounts to levying a tax for the benefit of rayon. When there are two competing commodities in the same market, and we put a tax on one of them and refrain from putting a tax on the other, we are giving a tremendous advantage to the commodity which is not taxed.

It is immaterial to the Senator from Texas whether this tax is put in the general fund or what is done with it. I do not wish to penalize rayon for the benefit of cotton, as was suggested by one Senator, who said we should be taxing rayon for the benefit of cotton. Take the rayon tax and put it in the general fund, if that be desired; but it is not fair to cotton to put a processing tax on it, make it cost the manufacturer more, make it more difficult for the manufacturer to sell it in the market, and permit rayon to go ahead without any processing tax, and thereby receive a premium in the competitive market, where the cotton producers have to contest for the business.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. CONNALLY. Just a moment.

The bill is supposed to be for the benefit of agricultural producers.

Mr. TYDINGS and Mr. WAGNER addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Texas yield; and if so, to whom?

Mr. CONNALLY. In a moment I shall be glad to yield to the two Senators.

This bill is supposed to be for the benefit of agricultural producers; and yet, by the action which has been taken here, it is a bill in behalf of rayon manufacturers.

Where do rayon materials come from? Wood pulp, principally wood pulp from Canada. How does it help the American farmer to make it cheaper to sell Canadian wood pulp in the American market in competition with the cotton producer?

Mr. RUSSELL. Mr. President—

Mr. CONNALLY. I yield to the Senator from Georgia.

Mr. RUSSELL. I am sure the Senator from Texas shares with me my great esteem for the Senator from South Carolina [Mr. SMITH] as the champion of the cotton farmer in this body; but I desire to ask the Senator from Texas if he sees how it would be remotely possible for a domestic tax—a tax levied only on rayon manufactured and sold in this country—to affect the export of cotton?

Mr. CONNALLY. I do not follow the Senator from South Carolina.

Mr. SMITH. Mr. President, if necessary—

Mr. CONNALLY. I yield to the Senator briefly. I have only 15 minutes.

Mr. SMITH. I would rather answer that at some other time.

Mr. CONNALLY. I do not understand, though, how the Senator from South Carolina, when his own bill contained this amendment, and when his own State is a cotton-producing State, can stand on the floor of the Senate and fight this amendment.

Mr. SMITH. And the Senator from South Carolina himself put in that amendment; but subsequent facts convinced me that it would be of greater benefit to the cotton grower of my section of the country to have the export market untrammelled, and that he would derive a greater benefit by exporting 2,000,000 bales of cotton, than by risking the doubtful benefit that would come from putting a tax on rayon.

Mr. CONNALLY. Mr. President—

Mr. SMITH. I notice that the Senator from Texas was not listening to me. At the proper time I will tell him about this matter.

Mr. CONNALLY. I hope the Senator will. The Senator will have 15 minutes, and I hope he will explain how leaving a tax off rayon is going to expand our cotton markets.

Mr. SMITH. Yes; it will—oh, yes!

Mr. WAGNER and Mr. TYDINGS addressed the Chair. The PRESIDENT pro tempore. Does the Senator from Texas yield; and if so, to whom?

Mr. CONNALLY. I yield to the Senator from New York.

Mr. WAGNER. Mr. President, the Senator's whole argument is based on the assumption that rayon competes with cotton.

Mr. CONNALLY. Yes, sir.

Mr. WAGNER. Well, Mr. President—

Mr. CONNALLY. I cannot yield except for a question, I will say to the Senator. I am glad to yield to him, but I cannot have my 15 minutes taken up by interruptions. The Senator will have 15 minutes.

Mr. WAGNER. I was about to ask the Senator a simple question.

Mr. CONNALLY. Very well, if the Senator will ask it.

Mr. WAGNER. The question is whether it would not have been a fair procedure and a usual procedure to have those who would be affected by this tax, which they regard as destructive of their industry, afforded an opportunity to present their side to the committee before it took that action.

Mr. CONNALLY. I will answer the Senator.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. CONNALLY. Just a moment.

The Senator from South Carolina brings before the Senate this bill containing an amendment providing a tax on rayon, after he is supposed to have had hearings, after he is supposed to have known what he was doing about it; and yet he now says that on further consideration, in order to help the export market, he takes it out.

Mr. TYDINGS. Mr. President—

Mr. CONNALLY. I yield to the Senator from Maryland.

Mr. TYDINGS. I should like to ask the Senator from Texas, inasmuch as many people are so poor that they cannot buy woolen garments, if he intends also to offer an amendment to put a processing-tax on wool, as that competes with the clothing of the poor, which is cotton?

Mr. CONNALLY. Oh, no; the Senator from Maryland does not think I am going to do that. Wool has already been stricken out of this bill. It is not in the bill.

Now, let me say to the Senator from New York that he is talking about rayon manufacturers having a hearing. When the tariff bill was here, the rayon manufacturers had a hearing. They reached the committees; they went before them; and what did we do for the rayon manufacturers? We gave them, on page 69 of the tariff act, a high tariff on rayon to protect American manufacturers, to give them a bounty.

We put a tax not on rayon but on everyone who buys rayon. In order to help rayon and in order to lift its market here at home, we put a tax on every purchaser of rayon.

The Senator from New York says that has nothing to do with it. There was a hearing and they got the bounty; they got the advantage. The cotton producer cannot enjoy a tariff on cotton, because we produce more of it than we consume. Yet when we have before us a bill for the benefit not of the cotton manufacturer but for the benefit of the cotton farmer, who produces the commodity from the earth, Senators rise and say we must not put a tax on rayon, which competes with cotton, because it would hurt the manufacturer of rayon, who is enjoying a tariff of 45 cents a pound on some of it. Let me read the law:

Provided, That none of the foregoing filaments shall be subject to a less duty than 40 cents per pound, and none of the foregoing yarns shall be subject to a less duty than 45 cents per pound.

Senators quibble about a few cents on cotton in the form of a processing tax, and yet they are taking out of the consumers of the United States 40 and 45 cents a pound on rayon, which is an article competitive with cotton. Then, when we say that cotton and rayon, so far as this bill is concerned, ought to be put on the same competitive basis, they say, "Oh, no; you must not put a processing tax on rayon." If we do not put a processing tax on rayon, we are giving rayon still another advantage, we are making it harder for cotton to compete with it, we are adding to it another artificial device; to enrich whom? Those who own the rayon factories in the United States. Who owns them?

Mr. RUSSELL. Mr. President, I wish to point out that a great many of the rayon factories in the United States are owned abroad. There are some in my State which are owned in Italy, and they have the advantage of a tariff protection here but are unwilling to pay this tax.

Mr. CONNALLY. Certainly. I wanted to call that to the attention of the Senate. I have not at hand the detailed information, but I know that a great many of the rayon factories in the United States are owned not by American citizens but by citizens living abroad, in Italy, and perhaps in Germany. I do not know the details, but it is my information that the rayon interests in the United States are owned abroad.

In a contest between foreign-owned corporations in the United States, manufacturing an article competitive with cotton and American cotton manufacturers and American cotton producers, I want the Senate to say whether it is standing by the American farmer and the American cotton textile manufacturer, or whether it is going to give another bounty, another advantage, another artificial profit, to the rayon manufacturers, who I understand have already made tremendous profits, and take that money out of the cotton farmer and the cotton textile manufacturer.

Mr. President, that is the issue. Gentlemen may camouflage it all they please, they may varnish it over with their oratory and with their logical deductions and their abstractions, but the issue is whether we are to tax one competitive article and leave the other competitive article free of a tax, and thereby give it an advantage which it should not possess.

I submit that the Senate is not going to do that sort of thing. Give us a chance to have this issue reconsidered, in order that the Senate may have an opportunity for a record vote on the question.

Mr. SMITH. Mr. President, I should like to state that I am informed by the Department of Agriculture that they have looked into this matter and have found that there is not enough competition between cotton articles and rayon articles to justify them, under the law, in imposing the tax. The Department of State, however, has called my attention to the fact that perhaps the largest purchasers of American cotton depend largely on the sale of certain forms of silk for the wherewith to purchase an enormous amount of American cotton, and that in all justice to the rayon business, if this tax is imposed, as a matter of course there should be a compensatory tax placed on silk in all its forms where it enters into competition with rayon.

Therefore, in order to keep our export market at the tide at which it is now, comprising some 2,000,000 bales of cotton, which is certainly a very decisive factor in sustaining the

price, I prefer to get the greater benefit for those whom I represent in the form of exportations than to commit myself to the doubtful advantage of the small competition between rayon and cotton. So I hope the Senate will reject the motion.

Mr. TYDINGS. Mr. President, a while ago I asked the Senator from Texas [Mr. CONNALLY] if he did not think it would be perfectly logical for us to have a compensatory tax upon wool. Every Senator who remembers the tariff debates recalls particularly the charge that shoddy quite often is sold for wool, shoddy being a combination of cotton and wool, and that that is the clothing of the poor. Shoddy has more cotton in it than has rayon.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. TYDINGS. If the Senator will let me finish, I will yield later on. I will yield now for a question.

Mr. BARKLEY. I wish to ask the Senator if he is sure that he is right in saying that shoddy is a mixture of wool and cotton. My understanding is that shoddy is reworked wool. It has no cotton in it, unless some cotton is added in the reworking.

Mr. TYDINGS. Let us assume it is reworked wool. It certainly is the clothing of the poor, who cannot afford to buy pure wool. Therefore it strikes me that unless we tax shoddy we are going to throw an unfair burden on cotton, because here is cotton, which is the clothing of the poor, taxed on the one hand, and here is shoddy, which is cheap clothing, not taxed. Therefore people are going to buy more shoddy, and the only way to correct that situation, in my judgment, would be by putting a compensatory tax on shoddy.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. BARKLEY. Does not the Senator recall, however, that we produce only a fraction of as much wool as we consume, and that there is already a very high protective tariff on wool, and there is nothing necessary to be done to help wool, which is already getting its maximum benefit?

Mr. TYDINGS. If we produce only a little of it, then that is all the more reason why we ought to protect the home industry.

Mr. BARKLEY. It is protected; it carries a high tariff of 30 cents a pound.

Mr. TYDINGS. Why do we not put a tax on shoddy and freeze it out? The idea of taxing cotton, which is raised in this country, and rayon, which is produced in this country, and letting shoddy, which is produced in other countries, come in and escape the tax.

Mr. BARKLEY. It does not escape it.

Mr. TYDINGS. And that in the name of America. The very idea!

Mr. BARKLEY. I do not wish to irritate the Senator, but shoddy does not come in free of duty. It bears a tariff tax.

Mr. TYDINGS. That is all the more reason why there ought to be a compensatory tax. It is not produced in the United States, except in a small quantity. It is produced abroad; and here we are taxing rayon and cotton, which are produced in our own country, and allowing shoddy to come in with no compensatory tax on it whatsoever.

Is there anyone ready to offer an amendment to tax shoddy?

Mr. BARKLEY. I think it is a "shoddy" argument the Senator is making on that proposition. [Laughter.]

Mr. TYDINGS. It would be in the eyes of the Senator from Kentucky, because his discernment is so wrapped up in this kind of novel legislation that he would not know wool from shoddy in the form of an argument.

Mr. BARKLEY. There is no difference between wool and shoddy; shoddy is wool.

Mr. TYDINGS. I have not yielded. The Senator has a way of always making speeches in another Senator's time without even bothering the chair to obtain recognition.

Mr. BARKLEY. Mr. President—

Mr. TYDINGS. And that is the "shoddiest" thing I know of. [Laughter.]

Mr. BARKLEY. Mr. President—

Mr. TYDINGS. If I may proceed to eliminate this shoddy argument from my very pertinent and pointed and proper remarks, let me go on in the 12 or 13 minutes that are left.

Everyone concedes that there is very little if any cotton in rayon, but it is pointed out here that rayon companies are owned by foreigners. Yet, forsooth, those who hold that out as bait to put this compensatory tax on rayon, rise the next moment to say there should be no tax on shoddy, notwithstanding the fact that most of it is not only owned but is produced and manufactured outside of the United States. They stand indicted by their own argument. They are not consistent. They want to protect the cotton farmer, yes; but they want to protect the cotton farmer at the expense of every laboring man who works in a rayon plant.

There is no more justification for putting a tax upon rayon than there is for putting a tax upon cellophane, because we have now reached the era of cellophane bathing suits, and I think there ought to be a compensatory tax put on cellophane so that Senators who make these "shoddy" arguments will not have to wear glasses in the future when viewing the beauties on the bathing beaches. [Laughter.]

Mr. BARKLEY. The Senator is talking about something concerning which he is an expert. [Laughter.]

Mr. TYDINGS. I claim that is a very good observation, the only good one the Senator from Kentucky has made so far in this whole argument.

Mr. President, the farmer for a long while has been the victim of compensatory duties. The Senator from South Carolina on many occasions has pointed out the great financial burden put on agriculture by compensatory duties. Were he now to favor a compensatory duty on something remote from cotton he would violate all the philosophy and logic and the worth of all the argument he has made when tariff matters have been before this body.

Rayon is something entirely different from cotton. It is a competitive product, yes; but, following the logic now indulged in, when we come to a discussion of coal and put a tax upon coal for the benefit of the miners, let us also put a tax upon wood and oil and all the other products which compete with coal.

Mr. President, if this philosophy shall be ever written into the fundamental law of our land, Senators will be dizzy from the prospect of the number of commodities which compete with every commodity used in human activities. The day may come when the so-called "Guffey coal bill" will be used as a vehicle for a somewhat similar philosophy. Then we shall have to tax oil and coal, cordwood and briquettes, and every other sort of product in order to take care of the coal industry.

In other words, this is a proposal to hit a blow at one man's business which has no relation to the commodity, cotton, which we are discussing. It is a proposal to strike that business down financially, to make it impossible for him to do business, so that another class of people may receive a particular benefit at his expense.

If Senators desire a tax on cotton in order to bring it up to parity price, that is one thing. That philosophy may be maintained. There is good argument which can be offered to support that view. However, there is no favorable argument, and no justice, and no righteousness in taxing an article utterly removed from cotton for the benefit of cotton alone.

Do the taxes levied on rayon go back to the rayon producers? Of course, they do not. Where do they go? We tax rayon and give the resultant funds to the cotton producer. Senators might justify the competitive tax on rayon were that tax husbanded and sent back to those who produce rayon, as is done in the case of cotton; but what justification can there be for taxing the workers in the rayon

plants—for that is what it means—for taxing the owners of the rayon plants—for that is what it means—and taking that tax, not for the purpose of running the Government but for the purpose of giving it entirely to another class of citizens?

If this tax were to go into the Federal Treasury for general purposes, that would be one thing; but it is not to go there, except to reside there temporarily, and then it is to go back to the cotton farmer. Well, let us tax all the lawyers for the benefit of the doctors, and let us tax all the railroad workers for the benefit of the steamship workers. That would be the natural logic were this proposed plan pursued.

There is not a Senator who will detach himself from the fleshpots of his own State—the protection of the industries and growth of his own State—who will not then say that there can be no justification for taxing one industry and taking the proceeds of that tax, not for government, but for the benefit of those employed in other industries. The refusal of Senators to tax shoddy, which competes with cotton, is on a par with the whole philosophy and justice back of this amendment.

I hope the action by which the amendment was rejected the other day will be maintained and that Senators will vote not to put this tax on an industry which has nothing to do with cotton, the proceeds of which tax would be used to take care of those engaged in cotton. In my judgment, that would be a manifest and ridiculous injustice.

Mr. GLASS. Mr. President, without desiring to prolong the discussion of this question unreasonably, let me say that today is the first time I have heard it charged—perhaps it has been charged without my hearing it—that the Department of Agriculture in Washington has shown any disposition whatsoever to neglect the interests of the cotton producers. On the contrary, the Department of Agriculture has levied the processing tax against which the textile manufacturers have been protesting since it was levied, and in every other conceivable, reasonable way has sought to promote the interests of the cotton grower, even at the expense of 130,000,000 people who have to use cotton, from the baby in the crib just born to the corpse in the grave.

The very fact, as stated by the Senator from New York, that the Department of Agriculture has for a long time been authorized to levy a tax on rayon, and has not done it, seems to me conclusive of the repeated assertion here that rayon is not a competitor of cotton goods. It is only a competitor of silk, and that by reason of the fact that silk is much more costly than rayon, which has the appearance of silk.

It has been suggested that rayon is protected in the tariff act and that cotton is not. If the distinguished Senator from Texas [Mr. CONNALLY], who had the tariff act before him, and from whose desk I have abstracted this document without his knowledge or consent, will look at the tariff act he will see that there are 36 provisions of the existing tariff law levying a tax on every conceivable species of cotton goods.

Mr. CONNALLY. The Senator from Texas did not say that there was not any duty on manufactured cotton. He said that there was no tariff on raw cotton.

Mr. GLASS. What is the duty on manufactured cotton intended to do? Is it intended to protect only the manufacturer, or the manufacturer and the producer? The Senator from Texas knows perfectly well it is meant to protect the producer of the raw material as well as the producer of the manufactured material, because coincidentally it is obliged to protect the producer if it protects the manufacturer.

I read from the tariff act:

PAR. 901. (a) Cotton yarn, including warps, in any form, not bleached, dyed, colored, combed, or plied. * * *

(b) Cotton yarn, including warps, in any form, bleached, dyed, colored, combed, or plied. * * *

Cotton cloth of almost every description.

(d) Plain gauge or leno woven cotton nets or nettings. * * *

PAR. 904. (c) Cotton cloth, printed, dyed, or colored. * * *

(e) Tire fabric or fabric for use in pneumatic tires, including cord fabric. * * *

PAR. 905. Cloth, in chief value of cotton, containing silk or rayon. * * *

PAR. 906. Cloth, in chief value of cotton, containing wool. * * *

I have not read the percentages all the way through.

PAR. 908. Tapestries and other jacquard-figured upholstery cloths. * * *

PAR. 909. Pile fabrics. * * *

PAR. 911. (a) Quilts or bedspreads. * * *

(b) Sheets and pillowcases. * * *

Diapers and shrouds and everything else are included. Everybody knows that the Congress and the Department of Agriculture have gone to extremes in looking after the cotton interests.

I do not know whence comes the suggestion that the rayon factories are all owned by foreigners. That is not true in Virginia, which produces nearly if not quite one-half the rayon manufactured in this country. One factory alone gives employment to 5,000 persons, which, counting their dependents, means that 20,000 people are dependent upon that factory alone. Yet, without one word of hearing, the Senator from Georgia precipitates this proposal to tax out of existence a great industry, yet in its infancy. It is about the only industry in the United States which is not hoary with age. Yet the Senator would tax it out of existence without a word of hearing by the committee, without any opportunity to present the facts.

We even had to plead here in order to secure postponement of consideration of the amendment for 1 day, when there was not one sentence in the report of the committee or in the hearings of the committee to indicate that this great infant industry had been given any chance whatsoever to demonstrate what the best-informed of them confidently assert, that rayon is not in competition with cotton but only with silk; and the Senator from Georgia has avowed that he is not even in favor of giving us a compensatory tax in order to protect the rayon industry from the silk industry.

I hope the Senate will determine to maintain its position. Whoever heard of Ed Smith being against the cotton interests? Why, he is known as "Cotton Ed." [Laughter.] Virginia does not produce a great deal of cotton, I think some 60,000 bales, but, whether it produces much or little of cotton or anything else, every industry should be given a fair show in a bill of this kind.

Mr. WAGNER. Mr. President, I do not desire to prolong the discussion unduly; and even the few words I have to say may be in the nature of repetition. But the discussion on the part of the movers of the pending motion has drifted away from the subject before the Senate for consideration. It seems to me that the questions as to whether there is a duty levied upon imported rayon and whether rayon factories are owned by foreigners are not relevant to the point at issue. I may state, however, that so far as New York rayon manufacturers are concerned, they are American citizens.

Two years ago, when we passed the Agricultural Adjustment Administration Act, we constituted the Secretary of Agriculture as a quasi-judicial officer to determine, after hearings and in accordance with standards fixed by Congress, whether or not there should be imposed compensatory taxes upon those commodities in competition with the basic commodities set forth in the act. We intrusted this power to the Secretary of Agriculture, because we recognized that we were in no position as a legislative body to determine the detailed facts as to the extent of the competition and as to the proper amount of the compensatory tax.

Cotton was placed in the same position as the other basic commodities. If there were other outside commodities competing with cotton, it was the duty of those who contended that such competition existed to appear before the quasi-judicial officer, to present all the facts showing the excessive shift from one commodity to the other, and to indicate that injury had ensued because of the tax imposed upon the cotton processors.

In accord with this procedure, the litigants, or complainants, went before the Secretary of Agriculture and presented their case, contending that there ought to be a compensatory tax imposed upon rayon. The hearings, the trial, in

other words, lasted for over a year; both sides presented the facts; and, as a result of that trial, the properly constituted judge refused to impose a compensatory tax on rayon.

Now, what are we asked to do? Like a court of appeals, but without any record before us, without giving an opportunity for a hearing to the industry which says that if this tax is imposed it will be destroyed, without a scintilla of evidence, we are asked blindly, without knowledge of cause or effect, to vote in favor of a compensatory tax fixed by us.

To me it is inconceivable that this body, the greatest legislative body in the world, and, if I may, except myself, containing the most distinguished citizens of the country, will deliberately and blindly vote a tax when it has no information whatsoever.

May I refer briefly to the protection of the rayon industry that has been complained of? I cannot understand the relevancy of that argument. If I were a judge and heard the Senator from Texas, I would inquire what the imposition of a duty upon rayon has to do with the question before the Senate. As a matter of fact, the duty we imposed has been very salutary; the rayon industry has grown in this country, until today it represents an investment of over \$250,000,000 and employs nearly 200,000 men and women.

Rayon competes not with cotton but with silk. Of the annual value of fiber consumption in the United States, rayon represented 2.5 percent in 1920 and 13.9 percent in 1934.

During the same period silk fell from 15.6 percent to 9.4 percent.

But the position occupied by cotton in the United States remained practically stable, in 1920 being 54 percent and in 1934 a little over 53 percent. It is obvious from these figures—and that is the reason why the Secretary of Agriculture could not see his way clear to impose a compensatory tax upon rayon—that rayon broke into the silk field and took away a good deal of the silk business, but did not substantially affect cotton.

Mr. BARKLEY. Mr. President, if the Senator will yield, let me ask him what do the percentages represent? I did not understand them.

Mr. WAGNER. The percentage of the consumption of fibers in the United States occupied by rayon, silk, and cotton, respectively.

Mr. BARKLEY. Among all the fibers consumed, then, rayon in 1920 represented the percentage the Senator has given?

Mr. WAGNER. Yes.

Mr. BARKLEY. And in the last year given it had increased while silk had gone down?

Mr. WAGNER. Exactly. In other words, as rayon went up silk went down. That is where the competition is. The consumption of cotton remained practically the same.

I have some communications from representatives of the rayon industry in my State in which they say that the tax we are proposing to impose upon them will deliver the business which they have won through protection and through their own efficiency into the hands of the silk industry. The prices of silk and rayon are now practically the same, but rayon has a slight advantage. If this tax is imposed, that advantage will fade and it will be possible to sell silk in this country cheaper than rayon. In that event, of course, the market for rayon will disappear.

Are we prepared to destroy an industry which has grown as these figures indicate during the last 14 years, to destroy it overnight, without knowing anything about whether the particular tax imposed is fair or not?

That, Mr. President, is all I care to say. I merely wished to present the figures for the consideration of the Senate.

Mr. McKELLAR. Mr. President, the present law gives the right to the Secretary of Agriculture, after an examination, to impose this tax if he sees proper and the facts warrant it. Hearings have been held on that law, but the Secretary has never imposed the tax. Without having information additional to that which the Secretary had when he held the hearings, it seems to me to be rather unusual, to say the least, for us now to impose the proposed tax.

At first blush I thought there was a good deal of competition between cotton and rayon. Upon a more careful examination I find that the competition is with silk rather than rayon. We have no tariff on silk. If we were to impose a compensatory tax on silk, what would be the difficulty? The difficulty would be just this.

Last year, 1933-34, we sold abroad 7,524,000 bales of cotton. This year we sold 2,000,000 bales less. In other words, it is unfortunate for the cotton producers that our foreign market has been greatly lessened. While that is true, while Great Britain has greatly reduced her purchases in this country and while Italy and Germany have greatly reduced their purchases of cotton in this country, Japan has greatly increased her purchases and during the past year bought 1,468,000 bales of cotton from the United States. In other words, she has bought this year practically as much cotton from the United States as have Great Britain, Italy, and Germany combined.

So it would be very improper, it seems to me, for those of us who are interested in cotton to impose this tax. All Americans are interested in cotton, one of our greatest products. It would be manifestly unfair to impose a compensatory tax on silk when our best customer for cotton is Japan.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. CONNALLY. As I understood the Senator, he said he first thought that cotton and rayon were competitive, but upon further investigation he finds they are not. Is rayon a competitor of silk?

Mr. McKELLAR. Yes; it is a competitor of silk.

Mr. CONNALLY. It is a competitor of silk because it is an imitation and a deception and a fraud, making some people think it is silk.

Mr. McKELLAR. I think the Senator is entirely mistaken about its being a fraud or a deception. It is manufactured silk, as we all know. There is no fraud about it.

Mr. CONNALLY. Is it a silk?

Mr. McKELLAR. It is a silk.

Mr. CONNALLY. There is not a bit of silk in it. Why does the Senator say it is silk when there is not a strand of silk in it?

Mr. McKELLAR. I will tell the Senator why I say that. Some geniuses in the world have adopted the methods of the silkworm and devised machinery to that end. The cotton producers sell to the rayon mills 75,000,000 pounds of linters every year, and the price of linters has increased from one-half cent per pound to something like 5 cents per pound, which is beneficial to the cotton interests. For that reason we ought to be very careful about imposing a tax on the consumer of cotton and the purchaser of cotton, because linters are a part of cotton. They are taken into consideration in our stocks of cotton. For that reason, in my judgment, we ought not to impose this tax.

Mr. CONNALLY. Mr. President, will the Senator yield further?

Mr. McKELLAR. Certainly.

Mr. CONNALLY. Is it not true that on all the linters the rayon factories buy they do not pay a cent of processing tax? They get the linters free of the processing tax, whereas competing cotton pays the processing tax.

Mr. McKELLAR. I think that is true; but that is immaterial in this argument, as it seems to me.

Mr. GLASS. Mr. President—

Mr. McKELLAR. I yield to the Senator from Virginia.

Mr. GLASS. The Senator from Texas [Mr. CONNALLY] denounced rayon as a fraud and a deception.

Mr. McKELLAR. The Senator from Texas is mistaken about it.

Mr. GLASS. He denounced rayon as a fraud and a deception because rayon looks like silk. I should like to ask him why he should have charged those Senators who are speaking for rayon with advocating a fraud and a deception upon the public?

Mr. CONNALLY. The Senator from Virginia knows the Senator from Texas did not say a word about any Senator's advocating anything of the kind.

Mr. GLASS. The implication could not be escaped. We are speaking of rayon, and the Senator rose and denounced it as a fraud and a deception.

Mr. CONNALLY. Unfortunately I have no more time, and I cannot make reply to these statements.

Mr. McKELLAR. Unfortunately or fortunately, however it may be viewed, I do not concede that rayon is fraudulent or a deception. I think it is a perfectly legitimate industry, which is doing a wonderful work for our people. It allows many of our people to clothe themselves in a better way than ever before. I think it is exceedingly fortunate for this country that we have rayon mills, and it is likewise exceedingly fortunate for the cotton industry and cotton production.

Mr. President, I think we ought not to impose a tax on silk against our best cotton customer, who buys more cotton from this country than the three nations of Great Britain, Italy, and Germany put together. Under these circumstances we ought not to impose the tax. A further reason for not imposing the tax is because rayon, in my opinion, is not at all in competition with cotton.

Mr. BARBOUR. Mr. President, I do not wish to prolong the discussion, because I think practically everything has been said that might well be said on this subject. But, while I do not care to join in the colloquy between Senators in relation to rayon being a fraudulent imitation, permit me to say it would be just as unfair to suggest that mercerized cotton is fraudulent because it attempts to imitate silk as to say that rayon is intended to deceive in this same respect.

I am glad the distinguished Senator from New York [Mr. WAGNER] gave us the figures and statistics he did a while ago as to the output and consumption of the various commodities and fibers of rayon, silk, and cotton. Senators will remember that I contended yesterday—and was the first Senator to do so—that rayon competes with silk and not with cotton.

It seems to me this proposal brings very clearly to the fore the fallacy of the whole general philosophy of the processing taxes. Here it is proposed to now put a processing tax on rayon so as to help cotton. Just as inevitably as that is done, and it was attempted yesterday, a movement will again be made to put a compensating tax on silk so as to help the other two products; next jute will be involved, and so on, ad infinitum.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. BARBOUR. Certainly. I am very glad to yield to my good friend the distinguished Senator from New York.

Mr. WAGNER. I am asking this question because I know the Senator's intimate knowledge of the whole subject. Is it the Senator's opinion that if this tax is imposed on the rayon industry it may mean a surrender of the rayon market to silk?

Mr. BARBOUR. I think the Senator is entirely correct. I want to point out further, however, in fairness to the silk industry, that it should be added also that inevitably a processing tax would then in turn be put upon silk. This is obvious; and the silk industry, I can assure the Senate from my own experience, though I have no personal monetary interest in the silk industry directly or indirectly, cannot stand the tax which was suggested heretofore in respect to this phase of this legislation and which was rejected, but will be suggested again if this processing tax is put on rayon.

Mr. FRAZIER and Mr. McKELLAR addressed the Chair. The PRESIDENT pro tempore. Does the Senator from New Jersey yield; and, if so, to whom?

Mr. BARBOUR. I yield first to the Senator from North Dakota. I think he was the first of the two Senators to ask me to yield.

Mr. FRAZIER. Mr. President, as this amendment was explained to the committee, it does not provide any tax whatever on silk and provides for a tax on rayon only as it comes in competition with cotton and not in competition with silk. If rayon comes in competition with cotton, it seems to me under the act it should be taxed; but there is

no tax on silk and no tax on the rayon which is in competition with silk, as I understand, as the amendment was explained to the committee.

Mr. BARBOUR. The Senator is perfectly correct. The Senator will recall, however, that when this matter was to the fore before, silk was drawn into the picture; and my contention is that just as surely as a compensatory tax which the Senator suggests is put on rayon, inevitably, as I have said several times before, a similar tax will follow upon silk, and silk cannot stand it.

Mr. McKELLAR. And, Mr. President, in addition to that, we should probably offend our best cotton customer.

Mr. BARBOUR. We might very well in time lose this important customer. Of course, that would not happen all at once; but if this course is to be pursued, involving first one fiber and then another, I think in time we will not only offend our best cotton customer, but possibly in time lose him.

Now, there is no quarrel that I wish to engender in respect to the processing tax on cotton. That particular processing tax seems to be inevitable. It is there now and probably will remain in the law. I do not believe, however, this whole philosophy is sound; but the point I am trying to make is that I am as sincere as any a man can be when I say that to extend these processing taxes to these other fibers will be simply to start a veritable ring-around-the-rosy which can end only in disaster in time, not only to all the fiber and textile interests, but to the producers of the raw materials and those who use these raw materials in industry.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. BARBOUR. I yield, gladly.

Mr. BARKLEY. I notice that the amendment as to rayon which was rejected, and of which the Senator from Georgia has now moved reconsideration, provides that the tax shall be 125 percent of the processing tax levied upon cotton. Can the Senator from New Jersey explain why the tax should be 125 percent of the tax levied on cotton, even if we levy a tax at all?

Mr. BARBOUR. I do not think there is a person in the whole world who can explain it. Certainly I cannot. It is an arbitrary figure and, as the Senator from New York said, has been set without the rayon industry having any voice in the proceedings. Certainly by the same token, only far more so, when silk was brought into the picture the other day, there was not a single silk manufacturer in the United States who knew anything about it or who had been consulted or given a chance to be heard.

I hope very much indeed—and I say this with all due respect to my friend, the junior Senator from Georgia [Mr. RUSSELL]—that his motion to open up this whole unfortunate subject again will not prevail, because, in my judgment, if his motion carries, it will be a great mistake and will be harmful to the whole textile industry, cotton as well as all the rest of the fibers that have been mentioned, or certainly will be mentioned if we again open up this subject.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Georgia [Mr. RUSSELL] to reconsider the vote by which the Senate rejected the committee amendment on page 45, beginning in line 17, designated as section 15.

Mr. RUSSELL. I call for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. FLETCHER (when his name was called). On this question I have a pair with the Senator from New Jersey [Mr. MOORE] and therefore withhold my vote. If the Senator from New Jersey were present, he would vote "nay", and I should vote "yea."

Mr. REYNOLDS (when his name was called). I am paired on this question with the senior Senator from Missouri [Mr. CLARK]. If I were at liberty to vote I should vote "yea", and I understand that if he were present he would vote "nay." I withhold my vote.

The roll call was concluded.

Mr. WAGNER. My colleague [Mr. COPELAND] is unavoidably absent. If he were present he would vote "nay" on this question.

Mr. CONNALLY. I desire to announce the unavoidable absence of my colleague [Mr. SHEPPARD].

Mr. AUSTIN. I announce the necessary absence of the Senator from Delaware [Mr. HASTINGS] and the Senator from Texas [Mr. SHEPPARD], who are paired on this question. If present, the Senator from Delaware would vote "nay", and the Senator from Texas would vote "yea."

Mr. McKELLAR (after having voted in the negative). Has the Senator from Delaware [Mr. TOWNSEND] voted?

The PRESIDING OFFICER. That Senator has not voted.

Mr. McKELLAR. I have a general pair with the Senator from Delaware, but I understand that if he were present he would vote as I have voted; so I shall allow my vote to stand.

Mr. BARBOUR. I do not know whether or not any Senator on the other side of the aisle is going to make any announcement as to the absentees or how they would vote. I wish to say that my colleague the junior Senator from New Jersey [Mr. MOORE] is paired, and, if present, would vote "nay."

Mr. TYDINGS. My colleague [Mr. RADCLIFFE] is unavoidably detained. If present, he would vote "nay."

Mr. ROBINSON. I desire to announce the necessary absence from the Senate of the Senator from Mississippi [Mr. BILBO], the Senator from South Carolina [Mr. BYRNES], the Senator from Missouri [Mr. CLARK], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Louisiana [Mr. LONG], the Senator from Wyoming [Mr. O'MAHONEY], the Senator from Utah [Mr. THOMAS], and the Senator from Montana [Mr. WHEELER].

Mr. BULKLEY. I desire to announce the unavoidable absence of my colleague [Mr. DONAHEY].

The result was announced—yeas 15, nays 62, as follows:

YEAS—15

Bankhead	Duffy	Norbeck	Russell
Black	Frazier	Nye	Shipstead
Bulow	George	Overton	Trammell
Connally	McGill	Pittman	

NAYS—62

Adams	Chavez	Keyes	Pope
Ashurst	Coolidge	King	Robinson
Austin	Costigan	La Follette	Schall
Bachman	Davis	Logan	Schwellenbach
Bailey	Dickinson	Lonergan	Smith
Barbour	Gerry	McAdoo	Steiner
Barkley	Gibson	McCarran	Thomas, Okla.
Bone	Glass	McKellar	Truman
Borah	Gore	McNary	Tydings
Brown	Guffey	Maloney	Vandenberg
Bulkley	Hale	Metcalf	Van Nuys
Burke	Harrison	Minton	Wagner
Byrd	Hatch	Murphy	Walsh
Capper	Hayden	Murray	White
Caraway	Holt	Neely	
Carey	Johnson	Norris	

NOT VOTING—19

Bilbo	Dieterich	Long	Sheppard
Byrnes	Donahay	Moore	Thomas, Utah
Clark	Fletcher	O'Mahoney	Townsend
Copeland	Hastings	Radcliffe	Wheeler
Couzens	Lewis	Reynolds	

So Mr. RUSSELL's motion to reconsider was rejected.

Mr. LONERGAN. Mr. President, have all the committee amendments been disposed of?

The PRESIDENT pro tempore. They have not been. The question is on the committee amendment on page 64, which was passed over.

Mr. LA FOLLETTE. Mr. President, if we may now recur to the committee amendment on page 64, I desire to offer an amendment in the nature of a substitute for the language proposed to be stricken out by the committee.

The PRESIDENT pro tempore. Let the Chair suggest to the Senator from Wisconsin that the substitute he is offering, as the Chair understands it, will be to section 30.

Mr. LA FOLLETTE. That is correct.

The PRESIDENT pro tempore. The committee amendment just preceding that, to strike out subdivision (g), section 29, has not been acted on.

Mr. LA FOLLETTE. My amendment does not relate to that.

The PRESIDENT pro tempore. The question then is on agreeing to the first committee amendment on page 64, which the clerk will state.

The CHIEF CLERK. On page 64 it is proposed by the Committee on Agriculture and Forestry to strike out lines 1 to 19, inclusive, as follows:

(g) Whenever in this title a refund of any tax is authorized to be made to any person other than the person required to pay the tax with respect to which an application for refund is made, upon statement under oath by the applicant for refund that he has no knowledge, information, or belief that such tax has not in fact been paid, then for the purpose of such refund to said applicant such tax shall be deemed to have been due from any paid by the person liable therefor. Any other provision of the law notwithstanding, the Comptroller General of the United States is authorized and directed, without review of the fact of the payment of the tax, to certify for payment refunds authorized under this subsection in the amounts scheduled to him by the Commissioner of Internal Revenue. Whoever makes any false statement under oath in connection with applying for or securing such refund of any tax shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 6 months, or both.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The amendment of the Senator from Wisconsin in the nature of a substitute is now in order, and the amendment will be stated by the clerk.

The CHIEF CLERK. In lieu of the language proposed to be stricken out on page 64, line 20, and extending through line 14, page 66, being section 30, it is proposed to insert the following:

SEC. 33. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigation under this section to determine such facts. Such investigations shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 75 percent of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

"(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until 15 days after the date of such proclamation, revocation, suspension, or modification.

"(d) Any decision of the President as to facts under this section shall be final.

"(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

Mr. LA FOLLETTE. Mr. President, I think that to most Senators in this body my attitude toward the question of the tariff is well known. In 1930, when the last general revision was under consideration, I labored as effectively as I could with the so-called "coalition" which attempted to mitigate and reduce some of the extremities of protection provided in the measure then before us.

Nevertheless, we are now confronted with facts, and not theories. We have embarked upon a program of endeavoring, by the Agricultural Adjustment Act, to lift the domestic

prices of certain agricultural commodities named therein to the parity price, or fair-exchange-value price.

Mr. President, having adopted that policy, it would be not only futile but inconsistent for us to permit imports to be brought into this country to break the prices of the commodities which are affected by the Agricultural Adjustment Act, and which we are endeavoring to lift to the fair-exchange value or the parity price.

Every Senator in this Chamber who has given any consideration to the problems affecting agriculture must be aware of the enormous increase, especially in recent months, in imports of agricultural commodities into the United States. Those who are familiar with the reply made by the Secretary of the Treasury to Senate Resolution 111, offered by the Senator from Michigan [Mr. VANDENBERG], which I hold in my hand, have had brought to their attention in a graphic and startling manner the increase in the imports of agricultural commodities affected by the pending bill.

I shall not take the time of the Senate, nor shall I consume my own time, which is very limited, in trying to cite all of the instances where these imports are coming in at such an alarming rate of increase. We know the facts, the case is on the record, and it is simply a question, as I see it, of whether the Senate and the Congress desire to place in the discretion of the President of the United States a power, after thorough investigation and finding of facts by the Tariff Commission, to remedy this situation and to protect the program which we are endeavoring to accomplish under the Agricultural Adjustment Act, to lift the prices of certain agricultural commodities in the United States.

Mr. President, it is my information that there were some members of the Committee on Agriculture who felt that, as the bill came from the House, the delegation of power endeavored to be made by the House text of the bill was so sweeping that it would fall under some of the interdicted doctrines which the Supreme Court has already enunciated in certain cases dealing with the question of the delegation of power. Senators perusing my amendment will see that I have endeavored, and I believe successfully, to bring this delegation of power within the doctrine laid down in the Hampton case with respect to the flexible tariff sections of our existing law.

It is perfectly clear from a reading of the amendment that, in the first place, the President shall only act whenever he "has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken under this title."

Then, only after a thorough investigation by the Tariff Commission and a finding that such facts do exist, would the President be empowered to issue a proclamation establishing import quotas, and in issuing his proclamation he must declare that the proclamation is issued upon the basis of the facts found by the Commission.

Furthermore, there is a limitation provided for the exercise of his power even after the facts are found, if they be adduced by the Commission and the proclamation is issued by the President, and that limitation is—

That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 75 percent of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933.

Mr. President, unless some such amendment as this is adopted and written into the law, it seems to me perfectly obvious that on the one hand we will be endeavoring to lift the domestic prices of agricultural commodities under the Agricultural Adjustment Act and with the other hand we will be permitting imports to come into this country to such a degree as to destroy and defeat our entire efforts to give the farmer a parity price for his commodities. Therefore I hope that a majority of the Senate will find that this amendment appeals to their logic under all the circumstances. I reserve the balance of my time on the amendment.

Mr. BAILEY. Mr. President, I presented an amendment similar to the one now presented by the Senator from Wisconsin, with the intention of offering it.

Mr. LA FOLLETTE. Mr. President, I am sorry I did not know that. I would have been very glad to have the Senator present it, and would have supported his amendment, if it has the same objective.

Mr. BAILEY. In making my statement I did not have in mind suggesting that I desired to offer the amendment. I wish to know just why the Senator insists on the proviso on page 2, which he has just read, as follows:

No limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 75 percent of the average annual quantity of such article.

Mr. LA FOLLETTE. Mr. President, my object in placing that provision in the amendment was to meet the criticism of certain members of the Committee on Agriculture and Forestry of the Senate, as I understood, who contended that the House language did not contain a sufficient limitation on the delegation of power, and did not set up such standards for the operation and exercise of that power as would bring it under the doctrine laid down in the Hampton case. It was my endeavor, in including this limitation on the exercise of the power, to meet in that regard one of the criticisms against the House language.

Mr. BAILEY. The effect of the proviso would be that any country which reduced its exports into this country by 75 percent over the period stated in the proviso would be altogether exempted from the effect of this amendment. I do not see why we should undertake to give them the benefit of any exception. We are lifting the domestic price in the interest of our own farmers. At the same time we are trying to take care of our own products of manufacture.

I do not get the effect and the force of the provision of the 75-percent limitation here. I would rather have it so that under any circumstances the American producers and the American manufacturers would be safe from the adverse influences by way of foreign competition of the entire legislation.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. LA FOLLETTE. I can only repeat what I stated before, that only after consultation with others who are interested in this amendment, and who have given great consideration to the legal and constitutional aspects of the problem, did I suggest this proviso, and place in the amendment this limitation on the exercise of the power.

Mr. BAILEY. I may be wrong, but I do not think the proviso aids the constitutionality of the amendment. I will say to the Senator that I desire to support the amendment, but I believe it would be better policy to strike out the proviso, and I will offer an amendment to strike out the proviso in section 22, paragraph (b). However, if it shall not be stricken out I shall not oppose the amendment. I shall support the amendment as offered, because I am sure it is constructive and moving in the right direction.

I shall now submit to the Senate that amendment to the amendment, if it is in order.

THE PRESIDENT pro tempore. The Senator from North Carolina moves to strike out the proviso beginning on page 2, line 16, of the amendment of the Senator from Wisconsin, and running through line 25.

Mr. LA FOLLETTE. Mr. President, if the Senator will further yield, I will say that so far as the objectives which are sought to be met by this amendment are concerned, the Senator and I are at one in what we are trying to do; but if the Senator remembers the decision in the Hampton case, while the Court did not rest heavily upon the proposition, it did mention the fact that Congress had restricted the exercise of the flexible power to 50 percent above or below the existing rate. Therefore, I feel that we are perhaps upon safer constitutional ground to provide a percentage of limitation with respect to the imposition of imports.

I have great confidence in the legal ability of the Senator from North Carolina [Mr. BAILEY], and if he thinks I have erred on the side of being overcautious, I should be willing either to accept the amendment or to accept a reduction in the percentage. As I say, upon this constitutional question, I simply took the advice of others in whom I have great confidence.

Mr. BAILEY. Will the Senator from Wisconsin accept an amendment to strike out the figures "75" and to insert in lieu thereof the figure "50", on page 2, line 19, of his amendment?

Mr. LA FOLLETTE. I so modify my amendment, Mr. President.

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Wisconsin, as modified, to the committee amendment.

Mr. KING. Mr. President, I do not know that I understand the Senator's amendment. If I understand the amendment, and the philosophy behind it, and the position of the Senator from North Carolina [Mr. BAILEY], it seems to me they should go a little further and place a complete embargo upon any imports. Why not enact a tariff act here and place an embargo, or prescribe tariff duties so high as completely to interdict importation?

Mr. BAILEY. I am very glad to have the Senator ask me that question. I can answer it in perfect candor.

We are engaged in a process of imposing domestic taxes tending to elevate the prices of our manufactured products, the primary objective not only being to elevate the price of the raw material but to pass on to the consumer the tax that elevates the price. We are engaged in that process here. It would be fatal to us if, pursuing that process, we should leave the door open to manufacturers or producers of raw material in other countries who pay no processing taxes to come in under the special legislation under which we are operating. That is not protective tariff. That is compensating American nationals as against our own operations.

It is only for that reason that I support this sort of legislation. It is not analogous to the ordinary doctrine of protection. We are protecting our people against our own acts; and I do not see how we can avoid going the limit in doing that. Otherwise, we shall defeat our own acts.

I should now like to hear from my friend the chairman of the committee.

Mr. KING. May I ask the Senator one other question? As I understand the Senator, he thinks we ought to have legislation to protect the American people against our own folly.

Mr. BAILEY. I did not say folly. I am glad the Senator asked me that question.

Mr. President, I do not think it is in any wise folly for the Congress to seek by some means to elevate the prices of American farm products. That is not folly. That is fundamental wisdom. We may go about it in the wrong way; but so long as the prices to the farmers are below the cost of production, so long as the farmers, constituting 27 percent of the American population, receive only 10 percent of the national income, we are justified in invoking artificial measures to bring up the price to the farmers; and when we do, nobody is going to suffer. The price to the farmers will improve conditions throughout the country.

Just a word about my State. By some means, probably by means of the Agricultural Adjustment Act, the lending policy on cotton, the control program, and the devaluation of the dollar in gold, farm prices were elevated in North Carolina in 1933, and still more in 1934, and there has been a restoration of better conditions there—an improvement so great that I should not hesitate to cite it to the Senate as an illustration of the benefits of legislation with a view to increasing prices to the farmers.

Mr. BAILEY subsequently said: Mr. President, I send to the desk and ask unanimous consent to have printed in connection with my remarks three statistical tables showing the imports, exports, and consumption of American cotton.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Imports for consumption of cotton cloth into the United States from Japan
[In thousands]

	Unbleached		Bleached		Printed, dyed, or colored		Total	
	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars
1934								
January.....			4	(¹)	26	2	30	2
February.....			73	4	14	2	86	5
March.....			266	11	67	6	334	17
April.....			482	18	55	6	537	24
May.....			642	24	182	18	824	42
June.....			180	7	132	14	312	21
6 months' total.....			1,647	64	476	48	2,124	111
July.....			296	13	91	8	387	21
August.....			332	12	56	5	389	18
September.....			589	24	94	10	683	33
October.....			372	15	195	16	567	31
November.....			813	36	115	8	927	44
December.....			1,995	89	215	16	2,210	105
Year's total.....			6,044	253	1,243	111	7,287	363
1935								
January.....			2,633	113	708	44	3,341	157
February.....			4,348	205	507	36	4,855	241
March.....			3,854	193	721	51	4,575	244
April.....			2,318	98	851	61	3,170	160
May.....			2,461	102	725	47	3,186	148
5 months' total.....			15,614	711	3,512	239	19,127	950

¹ Only \$242.

United States "general imports" of cotton piece goods from Japan

	Unbleached		Bleached		Printed, dyed, or colored		Total	
	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars	Square yards	Dollars
1933								
January.....			4,979	196	40,846	2,820	45,825	3,016
February.....			386	51	40,332	2,626	40,718	2,677
March.....			15,731	664	44,075	3,150	59,806	3,814
April.....			1,144	57	83,572	5,938	84,716	6,015
May.....			145	5	116,470	8,186	116,615	8,191
June.....			450	58	67,220	5,111	67,670	5,169
6 months.....			22,835	1,031	392,515	27,851	415,350	28,882
July.....			38,265	1,759	82,968	6,160	121,233	7,919
August.....			86,220	4,024	66,735	5,765	152,955	9,789
September.....			492	33	50,765	4,053	51,257	4,086
October.....			28,744	1,448	124,130	10,328	152,874	11,776
November.....			1,368	83	92,176	8,041	93,544	8,124
December.....			78,700	3,806	49,890	4,126	128,590	7,932
Year's total.....			256,624	12,184	859,089	66,324	1,115,713	78,508

¹ Adds plus 90 owing to some minor revision not made in monthly figures.

Cotton exports from the United States (running bales)
[In 1,000 bales]

	Total	United Kingdom	Germany ¹	France	Italy	Japan	Europe (including Great Britain)	European Continent
1925-26.....	8,051	2,257	1,642	903	745	1,125	-----	-----
1926-27.....	10,927	2,529	2,738	999	779	1,616	-----	-----
1927-28.....	7,542	1,411	1,988	865	687	959	6,170	4,758
1928-29.....	8,044	1,831	1,797	775	717	1,309	6,212	4,381
1929-30.....	6,690	1,256	1,637	812	652	1,020	5,240	3,984
1930-31.....	6,760	1,054	1,640	914	477	1,228	4,793	3,790
1931-32.....	8,708	1,344	1,570	463	649	2,294	4,864	3,520
1932-33.....	8,419	1,492	1,849	864	804	1,743	6,078	4,586
1933-34.....	7,534	1,278	1,318	709	649	1,846	4,986	3,708
10 months (August to May):								
1933-34.....	6,769	1,170	1,228	692	602	1,637	4,626	3,456
1934-35.....	4,175	660	287	333	413	1,375	2,436	1,776

¹ Only about two-thirds of our exports to Germany are consumed in that country, the rest being reexported from Germany to other European countries.

Mr. VANDENBERG. Mr. President, it seems to me the question now is not whether the general A. A. A. program and its philosophy of scarcity is good, bad, or indifferent. The question is whether, having embarked upon a program for increasing by artificial means the price to the American farmers, we shall consistently pursue that philosophy to a completely logical end. It seems to me the available figures make it perfectly obvious that unless the administration shall be armed with some such authority as the Senator from Wisconsin proposes, it may become utterly impossible to reach the objective which is proposed by this scheme of things according to the theory of its own authors.

I desire to point out a fact which is a salient one, Mr. President, to any Senator as he contemplates this amendment and the program to which it relates.

The value in dollars of the imports into this country of basic agricultural commodities for the first quarter of 1935 is \$72,000,000, which is an importation at the rate of nearly \$300,000,000 a year of basic commodities upon which we are taxing our citizens for the purpose of creating a parity price. Our own citizens pay five hundred millions in taxes to create better farm prices. Then we allow aliens to take three hundred millions of the benefits.

How much are we raising by way of taxation upon our people in order to achieve this parity objective for the American farmer? I repeat the challenge: Something like four hundred or five hundred million dollars. We are admitting competitive foreign products in the same basic commodity brackets to a degree almost equal to the taxes we are taking out of our citizens in order to pretend to achieve the parity prices. If there is any logic on the face of the earth in taxing the American people four or five hundred million dollars in order to achieve parity prices in behalf of certain specific basic farm commodities at the same time that we are admitting over the tariff wall \$300,000,000 of competing foreign commodities in precisely the same brackets, then I do not know what logic is.

Mr. President, it is immediately asked, "What is the percentage of these imports in respect to the total production or the total consumption?" That is a thoroughly pertinent question, and it is a question which ordinarily deserves to weigh heavily in respect to an equation of this character. This I freely admit, particularly in an ordinary tariff argument. But this is not the ordinary tariff argument. This is solely a question whether this parity price scheme can work—and I do not pass upon that in final result—whether it can work at all if, as, and when these imports trends provably interfere.

In the present instance it is the direction rather than the length of the step we confront which is of vital importance. This is what I mean: In the contemplation of whether this scheme is going to continue to work, Senators had better take to their consciences the enormous increase of these imports during the first quarter of the present year. In other words, the constant and persistent trend in the direction of an increase in the amount of the imports of these basic commodities constitutes a challenge to the continued operation of the plan which has been adopted. Let me give just a few examples.

Cottonseed cake and meal, of which we imported but 187,000 pounds during the first quarter of 1931, have been imported to the extent of 35,000,000 pounds in the first quarter of the present year.

Corn, which was imported only to the extent of 112,000 bushels in the first quarter of 1932 has been imported to the extent of 7,000,000 bushels during the first quarter of the present year.

Mr. KING. Mr. President, will the Senator from Michigan yield to me?

Mr. VANDENBERG. I am sorry I cannot yield, because I only have a limited time.

Mr. GORE. Mr. President, will the Senator from Michigan insert the percentages as well as the total amounts?

Mr. VANDENBERG. I have just spoken of the percentages. I have indicated why they are less important than normally. I do not have the percentages at hand. I realize that the percentages are pertinent in respect to a general

consideration, but I am showing the relative increase, which is now at almost fever speed as the imports of basic commodities flow over our tariff wall. I do not see how we can ignore the fact that if this rate of increase continues, no matter what the percentages may be, the system which has been adopted cannot work in producing parity prices. We must clothe these public authorities with adequate weapons with which to meet the new hazard and exposure, if we are to rely at all upon artificial instrumentalities.

Of wheat, of which only 11,000 bushels were imported in the first quarter of 1931, 3,500,000 bushels were imported in the first quarter of 1935.

Of canned meats, 2,600,000 pounds were imported in the first quarter of 1931, while 16,000,000 pounds were imported in the first quarter of 1935.

And so it goes all down the line.

Of rice flour and rice meal, and so forth, 118,000 pounds were imported in the first quarter of 1931, while 20,000,000 pounds were imported during the first quarter of 1935.

I submit, as a matter of elementary mathematics and elementary logic, that if we are going to rely upon an artificial effort to create parity prices for the American farmer by the process and method to which this legislation is dedicated, we must also be prepared to give the American farmer the full control of his own domestic market or the whole scheme is going to break down. I submit that on the face of the trend of these imports the scheme will break down unless we clothe these authorities with the power to cope with such a situation if, as, and when the facts demonstrate that an answer is necessary. If the use of this added power is not necessary, its mere latent existence can do no harm. If it becomes necessary, its absence might be fatal.

All in the world the amendment of the Senator from Wisconsin proposes to do is to provide, by a method which I understand is brought within the constitutional rule, if, as, and when this flow of imports continues, and it is demonstrated that it threatens to break down and does break down the parity price which we are trying to create by taxes upon the American people, that there shall be an authority that can meet the situation, cope with it, rise above it, and protect the net result we are supposed to achieve.

Mr. President, I again say it seems to me that that is just as simple a contemplation in plain elementary mathematics and logic as could be imagined. I hope the amendment of the Senator from Wisconsin will be adopted. Even an opponent to this whole A. A. A. philosophy should wish the program to be adequately implemented if it shall persist.

Mr. SMITH. Mr. President, when the committee had this bill under consideration I think all the facts which have been referred to were gone over. The Senator from North Carolina [Mr. BAILEY] has drawn a distinction between what is proposed by this amendment and the protective-tariff idea, alleging that, as we have embarked upon a process by which we are to aid the American farmer, it is then necessary for us to have some such provision as is included in this proposed amendment.

We all understood that the price of American agricultural products had in major part gone so disastrously low, so far below even the cost of production, as to threaten to destroy, and in some cases actually to destroy, the holdings of the farmers, namely, their personal possessions and their land. As I take it, we had a condition which was intolerable; and we have attempted to bring about a parity price so that the purchasing power of the farmer's dollar would be equal to that of those from whom he bought.

We had long ago embarked upon a policy which has inevitably led to this very condition. Whatever else may be said, this amendment is tantamount to admitting that the Smoot-Hawley Tariff Act, with all its enormous duties, is not sufficient to raise the price of American products to a point where foreign products cannot come over the wall and undersell American products.

Are we now to admit that with the absurd, ridiculous, and disgusting tariff act, with its antidumping clause, and with the act which in a way, forbids trading with any country that owes us money, we must give somebody the power to prohibit imports from other nations which, in spite of the

tariff wall, can pay the duty and undersell the American producers?

I think the suggestion made by the Senator from Utah is very pertinent. If the amendment now proposed is to be adopted we ought now to declare that we are going to put around this country an absolute embargo and forbid any other nation to trade with us at all. Yet the Senate knows that if we hope to have a revival of American production and industry we must invite the cooperation of the nations of the earth and allow them to trade with us.

The conditions existing have largely been brought about by the fact that the purchasing power of the world outside of America has been paralyzed. We and the other nations of the earth were forced to enter a new realm of financing; nations went off the gold standard; and the United States owns a very large part of the great basic metal which has been used as a standard of value for innumerable years. The world today is in chaos as to the basis upon which there may be trade and commerce, and yet, instead of addressing ourselves to the question of an adequate circulating medium in this country, we are approaching the subject from the other end, and are saying we are going to reduce production in order to accommodate it, with a reasonable price to the scarcity of money. That is the condition that now confronts us. Rather than increase the supply of money, we will decrease the supply of products and then pile Pelion on Ossa in order to protect us in that respect.

The Senator from Michigan mentioned several basic agricultural commodities. I do not know what is the tariff rate, either specific or ad valorem, on the articles to which he referred; but the logic of the argument is, if we have embarked upon a program of raising farm prices, it is our duty to protect that program. All of us must admit that that is logical, but back of it is the objective of increasing prices by the system which it is proposed to extend.

It is not sufficient to say that we are confronted with increased importations. Some of the articles the Senator from Michigan mentioned were forced here by grim necessity. In some instances the commodity was so scarce here that it was a question of whether or not we should import it in order to sustain life in this country or whether we should deny its importation and subject people to necessities of a scarcity which both our system and Providence have brought about.

Mr. President, I believed that it was the Government's duty to create an organization with resources and powers, so far as the Constitution would allow, which would stand for the farmers and see that they got for their contribution to organized society an amount that would justify them in the work they were doing and would return to them a reasonable amount of the profits that should inhere in their production.

But, Mr. President, I shall not vote for recognition of the principle of protection involved in this amendment. It does not suffice for it to be said that we have embarked upon the principle of aiding the farmer and then, when that high protective wall has been erected, say that we will see to it that another layer shall be loaded upon him.

Mr. BAILEY. Mr. President, may I ask the Senator a question?

Mr. SMITH. Certainly.

Mr. BAILEY. What would the Senator do, if he should not vote for legislation of this sort, to arrest the imports in connection with cloth which comes from Japan, it appearing that the total for the month of January 1934, bleached square yards, was only 4,000, while in January 1935 the imports of bleached square yards were 2,633,000?

Mr. SMITH. I am glad the Senator asked that question. The question of percentage enters into the question, but I waive that and I am going now to answer him in terms of actual facts.

Mr. BAILEY. Will the Senator let me get one or two more figures in the RECORD?

Mr. SMITH. I think that is sufficient, because I want to answer it as he has referred to cotton.

Mr. BAILEY. Here is the year's total for 1934: Printed side colored cotton goods imported into this country from

Japan, 7,287,000 yards; for the 5 months' total in 1935 the figures are 19,127,000 yards.

Mr. SMITH. Mr. President, I have not yet spoken on the bill; but as the Senator has touched the very heart of the matter I am glad to answer him.

Japan bought cotton in America, paid exactly the same price the American manufacturer paid, shipped it clear around the globe, converted it into a certain kind of cloth, shipped it back around the world, paid the tariff, and undersold the American manufacturer. If that be true, it is an indictment of the American manufacturer as being a knave or a fool.

Mr. BAILEY. Mr. President, will the Senator permit me to remind him that Japan did not have to pay the processing tax?

Mr. SMITH. Precisely; Japan did not have to pay the processing tax, but she paid in effect the very same amount the American manufacturer paid, shipped it around the globe twice, paid the tariff, and undersold the American manufacturer.

Let me call the Senator's attention to another thing. America makes 55 percent of all the cotton produced in the world. We consume 6,000,000 bales out of an average crop of about 14,500,000 bales up to the time of the crash. In other words, we export 55 percent of our cotton. It is a coincidence that the two figures as to our production in relation to world production and the amount we export are alike. We produce 55 percent of all the cotton in the world and 82 percent of all of the spinnable fiber in the finer counts. Out of 167,000,000 spindles in the world, America has 30,000,000. With cotton growing right up to our mill doors, with hydroelectric power and other power sufficient to spin and to convert every fiber into finished cloth, we have only 30,000,000 spindles out of a total of 167,000,000.

Great Britain alone, that does not raise a bale of cotton, has 67,000,000 spindles and is dependent upon American cotton. Why has not America enough spindles to convert our raw material right at our door? It is because we will only convert that which is taken care of by a protective tariff. The producers of cotton sell it in the open market of the world, and I do not complain of that because the price of American cotton fixes the price of all the cotton in the world, and fixes it instantly. Therefore we have nothing to fear so far as needing any protection of American cotton is concerned. On March 11, 1935, when cotton broke \$10 a bale, Argentine cotton, Egyptian cotton, and Russian cotton all broke \$10 a bale.

The PRESIDENT pro tempore. The time of the Senator from South Carolina on the amendment has expired.

Mr. WALSH. Mr. President, in my time I desire to ask the Senator from Wisconsin [Mr. LA FOLLETTE] a few questions. We are discussing this proposition as if it were a new proposal. Is it not a fact that when we passed the N. R. A. Act we recognized there would be an increase in the cost of production and that a similar provision was embodied in the act to protect American industries against losing the domestic market by importations from foreign countries of commodities that would undersell those produced in this country at the increased price the law necessitated?

Mr. LA FOLLETTE. Mr. President, there is no question about that. It was adopted in committee and agreed to without any debate or controversy on the floor of the Senate, as I remember.

Mr. WALSH. Is it not a fact that under the provisions of that law the President has actually limited the importation of some commodities from foreign countries into this country?

Mr. LA FOLLETTE. I do not know to what extent the power conferred under the Industrial Recovery Act has been exercised, but I do know the power was conferred, and that it was generally conceded by all concerned, when the N. R. A. Act was under consideration, that if we proposed by shortening hours and establishing minimum wages and eliminating child labor to lift the cost of industrial production in the

United States, it would be not only futile but folly not to arm the executive branch of the Government with power to meet the situation created, so far as the importations were concerned. But now, when we are proposing to confer the same powers, so far as agricultural commodities are concerned, we are met with a general argument upon the theory of the protective tariff.

In that connection I should like to say that if it is proposed by the Democratic Party, which has control of both Houses of Congress, to revise the tariff, so far as I am concerned, I shall be glad to join in an effort to revise it. However, the Democrats have had control for 2 years and have not proposed such revision, and we are still confronted with the situation created by the Smoot-Hawley Tariff Act, which, as I said at the beginning of this debate, I fought on the floor of the Senate for 8 months and against which I voted on its final passage. We are confronted with facts, not theories; and unless we are willing to extend the protection, in view of the alarming increase in the importation of agricultural commodities, we can kiss "good-bye" the Agricultural Act and any benefits thereunder to the farmer.

Mr. WALSH. How can we justify under any circumstances enacting a domestic law which increases the cost of production and thereby leaves the door open for foreign goods to come into this country to close up our industries and to add to the line of the unemployed throughout the country?

Mr. LA FOLLETTE. So far as I am concerned, I cannot see any logic in taking the position that, on the one hand, we are going to tax the American consumer for the purpose of raising the domestic price of agricultural commodities, and then in the same program, with an alarming increase of imports threatening to undermine and destroy us, we are not willing to grant discretionary power to the President of the United States and the Tariff Commission to take the same action to protect the program which we are willing to afford to American industry under the Industrial Recovery Act. I say there is no logic in it; I say there is no justice in it; and I say, besides that, it is folly, unless we propose to repeal the Agricultural Adjustment Act and abandon the program.

Mr. WALSH. Mr. President, I desire to refer to one industry which, as the Senator from North Carolina [Mr. BAILEY] knows, has been tremendously affected; and I am astonished that the Senator from South Carolina [Mr. SMITH] takes the position that he does. I refer to the cotton-textile industry. That industry has been very seriously depressed. One of the most pathetic sights one can witness in this country is seen upon a visit to the cotton-textile industrial centers throughout the North and throughout the South. The number of closed mills and abandoned communities is astounding. I have information that within 2 months the largest cotton-textile establishment in the world, employing 12,000 people, will be closed. I refer to an establishment in a neighboring State to my own. The reason for this condition primarily is that the processing tax, and the N. I. R. A., and general taxation have increased the price of cotton cloth 100 percent within 2 years.

Mr. BANKHEAD. Mr. President, may I ask the Senator whether part of that increase is included in the labor cost?

Mr. WALSH. There is no doubt about it. The N. I. R. A. brought increased wages.

Mr. BANKHEAD. Why does not the Senator include it, then?

Mr. WALSH. As I say, the price has increased nearly 100 percent, which has caused an abandonment of the purchase of cotton cloth, and people have turned to rayon and to silk and to other substitutes. Not only that, but, as the Senator from North Carolina points out, there has been a steady and constant increase in importations; and the Senator from North Carolina and every Senator from a textile State, North and South, have appealed to this administration to use the power which it could exercise under similar provisions of the N. I. R. A. to that now proposed.

Mr. BAILEY. Mr. President—

Mr. WALSH. I yield to the Senator from North Carolina.

Mr. BAILEY. I thank the Senator. My time upon the amendment has expired, and therefore I am under the

necessity of presenting my argument by asking questions of those which have time.

I will ask this question: Unless we enact legislation of the character which the Senator from Wisconsin has submitted, is there not a very grave and instant danger that the processing tax will be taken out of the pay envelopes of the workers in the cotton mills?

Mr. WALSH. There is no doubt about it.

Mr. SMITH. Mr. President—

Mr. WALSH. I have the floor, please.

It seems to me the height of folly. I do not see how anybody can justify passing domestic laws which increase the cost of production and not taking any steps to put up any barriers against foreign competition. It seems to me the simplest of propositions that if we pass legislation increasing the cost of manufacturing in this country, it is our duty to put up a barrier so as not to annihilate our industries, after we have done that, by leaving the door open for importations of all kinds and descriptions.

Mr. BARKLEY. Mr. President—

Mr. WALSH. I yield to the Senator from Kentucky.

Mr. BARKLEY. I appreciate the force of what the Senator says, and I am in profound sympathy with the textile industry of this country. My question is solely for the purpose of eliciting information. It is impossible, I suppose, to allocate to any one condition the total responsibility for this situation. It is a combination of circumstances.

Mr. WALSH. Of course; but certain things are definite enough. It is definitely known that the processing tax added 20 percent to the cost of cotton cloth, and we know that the reduction of the hours of labor and the minimum wage and other provisions of the N. I. R. A. also materially increased the cost. Many of these requirements, I think, we all agree were desirable.

Mr. BARKLEY. All of which presupposes that this increase by the processing tax and other methods that increased the cost of raw materials to the manufacturer of them was passed on to the public, and has been paid; but, while there has been a considerable increase in the importation of cotton-textile goods from Japan over the past 6 or 8 months, has that importation yet arrived at a point where it even approaches as much as 1 percent of our consumption?

Mr. WALSH. It is a small percentage of our total consumption. The Senator is right.

Mr. BARKLEY. It is much below 1 percent.

Mr. WALSH. But, as pointed out by the Senator from Michigan [Mr. VANDENBERG], it has so rapidly increased during the early months of this year that it has the possibility of amounting to a good deal more than 1 percent in the near future. Furthermore, 1 percent is a large volume, and, if these goods were produced here, would employ many persons.

I did not rise, however, to point out that matter. My thought was that we already have adopted this policy when we passed the domestic law increasing the cost of production under the N. I. R. A. We are now dealing with another law which is increasing the cost of production; and I repeat we ought to adopt the same policy that we adopted under the N. I. R. A., and incorporate in it an amendment of this kind.

Mr. TYDINGS. Mr. President, will the Senator yield for a question?

Mr. WALSH. I yield.

Mr. TYDINGS. Does the Senator feel that if these agricultural prices are increased, it will be necessary for labor to have increased wages?

Mr. WALSH. I certainly think it will be necessary.

Mr. TYDINGS. I do, too.

Mr. WALSH. Of course, as the Senator knows, I am opposed to the whole A. A. A. legislation.

Mr. TYDINGS. Will not that, in turn, make the man who works in the textile mills even less able to carry on than he is now, when the Senator says that most of these plants are closed?

Mr. WALSH. Yes; he will be less able to carry on, because his domestic market will be reduced; but if this amendment shall be adopted he will be at least protected against cheap foreign labor competing with his own output.

Mr. TYDINGS. Yes; but the textile worker will have less money with which to buy the products of agriculture.

Mr. WALSH. That is self-evident.

Mr. TYDINGS. So we meet ourselves coming back again.

Mr. BORAH. Mr. President—

Mr. WALSH. I yield to the Senator from Idaho.

Mr. BORAH. Something has been said about the small percentage of increase in the case of some of these importations. They seem to me to be very considerable, and increasing rapidly; but this is a discretionary power which is to be granted. If the increase of importations is not sufficient to justify action, undoubtedly action will not be taken. So it does not seem to me that the question of percentage is important, in view of the fact that the importations are coming in, and we leave with the Executive the power to determine at what point they shall be stopped from coming in.

Mr. WALSH. The Senator is absolutely correct; and it was pointed out in the hearings of protest by the cotton textile industry that were this small percentage of imports from Japan eliminated, many thousands of Americans would be put to work in the textile mills, even if the percentage of our total consumption is small.

Mr. VANDENBERG. Mr. President, let me give the Senator just one further significant figure from the table by saying that the imports of cotton semimanufactures for the first quarter of 1933 were 1,288,000 pounds. For the comparable quarter of 1935 the imports were 21,000,000 pounds. I insist that it is the trend, it is the direction of the movement, which is so challenging; and we cannot be blind to it if we have the slightest interest in the preservation of American industry and agriculture.

Mr. WALSH. And I will say to the Senator, confirming what he said, that when some figures of increased imports were called to the attention of the President, he actually entered into an agreement with the authorities in Japan to limit and restrict a certain commodity, limiting the importations to the average amount which was imported in previous years.

Mr. WHITE. Mr. President—

Mr. WALSH. I yield to the Senator from Maine.

Mr. WHITE. As bearing on the question of the imports of cotton cloth, I have before me figures which indicate that in the first 5 months of this year, as compared with the first 5 months of last year, the imports rose from 22,806,000 square yards to more than 32,000,000 square yards—an increase of approximately 50 percent.

Mr. WALSH. Yes; I think similar figures were presented by the Senator from North Carolina [Mr. BAILEY] earlier in the debate. The Senator from Maine [Mr. WHITE] and myself repeatedly introduced figures on the subject earlier in the session.

Mr. BARKLEY. Mr. President, will the Senator yield again?

Mr. WALSH. I yield to the Senator from Kentucky.

Mr. BARKLEY. While it is true that there has been a considerable increase in cotton-textile imports from Japan—

Mr. WALSH. I am not now complaining about that. I am citing it is an illustration of the need of some protection.

Mr. BARKLEY. The debate has centered around that as an illustration; but, as a matter of fact, taking imports of that sort from the entire world, there has been a decrease from 1928 to 1934 from more than 61,000,000 square yards to about 41,000,000 square yards. The imports from Japan increased from 1,710,000 square yards in 1928 to 7,287,000 square yards in 1934. But there has been a constant decrease over a period of the past 7 years in cotton-textile imports into the United States from the world, which, it seems to me, would indicate that the trouble in the cotton-textile industry is not due to an increase in importations from outside the United States but is due to other conditions which are entirely different from that.

What is the Senator's reaction to that?

Mr. WALSH. It is my opinion that the Japanese importations are a contributing cause, but a minor cause, of the condition of the cotton-textile industry; but it is a situation which is threatening and needs attention. Let me add that I know that the administration has been very, very much

concerned and very much troubled about the rapid increase in the importation of cotton textiles of all sorts from Japan.

Mr. BARKLEY. I appreciate that.

Mr. WALSH. And negotiations have been considered for the purpose of seeing if an arrangement could not be made between the two countries which would limit these importations.

Did the Senator from Kentucky see the exhibit of importations from Japan which was displayed in this building a few months ago?

Mr. BARKLEY. No; I am sorry to say I did not. I was busy at the time, and did not go to see it.

The PRESIDING OFFICER (Mr. DUFFY in the chair). The time of the Senator from Massachusetts on the amendment has expired.

Mr. TYDINGS. Mr. President, I do not want to delay the Senate; I only wish to make my own position clear.

I shall not support the pending amendment. In making that statement, I find no fault with those who do so, because it is a very logical step, with this farm program, to restrict imports, so as not to undermine the philosophy of the A. A. A. set-up.

I feel, however, that no sooner will this amendment be adopted than in the next session of the Congress it will be further necessary to impose an additional restriction by increasing the tariffs on agricultural products, particularly those to which the Senator from Michigan has referred. And as we place restrictions and embargoes and quotas on other agricultural commodities in the United States, of course other countries will place like restrictions upon the commodities which we are selling to them.

We must not lose sight of the fact that somehow or other trade ultimately has to balance. We cannot sell unless we buy. We would drain all the currency of the nations of the world to this country were we to continue to sell everything we could to them and buy nothing in return, because the payments would have to be made in money.

I am going to ask those who are interested in my observations to take heed of the fact that in 1928 prices generally, not only of agricultural products but generally, were the highest they had been for some time. That was before the last tariff act was passed. At that time our exports were, roughly, around five and a half billion dollars a year and our imports were about four and a half billion dollars a year. In other words, we were then selling a greater quantity of goods than we had ever before sold to the world in times of peace; but we were importing a greater quantity of goods than we had ever before imported in times of peace.

Obviously, we could not have sold that volume of goods to the world if we had not bought that volume of goods from the world, because the world used the money it received from selling those goods to us to pay for the goods which we were selling to them, and when we attempted to restrict that situation, regardless of the merit of the method—and I do not wish to argue the philosophy of the tariff at all—when we attempted that, within 14 months, 54 countries of the world adopted similar measures against American goods.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. BORAH. Is it not a fact that the highest point ever reached in exportations from this country was when we had a very high tariff?

Mr. TYDINGS. I cannot recall to what year the Senator refers.

Mr. GORE. The highest point in exports was under the Simmons-Underwood law.

Mr. BORAH. I do not so understand. I understand that our exports in 1929 were greater than at any other time in our history.

Mr. KING. Mr. President, will the Senator from Maryland yield?

Mr. TYDINGS. I yield.

Mr. KING. The Senator from Idaho is in error. The highest exports were in 1918, 1919, and 1920, when they aggregated between seven and eight billion dollars each year.

Mr. BORAH. That was immediately after the war.

Mr. TYDINGS. I do not think those are fair years to take as examples. But let me say that, regardless of what the tariff was or was not—and I do not want to get into a discussion of the tariff—the fact is that I can show that in the year when we exported the most, I do not care what year it was, we also imported the most. We cannot export without importing. The farmer cannot buy a pair of shoes until he takes his eggs or wheat into town and turns the eggs or the wheat into money, and with that money he buys the shoes. Prohibit the farmer from selling his eggs or his wheat, and he cannot buy any shoes. So it is with nations.

Mr. President, this country exports more than it imports. Let us suppose we stopped all trade; who would be the greater loser, the country which sells more to the world than it buys from the world or the country which sells less to the world than it buys from the world?

Mr. FRAZIER. Mr. President—

Mr. TYDINGS. I cannot yield now; I have only a little time.

I am not finding fault with the amendment offered by the Senator from Wisconsin. As I have said, it is a perfectly logical step; but I believe it is wrong fundamentally; and, as he himself stated, we are going at this thing from the wrong angle.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. TYDINGS. I will yield briefly; I have only a few minutes.

Mr. LA FOLLETTE. I merely wish to say that it seems to me that the Senator from Maryland is arguing against the fundamental policy involved in the Agricultural Adjustment Act and not against my amendment.

Mr. TYDINGS. That is correct; I have said that. I am not going to vote for the Senator's amendment, because I am not going to vote for the bill. I think the Senator's amendment is but a byproduct of this whole scheme.

Mr. LA FOLLETTE. Mr. President—

Mr. TYDINGS. I am not reflecting on the Senator. I hope he will let me finish.

Mr. LA FOLLETTE. Will not the Senator yield?

Mr. TYDINGS. I would rather not, because I should like to make a few observations, and I will try not to draw the Senator into the argument by any other reference to his amendment particularly.

I believe that in 1937 or 1938, at some time along in the future, the job of the Congress is going to be to unscramble this whole situation, and it is going to be a bigger job than any job the Congress has undertaken so far. These are all artificial measures. Obviously, if industry is getting more than it should get in comparison with agricultural prices, then the thing to do is to pull down industry to the level where agriculture can exist on the same parity with industry. If it is wrong, as is claimed by the agriculturists, to put industry on stilts, it is equally wrong to put agriculture on stilts. Gentlemen cannot blow hot and cold.

This does not mean free trade, it does not mean we have to wipe out all tariffs, that we must not take any account of how much is sold and how much is not sold, and what the imports and the exports are between countries.

We had the N. R. A., and what did that do? The N. R. A. put the farmer further below parity than he was before the N. R. A. was established. The fact was recognized at once that the farmer was not getting a fair return for his toil, and one of the first acts passed was one accentuating the unfairness existing between agriculture and industry. Senators voted for it. I think it was wrong, and I myself did not support it. But today the average man who works on a farm on wages, from sunup to sundown, counting his room and board, gets 50 or 60 percent as much as the wage paid to a comparable man in industry, and who has the nerve to do anything about that unfairness? Nobody.

I am not objecting to the laboring man getting all the money he can, but we must not lose sight of the fact that it is possible for him to get into such a situation that great masses of the people are penalized to the amount of every

dollar which is above the parity of the man who toils on the farm.

I shall not vote for the pending measure for the reason that I do not believe we are going at the problem which confronts this country in a rational way. There has to be a scaling down of industry. I do not mean that any particular man should be treated unfairly, and I do not mean to say that wages, or this, that, or the other thing must be summarily reduced. What I do say is that the mission of the Congress is not to condone evils by raising up other things to the standard of the evils, but our mission is to bring down those things which are too high, so that all will rest on a good, solid foundation.

Mr. GLASS. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. GLASS. The last National Democratic Convention declared that that was the mission of the Democratic Party, but not a sentence has been written into law in the 3 years the party has been in power looking to that end.

Mr. TYDINGS. The Senator is correct. What is the condition of the United States today, not only as respects agriculture, but along other lines? Go into the cities of the United States, with their great reservoirs of unemployed. Is it possible to make food cost more and at the same time help the distressed people in the cities, for whom we have just appropriated \$4,880,000,000?

Is it possible to make clothing cost more and at the same time help the plight of the man who has descended to the lowest rung of the ladder? The Senator from Minnesota [Mr. SHIPSTEAD] and others who are here know that we cannot help the man who is already out of work by adding to the cost of living. We can help him by reducing the cost of living; and, if we do that, we will increase the demand for the necessities of life, taking up the surplus in the market, and difficult and hard though the road is to walk, with all the commitments of the higher price returns which our people have made in the days of prosperity, the high-priced mortgages, and all that; difficult as the road is to walk, in the last analysis, it will be easier than the road we are walking, which is piling one economic monstrosity—I cannot think of a more appropriate word—on top of another economic monstrosity.

At some time—it may be 2 years, 5 years, 10 years off—some day the farmer is going to realize, and the man who works in the city is going to realize, that there is very little difference between getting \$3 a day and paying 30 cents a dozen for eggs, and getting \$4 a day and paying 40 cents a dozen for eggs. The question of wages should be discussed in comparison with what a man must translate his earnings into in order to live comfortably with his family. So it is with the farmer.

I am not going to vote for this measure because it will further handicap America in competing in the world markets. We have already lost your world markets, though not necessarily because of the depression. We should have lost them in 1920 and 1921 and 1922 had it not been for the fact that we were sending billions of dollars abroad each year in the form of international loans, which the borrowers were using to pay us for the goods they were purchasing in this country. We had 14 or 15 years of the illusion of prosperity. We have always refused—and, in my humble judgment, we refuse today—to face the naked fact that trade ultimately has to balance. We cannot put artificial stilts under or restrictions upon commerce without in the end finding that whatever we have taken away from the other fellow we have taken away from ourselves.

Agriculture comes here with the best case in the world. It has been pilloried upon the public platform and crucified on the cross. Coming, as I do, from an industrial State, while I have committed my sins, I believe the RECORD will show that no man in this body representing an industrial State has voted for as much low tariff as have I.

In fact, I believe there is only one item which might be a subject of question in this body in all the items of the tariff acts to which I have given my support.

I know that in the end industry cannot live, any more than agriculture can live, if we continue to run this country out of line, as it has been run since 1920, first with the Emergency Tariff Act, then with the Smoot-Hawley Tariff Act, and then with the international loans which gave us the deception of prosperity.

Mr. President, I am not going to support this bill, because I believe its whole trend is against the logic and the force of events. I believe it violates every economic principle which can be safely used to conduct a nation's affairs. In not voting for it, however, I am not criticising those who offer this amendment, who support it, and who feel that the only way they can get a measure of justice for their people, who are entitled to equal protection, is to do this thing, wrong though it may eventually prove to be as time unfolds itself.

With that observation as to the reason why I shall not support this measure, I shall say no more in criticism of it.

Mr. SHIPSTEAD. Mr. President, will the Senator yield?

Mr. TYDINGS. I yield.

Mr. SHIPSTEAD. Does the Senator concede that in justice and in right a man may commit murder in self-defense?

Mr. TYDINGS. Yes. I think that is a pretty good defense.

Mr. SHIPSTEAD. That is the reason why I shall support this bill.

Mr. BAILEY. One cannot commit murder in self-defense. It cannot be done.

Mr. PITTMAN. Mr. President, I do not attempt to make any argument in regard to the tariff. I think the only grounds in the world upon which tariff arguments were based have entirely changed.

Nearly every country has proceeded to depreciate its currency for the particular purpose of securing foreign trade. Japan has a very peculiar system. Japan really has two currencies. For the purpose of buying abroad, she is tied to the pound sterling. For the purpose of employing labor at home, she has a very much inflated domestic currency which passes at par.

That situation exists more or less throughout the world. Therefore, it is impossible at the present time for us to use the checks and balances which we use under normal conditions.

Whether or not this process of raising the purchasing power of our people is right, undoubtedly it is right to attempt to increase the purchasing power of our people. I believe it is right to attempt to increase their consumptive power. It is right to increase it in any way we see fit.

We all admit that the laws under which we are now operating, called the "new deal", are emergency laws, and are entirely artificial; and yet it has not been suggested what we should adopt in their place. We operated under natural laws, we will assume, in 1930 and in 1931 and a part of 1933, and undoubtedly in 1932; but under those natural laws by March 1, 1933, we had reached the point of bankruptcy of every bank in the United States; at least, we were so told. That condition might have finally meant the bankruptcy of our Government. Then we should have had total bankruptcy everywhere.

If we have nothing else to suggest, if we are not to have anything artificial to stimulate what was then almost a dead government and a dead people, we have the laissez faire Government of the past. Liquidation was the theory of the administration which preceded the present one. Under it there were foreclosures, bank failures, liquidations down to the very point of death. Certainly none of us desires to go back to such a condition. We are in an artificial era.

I cannot conceive how anyone, even though he were the most ardent free trader under the natural conditions which preceded the war, could now be a free trader. I cannot conceive how anyone today would be willing to allow the living conditions in this country to sink to the level of those in Japan; yet the ultimate answer to the question is that if we let nature take its course, we shall sink to that level.

I believe in holding high in this country the standard of living of every class of people, higher than anywhere in the world, no matter how we do it, even if we have to build a Chinese wall around this country. I would rather do that than have us sink to the level of the people of some of the countries of the world at the present time.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. PITTMAN. I yield.

Mr. BAILEY. Will the Senator permit me to insert a fact? The wages paid textile workers in Japan, on the average, come to 23½ cents a day. In America at the present time textile workers are earning 30 cents an hour. Japan is shipping textile goods into this country.

Mr. PITTMAN. As I stated before, Japan has her money tied to the pound sterling for purchases abroad. Her money used for purchases at home is an inflated currency. As the Senator from North Carolina said, the wage paid a Japanese textile worker is about 23 cents a day.

Mr. BAILEY. Unless we take steps to stop the shipping of textile goods into this country the inevitable consequence will be the depression of the wages of the textile workers in America.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. PITTMAN. I shall yield a little later.

Mr. TYDINGS. I desire to reply to the Senator from North Carolina.

Mr. PITTMAN. I shall try to get through in time to permit the Senators to have their colloquy.

I have the highest admiration for the distinguished Senator from South Carolina [Mr. SMITH], who is in charge of this bill. I admire his persistency in standing for his principle of free trade no matter whether or not the whole world changes. It is a magnificent persistency. Take the case of cotton, for instance: The people of this country are being taxed for the purpose of maintaining an artificial price for cotton. They are not only being taxed to reduce the production of cotton but they are being taxed to support those who have been taken off the land by reason of the reduction of cotton cultivation. Not only that, but the labor of this country is bearing all its part of the burden of taxation for the benefit of the cotton planter, to support those who are put off the land, and for the benefit of the artificial price.

The same thing is true in the case of wheat. Of course, the Senator from Maryland is opposed to the whole system. I may be opposed to the whole system, but I am not discussing the system. I am discussing the absolute necessity of placing a wall around this country if nothing but a wall will protect what we are trying to do.

Of course, the cotton planter is not worrying about that. The cotton planter is the largest exporter we have. When we come down to every other farmer in the country, however, when we come down to the man who is working in a mill, the condition is different. I do not think over 40 percent of mill capacity is operating today in this country. Was it our idea to increase the capacity of those mills to 100 percent so that they could hire labor? I think it was our intention to do that. It is our intention now to do it.

If we do not have production, it is totally immaterial what the price is. The production of our factories today is only about 40 percent of normal. We cannot increase that production if we allow Japanese manufactured goods or the manufactured goods from any other country to flood the United States. We might as well face that situation if we intend to increase production. If we are to limit our production in this country, it is totally immaterial whether or not we let those goods come in.

I say now to the Senate that I am not in favor of lowering the standard of living in this country to the level that it has reached in other countries, no matter what artificial means may be necessary to protect it.

I desire also to have the value of farm products raised to the level of the price of products of industry in this country. I am hopeful that that may be accomplished without dragging down the standards of agriculture. I would rather attempt to lift the farmer than to drag down industry. I cannot

not conceive that industry can be dragged down unless the standards of living are also lowered. I am willing to try, by every possible means, to raise the standard of agriculture before I take steps by my vote to degrade, reduce, and break down the conditions of industry. I think that is possible. I would go as far as the Senator from North Carolina suggested we go, and I would rather go there now. So far as the basic agricultural commodities are concerned, I would not allow agricultural products to come in from any country in the world until we had restored the normal production in this country. That is all I have to say.

Mr. SCHALL. I ask unanimous consent to read my speech on the pending bill through the eyes of the clerk.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. BARKLEY. In the absence of the Senator from Arkansas [Mr. ROBINSON], I ask the Senator to postpone his request for the time being.

The PRESIDING OFFICER. Objection is heard.

Mr. McNARY. Mr. President, I inquire what was the statement of the Senator from Kentucky?

Mr. SCHALL. The Senator from Kentucky wants the Senator from Arkansas to censor my remarks.

Mr. BARKLEY. I was asking the Senator from Minnesota to withhold his request until the return of the Senator from Arkansas. I do not know that there will be any objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. BARKLEY. I reserve the right to object. So far as I am concerned, I have no objection to the reading of the Senator's speech; but, in the absence of the Senator from Arkansas, I think it ought to be stated that, if consent is to be given, the right to object to any portion of the speech shall be reserved as the reading progresses.

Mr. McNARY. That has been the declaration heretofore.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. BONE. Mr. President, I wonder if the Senator from Minnesota will yield long enough for me to ask the Senator from Wisconsin a question? I merely want some enlightenment on his amendment.

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Washington?

Mr. SCHALL. I yield.

Mr. BONE. If my memory serves me aright, the National Industrial Recovery Act contains a provision which authorizes the President, through the Tariff Commission, to prevent dumping operations on the part of foreign governments. Is that correct?

Mr. LA FOLLETTE. That is correct.

Mr. BONE. Can the Senator from Wisconsin advise me whether such prohibition extends to farm commodities, or is it restricted to industrial commodities?

Mr. LA FOLLETTE. It is my assumption that it was restricted to commodities affected by the National Industrial Recovery Act, but I confess that I have not recently surveyed that situation.

My interest in this matter was prompted by the fact that the House committee incorporated a provision similar to the one which I am offering, and, after looking into the situation confronting us growing out of the alarming rate of increase in the importations of commodities affected by the Agricultural Adjustment Act, I felt it was imperative that some such power should be delegated.

Mr. BONE. Of course, where we are attempting to protect the consumption of our own products in this country that would partly be thwarted unless there were some definite control of imports.

Mr. LA FOLLETTE. That is correct; and, even if the terms of the National Industrial Recovery Act were broad enough to include agriculture, I would favor, in view of the emergency, including such a provision in this bill, and to that extent indicate the sentiment of the Congress that urgent necessity requires this action be taken.

Mr. GORE. Mr. President, I ask the Senator from Minnesota if he will yield to me for only a few moments, because

what I have to say relates to the discussion which has been under way during the last hour or so. I will occupy the time for only a few minutes.

Mr. SCHALL. Mr. President, I inquire if the remarks of the Senator from Oklahoma will be taken out of my time?

The PRESIDING OFFICER. No; they will be taken out of the time of the Senator from Oklahoma. The Senator from Minnesota will have the floor at the conclusion of the remarks of the Senator from Oklahoma.

Mr. SCHALL. And the other remarks will not be taken out of my time?

The PRESIDING OFFICER. The statement of the Senator from Oklahoma will not be taken out of the time of the Senator from Minnesota.

Mr. SCHALL. I am not inquiring as to the remarks of the Senator from Washington and the Senator from Wisconsin.

The PRESIDING OFFICER. The time of the Senator from Minnesota will begin when the reading of his remarks commences.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. The same time limitation will apply to an address read by the clerk as if the Senator from Minnesota delivered it in person?

The PRESIDING OFFICER. The Senator from Kentucky has made a correct statement.

Mr. SCHALL. I yield to the Senator from Oklahoma.

Mr. GORE. Mr. President, the amendment offered by the Senator from Wisconsin is logically consistent with the pending bill. Indeed, rigorous consistency would demand its adoption if we are to follow this scheme to the ends of the earth, if we are to follow this theory to its logical conclusion—and we will probably do that one day. I appreciate the inconsistency of limiting farm products at home and importing the same kind of farm products from abroad. I appreciate the inconsistency of permitting foreign-grown farm products to come into this country when the Government is trying by artificial means to raise, maintain, and peg the prices of domestic agricultural products. Theoretically, that would be an absurdity in the midst of such a program. Practically, it would perhaps be an absurdity but for the drought which occurred last year. I think that, to a large extent, the condition of which Senators have been complaining this morning, particularly the increase in the importations of foreign agricultural products, has been due, in large measure, to the unexampled drought which occurred last year.

I realize, however, that the pending amendment should challenge the support of all Senators who believe that trade is a curse and not a blessing. I think it ought to receive the support of all Senators who think that foreign commerce ought to be prohibited and that its prohibition would contribute to national prosperity.

This is one of the penalties of embarking upon a plan which involves a resort to artificial forces to control natural forces and to suspend or repeal the fundamental laws of economics. We are caught in a cataract which we cannot govern and cannot resist. It reminds me of an old saying, that "he who rides a tiger sometimes has trouble in dismounting."

We have embarked upon that experiment. Other peoples in other ages have embarked upon the same experiment, and with one uniform and unfailing result—defeat and oftentimes disaster. But, undaunted souls, not intimidated by the warnings and lessons of experience, once more we have adventured upon the impossible, and I repeat that those who are attempting the impossible ought in advance to calculate upon a substantial percentage of failure.

I recall that the Yellow River in China has been leveed and diked for centuries and centuries past. The floodwaters have from time to time deposited silt at the bottom of the stream, necessitating the heightening of the levees and the dikes, and when that was done more silt was deposited, requiring a further heightening of the dams and the levees and the dikes. Today, Mr. President, there are stretches of that river where the bottom of the stream is 10

feet above the tops of the houses. Perhaps that was not expected in the beginning, but it accounts for the unbridled disasters which occur in China and which, from time to time, overwhelm and destroy her hapless millions of people. I do not mean that we ought to be warned by that example, even by analogy. Let us repeat the blunder and learn that lesson for ourselves. Let us pay the tuition which is required to learn once again what all history teaches.

I do not know whether in the debate this morning the tragic element or the comic element predominated. In some respects it was vaudeville, and the acting was superb. It was a parade of scarecrows. Some Senators were duly affrighted; their acting was perfect. It was a ghost dance that challenged admiration.

The Senator from Michigan [Mr. VANDENBERG], always a master of his subject, always familiar with the facts and the statistics required to sustain his conclusions, unfortunately this morning had a lapse of memory or possibly a missing page in his notes. He could not remember the percentages. The percentages slipped through a slot in his memory. But after all, he said, percentages were not significant; they were of no consequence; they taught no lesson that we need to learn. The Senator said it is the trend that counts—"it is the trend that counts"—and the trend is known to him and to us and we ought to be duly shocked and we ought to take warning. Let us see.

The Senator said that during the first 3 months of this year we have actually imported 7,000,000 bushels of corn—7,000,000 bushels of corn! He does not know what the percentage is, but he does know that 7,000,000 bushels of corn count even in this age of billions. Seven million bushels of corn in the first quarter! If that enormous influx of corn should continue during the remainder of the year, it would rise to the staggering total of 28,000,000 bushels of corn. Contemplate 28,000,000 bushels of corn!

Our corn crop last year, in spite of the drought, was 1,600,000,000 bushels. It was little more than half a crop. Ordinarily we produce between two and one-half billion and 3,000,000,000 bushels of corn. One year the crop topped 3,000,000,000 bushels. Two and one-half billion bushels is around the average. Two and one-half billion bushels of corn. Yet the Senator from Michigan takes fright because, forsooth, 28,000,000 bushels of corn may invade the American market during the current year. We have had many disasters, but that threatens to be the worst of them all. [Laughter.]

The Senator said we have imported during the first 3 months of this year 16,000,000 pounds of canned meat. It sounds big. He does not know what the percentage is or what is the percentage of increase. Sixteen million pounds of canned meat in the first quarter. At that rate it would be 64,000,000 during the year—hardly enough to serve one meal for the American people. Yet the Senator takes fright that in a country where 10,000,000 people are hungry one imported meal might wreck the destinies of the Republic.

How much beef did the Government slaughter last year in the United States? It was 4,900,000,000 pounds. Now we are getting into the right altitude. We are getting up into billions now. [Laughter.] The packers slaughtered last year 6,900,000,000 pounds of beef not including veal. Yet the Senator fears that a hungry people may be ruined by the importation of a little more than 60,000,000 pounds of canned meats. We have resisted a good many enemies in the past, but we may not be able to live down the importation of 64,000,000 pounds of corned beef.

The pork we slaughtered last year, I believe, aggregated 15,500,000,000 pounds and all the meat of all kinds imported this year into the United States would not feed all the American people 1 day—not 1 day.

We cannot reach sound conclusions on this subject unless and until we take percentages into account.

Mr. President, when we import this trifling amount of canned meat how is it paid for? The chances are that American cotton raised in Mississippi or Oklahoma paid for this canned meat. Have the farmers who produce a surplus amount of cotton no right to dispose of their surplus in

the markets of the world? Last year the consumption of foreign-grown cotton increased in foreign countries 1,676,000 bales and more, while the foreign consumption of American grown cotton decreased last year 1,951,000 bales, almost bale for bale. There is a "baleful" warning to the cotton growers of the country, to the cotton growers of the South, a "baleful" warning to every section of this country whose prosperity depends in any measure upon the prosperity of the cotton farmers of the South.

Japan has shipped a few consignments of cotton goods into the United States. For centuries Japan was known as a hermit nation. She had no intercourse with the outside world. We sent a flotilla to Japan to compel her to unlock her gates and to establish communication with the outside world. Was Japan after all wise when she assumed and maintained the character of a hermit nation? Are we now disposed to emulate an example which we compelled Japan to abandon?

The cotton goods imported into this country this year from Japan, if the current rate continues, I believe will be less than 1 percent of our domestic production. Japan is the largest purchaser of American-grown cotton. She takes annually 1,500,000 bales. One year she took 1,700,000 bales. Japan today, I believe, is buying more cotton from the United States than England, France, and Germany combined. She buys cotton from the farmers of Oklahoma and Texas. How does she pay for it? How can she pay for it? In gold. She can pay for it in gold if she has the gold, or she can pay for our raw cotton with her cotton fabrics if we will let her make the trade. If we refuse to trade with her, if we close our gates to keep her cotton goods out of this country, then and there we close our gates to keep our raw cotton in this country. That truth is not only self-evident, but it is indisputable.

Japan's total exports during the whole of last year, measured in terms of gold, was about \$300,000,000, equivalent to our export trade during 3 months in terms of gold. Yet the Senator takes fright lest Japan should overwhelm the United States with cotton fabrics manufactured out of raw cotton grown in our Southern States.

I do not know whether it would be equally effective, but how would it serve to stop exporting cotton to Japan altogether and pile up our surplus of domestic cotton and force her to look to other quarters for raw material which our farmers can furnish and should furnish?

Mr. President, we export 40 percent of all the tobacco grown in this country. Have not our tobacco growers a right to their farm market? Have not they a right to sell their surplus abroad? How can we sell abroad unless we buy abroad? How can the foreign customer of our tobacco pay for the tobacco he buys? In sooth, he can pay in gold if he has the gold. But he has not got the gold. We have got the gold already. He can pay for our tobacco with his goods if we will accept the goods. He cannot pay at all if we will not accept his goods. It may be that cotton cloth which came into this country from Japan was made out of cotton grown in North Carolina and came back home to pay for tobacco grown in North Carolina. Should we stop that trade? Should we stop that transaction? If we should, we would impair not only the prosperity of the tobacco States but the prosperity of every other State which is dependent in any measure upon the prosperity of the tobacco States.

Mr. President, we export 40 percent, or we used to export 40 percent, of all the packing-house lard produced in this country. Has not the corn and hog farmer a right to the foreign markets for his surplus corn and lard? How can the foreigner buy our lard unless we accept his goods in exchange? How can he pay for American lard except with his own goods? Of course, gold would be acceptable, but gold is not available. We must take his goods if we wish to dispose of our goods. There is no other choice, except to trade or not to trade. Every section that is dependent at all upon the prosperity of the Corn Belt for its own prosperity shares the dependence of the Corn Belt upon a foreign outlet for its surplus output.

It may be that the canned beef, which so much appalled the Senator from Michigan, came into this country from the Argentine in direct payment for lard produced in Illinois. It paid for American goods of some description.

Mr. President, from 1921 to 1933 our exports of semi-manufactured goods declined 42 percent. Our exports of finished manufactured goods declined 62 percent. Our exports of foodstuffs, as I now recall, declined 93 percent. Our farmers have almost lost their foreign market as it is. Are Senators content with the economic consequences? Is foreign trade a one-way traffic? Can we sell our surpluses abroad and buy nothing from our customers abroad? Foreign commerce, after all, is barter, in the last analysis.

Sir, we have got to trade our way out of this trouble. We have got to trade our way out if we ever get out. Unfortunately that way is no longer a highway. I sometimes fear that we are marking time and not marching; that we are going around and around and not going forward.

What would be thought of the man who, trapped in a burning house, would deliberately lock the door and throw the key into the flames?

Mr. McKELLAR. Mr. President—

The PRESIDING OFFICER. The time of the Senator from Oklahoma on the amendment has expired. The Senator from Minnesota [Mr. SCHALL] has the floor. The clerk will read the speech of the Senator from Minnesota.

The legislative clerk proceeded to read the speech, and read as follows:

TEN REASONS FOR ENDING THE A. A. A.

Mr. SCHALL. Mr. President, there are at least 10 outstanding and fundamental reasons for ending at this session of Congress the "brain trust" plan, borrowed from Russia, for Federal domination of agriculture by theorists and politicians under the first new-deal failure called A. A. A.

First. In its effect on American agriculture, our one-time leading basic industry, the A. A. A. has destroyed more crops and livestock than drouth, flood, bugs, and disease combined, and undermined the work of the Nation for the past 70 years in promoting agriculture as the economic base of our Republic. As a false and sinister farm builder, the A. A. A. has done more to demoralize agriculture, more to destroy the progress of our 50,000,000 rural population than all previous disasters combined.

Mr. McKELLAR. Mr. President, may I interrupt for a moment? I wish to ask the Senator from Minnesota a question. He is criticizing the A. A. A. I wonder whether he would vote to repeal the Agricultural Adjustment Act.

Mr. SCHALL. Mr. President, I do not wish to have my time taken up by a speech by another Senator.

Mr. McKELLAR. I am asking the Senator from Minnesota a question.

Mr. SCHALL. The Senator may ask it after the conclusion of my speech.

Mr. McKELLAR. No; I prefer to ask it now.

Mr. SCHALL. I do not wish to be shut off by interruptions. I refuse to yield.

The PRESIDING OFFICER. The Senator from Minnesota declines to yield. The clerk will continue to read the speech.

Mr. McKELLAR. Mr. President, was a reservation made about the reading of this speech? If the Senator from Minnesota will not answer a civil question—

Mr. SCHALL. I am very glad to answer questions, but already time has been taken up. I shall be very glad to answer questions, but I do not want my time consumed.

The PRESIDING OFFICER. It would come in the Senator's time; so the clerk will proceed with the reading of the speech.

The legislative clerk resumed the reading of the speech, and read as follows:

Second. In 100 courts of the land, the equity injunctions granted by United States District Courts and Circuit Courts of Appeal, following the decisions of the United States Supreme Court in the petroleum and "sick chicken" cases, are

a forecast of the reasonable certainty of the end of the A. A. A. before this year ends. Why should Members of Congress demonstrate, in the face of these multiplying and just decisions, their individual incapacity and untrustworthiness as representatives of the people by casting their votes for this outstanding fraud and failure? Why try to fool the people with pretense and hullabaloo?

Third. The demonstrations of its economic failure are outstanding, as shown by the application to leading staple crops, for example:

(a) The Chicago price of wheat in July 1933, when the A. A. A. first was applied to the wheat crop, was \$1.20. Today it is 83 cents—a drop of 37 cents per bushel, and the purchase price today is in a dollar worth 59 cents.

(b) The American cotton industry has lost more in 2 years of the new deal than it had gained in 20 years of normal agricultural development. Half the cotton export trade is gone, and 40 percent of the former cotton hands are on public doles.

(c) We have lost, for the first time in a half-century, our proud position as the world's leading agricultural Nation, and are today reduced to the position of importers of all the principal food products.

(d) In its effect on unemployment, which was called our national "emergency", the A. A. A. in its crop-curtailment and idleness-producing activities has added at least 1,500,000 and from that to 2,000,000 to the army of unemployed, and placed perhaps twice that number of people on public doles.

Fourth. In destroying and reducing crops and livestock, the A. A. A. has crippled both domestic and foreign trade, and undermined one of the chief sources of railroad traffic and employment, with the result that American railways today are at the lowest ebb of their prosperity in 50 years.

Fifth. In undermining agriculture and reducing the crops that pay for industrial goods, the A. A. A. has cut down the world's greatest market—the American home market—for all the productions of the factory, forest, and mine, and thereby cut down the country's entire business index since July 1933 by more than 15 percent, during a period when competing countries, as Canada and Great Britain, have risen 25 percent.

Sixth. In its direct effect on the industries, A. A. A. processing taxes of \$900,000,000 have cut down both the production and the employment of all industries processing the products of agriculture, or over one-half the manufacturing industries of the United States, curtailing their output, destroying their export trade, and by increasing American production costs the A. A. A. has benefited all competing countries which have sent here a record flood of foreign imports.

Seventh. Invasion of the powers of the States over intrastate industries and trade by the A. A. A., as noted by all the courts of the land, threatens the basic structure of our Government, the constitutional guaranty of a republican form of government to each of the sovereign States. The A. A. A. is an ever-threatening menace to our boast of the century that ours is "an indissoluble Union of indestructible States."

Eighth. The A. A. A. undermines the powers of Congress in two directions:

(a) The \$900,000,000 of process taxes levied and collected by the A. A. A. usurp the chief function of Congress, the tax power granted in article I.

(b) The domination of agriculture by a system of Federal commands and subsidies destroys the fundamental relation between the people of the respective States and their representatives, the A. A. A. taking the place of the 531 legislative representatives, and usurping the legislative function in all that concerns agriculture.

Ninth. The A. A. A. violates the Constitution in at least three activities:

(a) It assumes to take over the tax power of the legislative branch of government.

(b) It assumes to take over the control of intrastate commerce and industry, belonging to the respective States.

(c) It usurps all legislative functions of government relating to the fundamental industry of every country, the supply of food and clothing.

Tenth. The A. A. A. destroys the human foundation of the Republic, an independent and self-reliant agricultural yeomanry, the foundation of liberty and of all American institutions since the day when our "plowmen fired the shot heard 'round the world."

Gentlemen of the Senate, the end of the A. A. A. is at hand. It is false in principle—that scarcity means plenty. It has neither pride of ancestry nor hope of posterity. It is a sicker bird than the "sick chicken" which the Supreme Court buried, with nine Justices out of nine as pall bearers. It came from Russia. It is time it was deported to Russia. We want no regime of Russian peasantry and Moscow autocrats in America. If we are still Americans we should lose no time in seizing this opportunity to show our faith in the old American creed that "Eternal vigilance is the price of liberty."

Our oaths to support and uphold the Constitution are sufficient to guide our respective votes. Unless any in Congress were elected on the Socialist or Communist platforms of 1932, we can do naught else but vote "nay" on this A. A. A. expansion bill, forced upon us against the provisions of our Bill of Rights.

PURPOSE OF THE NEW DEAL

Mr. President, the main objective of the so-called "new deal", here as abroad, is now apparent, both from the words of the main actors and from the character of the measures they are putting through under gag rule or attempting to put across. Even the United States Supreme Court, in its decision of May 27 on the "sick chicken" case of *N. I. R. A.*, has fairly summarized the new deal as guilty of the following unlawful aims, namely, centralized Federal autocracy invading the powers of the States, unlawfully dominating their major industries, and unlawfully usurping the powers of Congress.

Differences between the new deals here and abroad appear in the main these:

First. The ends which are achieved over there by force of arms are achieved here by force of subsidy. The \$5,000,000,000 "Big Bertha" obtained by the President for his 1936 campaign has a far greater and more deadly range in controlling his subjects than all the guns of Mussolini's black shirts and Adolph Hitler's brown-shirted shock troops.

Second. The socialistic-communistic measures drafted by the White House for taking over farm control, factory control, federalizing the banks and railways, and electrocuting the utilities—bills drafted by Frankfurter, Corcoran, Cohen & Co., who, it appears, never read the Constitution or even practiced law—are put over here by gag law without reading, whereas over there the parliaments do not waste their time with useless make-believe, and vote "yea" without gagging.

Prof. Rexford Guy Tugwell, known in Russia as "Comrade Tugwell" and here as "Brain Truster No. 1", has defined the new deal in one paragraph of his 21-page address, now printed and distributed by this administration as a public document, when he describes it as follows:

"Government of men" in place of the 148-year-old "fiction" of "government of laws", which began under the Constitution of 1787.

Even the boys and girls in the public schools know that "government of men" means autocratic rule, unhampered by a Constitution, or by a Congress elected by the people. Such governments as Rome had under its dictators from the time of Fabius Maximus and Sulla down to Pompey and Crassus and the 17 Caesars, such governments as emperors and oligarchic central bureaus gave over their miserable subjects from the time of the Dark Ages down to the modern war lords, are today pictured under the new-deal dictatorship of Mussolini, Hitler, and Joseph Stalin.

This "government of men", says Comrade Tugwell, in his 21-page address delivered before a "science and arts club" in New York, November 16, 1933, sent out under

Government frank, is what we have had here since March 4, 1933.

Says Comrade Tugwell, on page 19 of this Government document:

I have had a chance to see the truth of the saying that ours is a government of men. The fiction that it is a government of laws would, I think, never have attained its great prestige if the right men had been called to govern.

So such Presidents as Washington and Jefferson, Madison and Monroe, Jackson and Lincoln, Cleveland and Theodore Roosevelt, Woodrow Wilson and Calvin Coolidge, were not the "right men", and such Secretaries of State as Jefferson and Randolph, John Quincy Adams and Henry Clay, Daniel Webster and Edward Everett, Seward and Washburne, Evarts and Blaine, Sherman and Root, Bryan and Kellogg, were not at all the right statesmen.

Moreover, according to the gospel of the new deal, as taught by Comrade Tugwell, such Speakers of the House as Muhlenberg and Dayton, Clay and Blaine, Randall and Carlisle, Crisp and Champ Clark, under whom no 50-page bill drafted by the White House was ever put through without reading or debate, and without even printing, within the space of 45 minutes, were not the right men. They held to the old-fashioned idea of the Constitution based on government of laws.

Furthermore, such jurists as Chief Justice John Marshall and Justices Story, Curtis, Field, Chase, Fuller, White, Holmes, and Chief Justice Charles Evans Hughes were not the right men, because they, so Tugwell suspected, stood for government of laws under a Constitution adopted by the American people and ratified by State legislatures, and which Constitution we and he, before taking office, must swear to uphold and defend.

The "right men" in Tugwell's view are Franklin D. Roosevelt, Raymond Moley, "General" Johnson, Barney Baruch, Morgenthau, Jr., Vincent Astor, Ickes and Wallace, Hopkins and Richberg, and likewise those gifted jurists who draft the new-deal measures—Frankfurter, Corcoran, Cohen & Co.—whose bills, or sugar-coated pills, are swallowed by a go-and-get-it Congress under gag rule like a dose of castor oil. But General Johnson now advises the administration to do away with the "magic-box deal."

"Everything depends on men", says Tugwell in this new-deal public document. And such men they are! There is not a tried statesman, not a real lawyer, not a well-known economist, business man, or financier in the whole brainless "brain trust." They are not even full-fledged professors; just a bunch of ex-assistant professors and tutors who lost their temporary jobs until picked up by Franklin Roosevelt and James Aloysius Farley and financed by Vincent Astor, the millionaire clubman who runs the flagship *Nourmahal* when Roosevelt plays Ike Walton.

The PRESIDING OFFICER (Mr. REYNOLDS in the chair). The time of the Senator on the amendment has expired.

Mr. SCHALL. I will take my time on the bill.

The PRESIDING OFFICER. The clerk will continue the reading.

The legislative clerk resumed the reading, and read as follows:

The "brain trusters" were all picked up within a stone's throw of "Hide-away" Park, Wall Street, and Tammany Hall. As "bold experimenters", they are paper imitators, prattling parrots, of the new deals invented by Carl Marx and Nicolai Lenin, and put across by Mussolini, Hitler, and Joseph Stalin.

One of the numerous false pretenses of the "brain trust" and its administration is that it had a "mandate" from the people. If that is so, where and when did they get it? Not a word of it appears in the Chicago platform of the Democratic Party in 1932. Not a word of it was mentioned in any of the pre-election speeches of the President and his propaganda. Not a sign of it appeared until the "new dealers" jumped into the saddle March 4, 1933.

The Democratic platform of 1932 called for the opposite policies. It demanded "strict and impartial enforcement of

the antitrust laws to prevent monopoly", and then, after election, under the N. R. A., the administration suspended the antitrust laws entirely, and put over the N. R. A., a staff of high-powered monopolists on the President's "advisory board."

The Chicago platform demanded a Federal Budget annually balanced, and the "new dealers" have piled up Treasury deficits aggregating \$12,000,000,000, and have fired Budget Director Lewis Douglas because he insisted upon balancing the Budget.

The Chicago platform demanded cutting down the Federal bureaus and reducing Federal expenditures by not less than 25 percent. The administration has created more new bureaus than all peace-time Presidents of the United States from Washington and Jefferson down—a total of 57 bureaus, equalling Heinz's pickle barrel—and have increased the cost of government to such a point that 1 month of Franklin D. Roosevelt equals the cost of a full year under Theodore Roosevelt, and the world record has been passed in peacetime creation of bureaucratic jobs, debt, deficits, and tax requirements.

The Chicago platform, and indeed the President's inaugural message, demanded "a sound currency at all hazards." Within 90 days after that inaugural pledge, the "new dealers" destroyed the gold standard, demonetized gold, took away gold redemption from all currency, and even bonds, and depreciated the dollar to a fluctuating and uncertain value around 59 cents.

There was one platform in 1932, however, that demanded two-thirds of the program now known as the "new deal", and that was the Socialist platform on which Norman Thomas ran.

There was another platform—the Communist platform, on which Foster ran—which likewise called for much of the new deal, and particularly the Soviet program of the 6 "Delaware holding companies", which 4 members of Roosevelt's Cabinet and 8 of his bureau chiefs, about the time of Tugwell's address, incorporated in Delaware under royal Federal charters to give their 6 Socialist-Communist corporations "perpetual existence", with all the powers of the Soviet General Council over industry.

These two platforms—the Socialist and Communist—borrowed their programs from Carl Marx and Lenin, and from the present Moscow socialistic-communistic model, and the total vote of the candidates of these two parties in 1932 aggregated less than 800,000, or 2 percent of the total popular vote.

And that is the sole semblance of a mandate from the people to this "brain trust", and for the passage of the new-deal bills drafted by Frankfurter, Corcoran, Cohen, et al., pursuant to the prescription of "Comrade", or Dr. Rexford Guy Tugwell—who now sits in the President's weekly Cabinet meeting.

Under this "mandate", or autosuggestion, the administration has had drafted by Frankfurter, Corcoran, Cohen & Co., and passed by an obedient Congress—frequently without a House reading of the bills, and with little or no debate under gag law—something like 60 new-deal measures, largely measures demanded by the Socialist and Communist platforms, notwithstanding the opposite historic views expressed in the platforms of the major parties holding seats in the Senate and House.

The unconstitutional N. R. A., the doubtful paternalism, and processing taxes of the A. A. A., the dole-distributing C. W. A. and F. E. R. A., the White House tariff making, the demonetization of gold, the electrocution of utilities, the proposals to Federalize and centralize the banks and railways as in Russia, the Rayburn Act placing all communications under Federal direction, including autocratic radio, control of telephone, telegraph, and press-dispatch stations, and the score of N. R. A. codes dominating the press and all press machinery and facilities—these are samples of the Fascist-Soviet program of "planned economy", "planned emergency", and "planned chaos."

Three outstanding features of this new deal here are conspicuous in the new deals over in Italy and Russia:

First. The centralized Federal Government invades and overrides the rights and powers of the constituent states.

Mussolini abolished 700 Provinces and municipalities and made them all answer directly to his mandate. Hitler did likewise when he abolished the constitution of Germany. The Soviet usurped all the powers of the constituent Union of Soviet Socialist Republic states.

That is one of the grounds on which the N. R. A. was pronounced unconstitutional by the United States Supreme Court on May 27, 1935. But substantially all of the characteristic new-deal acts do the same thing—they override the power of the respective 48 States as to intrastate commerce, industry, railways, banks, utilities, labor and wages, police powers, and even agriculture.

Partly this Fabian deal has been accomplished by "rubber stamp" law, partly by Executive orders, or edict law, and partly by direct doles or subsidies distributed in billions. Franklin Roosevelt has issued more edict law than all other Presidents combined, and distributed more doles.

Second. Control of the legislative branch of Government by the executive, usurpation of the legislative functions by the President, a combined autocracy of executive and legislative functions—enabling the Executive to vote to himself the appropriations he will spend—is characteristic of the Mussolini, Hitler, and Soviet regimes. This usurpation of legislative power by the Executive is one of the major grounds named by the Supreme Court on May 27 for knocking out the N. R. A. "unconstitutional delegation of legislative powers to the President."

Tariff making by the White House, the processing taxes levied by the A. A. A., the power to grab \$5,000,000,000 for his 1936 emergency, are familiar aspects of the same autocratic centralization of the powers of government, including "allocation" of appropriations.

Third. After Mussolini, Hitler, and the Soviet Council had demolished, first, the national parliaments, and, second, the constituent states and local democratic municipalities, they then proceeded, or at one and the same time proceeded, to abolish the bill of rights, freedom of speech and worship, free assembly, and a free press. This was accomplished through a drastic national censorship and a centralized federal propaganda—a resumption of the licensed printing of the Stuart tyranny against which John Milton protested 300 years ago.

That is precisely the program attempted by the "new dealers" here, though not as yet with the success the "brain trust" may have hoped. The N. R. A. codes, aimed at press control, have been nullified by action of the Supreme Court. The Rayburn Communications Act has been a vast handicap to freedom of press dispatches, and has been the means of Federal interference with radio talks, but the administration has not as yet dared to exercise in full the powers of censorship which it has voted to itself by the aid of a go-and-get-it Congress.

Supplementing a too-evident Federal censorship, the Government has built up the most gigantic publicity machine known to history at the cost of scores of millions of dollars. Every economic department in Washington has been resolved into a machine for political propaganda. The Government Printing Office gets out little except propaganda, printed as public documents.

The departments and bureaus have been loaded down with newspaper men—more newspaper reporters, editors, and special writers than all other professions combined. The President, his family, the Cabinet, the "brain trust", are writing books, filling the screens, and are on the radio day after day.

Possibly \$200,000,000 may be a conservative estimate of the publicity costs of the new-deal administration annually—salaries for publicity jobs, bureaus that are nothing but propaganda-machines "information" bureaus in all departments, new-deal dope by tons and carloads, radio, moving

picture, press hand-outs, flooding the press and mails, "key men" in every section, fixed data from every bureau and department, newspaper and magazine write ups, baby-bond propaganda, 57 bureau propaganda machines, "fireside chats", 1,000 special articles daily, thousands of pictures, hundreds of books, mimeographs by the hundred million—all to fool the American people into swapping off the American Republic and all the principles for which we have worked and fought for 150 years, and deserting our Constitution to accept the worst that Europe has to offer—and all at the expense of the taxpayers—a highly rouged and lip-sticked dictatorship of enthroned and blatant ignorance to which Europe itself cannot point with "pride of lawful ancestry or hope of lawful posterity."

Shall we play the hairy Esau to this new-deal Jacob? Shall we sell our birthright for a ride on Aaron's golden calf?

This thing called "new deal", Senators will find, if they will consult any recent Treasury daily statement, has an accumulated "emergency fund" now mounting to the unheard-of height of \$18,000,000,000. The cost of government since the Republic began, over a period of 128 years down to the second term of Wilson's administration, including five wars, was far less than this administration has spent in the last two and a half years.

When the expected allocation of five billion more to the President next year has been allotted, and the cost of government is added, the grand total sum for his administration will figure out to be \$37,000,000,000, a billion over one and a half times the cost of all the 35 administrations, including the first term of Wilson, which included five wars.

This vast spending orgy is the equivalent of 7 years of tax collections and all other sources of Federal revenue. Seven years of revenue is spent to subsidize the Nation.

If any business corporation were in that condition of insolvency, it would be thrown into the hands of a receiver on application of the stockholders to the court.

I am wondering if that application may not be filed before the Supreme Court of all, the 40,000,000 registered electors, who assemble in the November term of 1936, and I am wondering if our king will not meanwhile find the means, under his program of planned chaos and destruction, through the Commander in Chief of the Army and Navy, to prevent that decision.

WHEN THE KING DOES WRONG

Mr. President, it has been pointed out repeatedly in the course of this debate, that the provision denying the right of a citizen to appeal to the courts for redress is founded on that old doctrine of the Dark Ages, that—

The King can do no wrong.

In an age, as Senator BORAH put it the other day, when everything the kings did was wrong—down to the levy of imperial taxes, the taking of life, liberty, and property, inquisition and imprisonment, denial of free speech, assembly, and freedom of worship—it became necessary, in order to justify the imperial decrees and imperial acts of robbery and injustice, to announce this doctrine as set forth by Niccolò Machiavelli in his treatise of 400 years ago as adviser of Caesar Borgia and as "brain trust" of Francis I of France.

It was the doctrine of Machiavelli, set up in his treatise on government, bearing the title "The Prince", that the sovereign was beyond the pale of law or courts, and the citizen had no rights which the sovereign should be held to recognize.

The President himself is reported to have issued more decrees or Executive orders having the force of law, than all other Presidents of the United States combined twice over, and then some. But the administration would have the courts to be prohibited from issuing the decrees which they are authorized by the Constitution to issue. This administration has constantly sought through nearly all the bills he has forced through Congress, and is still seeking in this bill, to circumvent the Constitution. In this bill it seeks to place a prohibition upon the rights of the citizen to seek redress in the courts against the tax levies of the A. A. A.—

a fundamental right which is as old as that for violation of which George III was indicted by the statement in the Declaration of Independence that—

He has obstructed the administration of justice.

We do not wonder that Tugwell and Moley, Wallace and Frankfurter, declare that we shall never go back to the ideas of 1776, for in the Declaration of Independence, adopted July 4, 1776, we find the following, which is descriptive of the principal evils of this A. A. A. maladministration:

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance.

Comrade Tugwell promised the Committee on Agriculture that an extra force of 50 persons was all that would be needed to take care of the A. A. A. He now has better than 10,000 on the pay roll of the Government, and a couple hundred of those are the best newspapermen in the country, whose duty it is, under his guidance, to issue propaganda to mislead the people. Their salaries run as high as \$9,000, which are paid out of the Public Treasury. The taxpayer is taxed to pay for being fooled, misled, and given false information.

And, again, the Declaration of 1776, signed by the 56 founders of American liberty and drafted by Thomas Jefferson, describes the following evils promoted by this and other new deals, for example:

He has combined with others to subject us to a jurisdiction foreign to our Constitution * * * giving his assent to their acts of pretended legislation. * * * For imposing taxes on us without our consent * * *. For depriving us in many cases of the benefits of trial by jury * * * establishing therein an arbitrary government * * * and fit instrument for introducing the same absolute rule into these Colonies * * * and altering fundamentally the forms of our governments.

It was for such transgressions as these—which have again come into vogue under a new deal older than George III, or Francis I, or Machiavelli and Cesare Borgia—that the signers of the Declaration issued to the world that eternal and thoroughly American idea of 1776, to which Tugwell and Moley, Frankfurter and Cohen, the authors of this bill, say that we shall never go back, namely:

That these United Colonies are, and of right ought to be, free and independent States.

On October 19, 1781, there was enough independent Americanism in this country to compel Lord Cornwallis to surrender his sword to Washington. There was enough of the American spirit to rebel against unconstitutional taxation, the obstruction of justice in American courts, the substitution of autocratic decrees for acts of legislation, the establishment of arbitrary government, and the imperial imposition of autocratic rule for government by laws under the Constitution.

One hundred and fifty years have passed since then. But, if I know anything about the sentiment of this country today, and if I know anything about the true sentiment of the Senators in this Chamber as expressed between the lines of this debate, there is still enough Americanism in America to require "Lord Corn Wallace II" to turn over the sword of the A. A. A. before the nine Justices of the United States Supreme Court break it in two in this coming October term of 1935.

It would be the fitting irony of new-deal fate if, on October 19, 1935, the one hundred and fifty-fifth anniversary of Yorktown, the Supreme Court of America celebrated American tradition by handing down a decision requiring the surrender of "Corn Wallace II."

Who are the Tories in this Senate Chamber who are going to vote against the righteousness of that American decision? It took only 56 signers of the Declaration of Independence to defeat the autocracy for which the first Lord Cornwallis fought. Are there not 56 American patriots in this Senate who are willing to sign a new declaration of independence based on the never-dying doctrine for which our fathers fought and won? Why surrender to the creed of Machiavelli and the creed of Moscow? Let him who swings that

\$5,000,000,000 war club, while standing upon the Socialist platform of 1932, beware lest the club fall upon him, as it did upon Francis I and George III.

During the delivery of Mr. SCHALL's speech,

Mr. BILBO. Mr. President, will the Senator from Minnesota yield so that I may secure action on an amendment as to which there will be no controversy?

Mr. SCHALL. I yield for that purpose.

Mr. BILBO. I desire to offer an amendment, which I will ask to have read, as a substitute for section 39 as proposed by the Committee on Agriculture and Forestry.

The PRESIDING OFFICER (Mr. GUFFEY in the chair). The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 71, line 12, in lieu of the language proposed to be inserted by the committee, it is proposed to insert the following:

Sec. 39. No cotton cooperative association shall be eligible for any loan authorized to be made to cooperative associations by any agency of the Government, unless such association handles the products of or supplies of bona fide cotton-producing members (or the products of or supplies of bona fide cotton-producing members of member associations) in an amount at least equal in value to such as are dealt in for persons other than such bona fide members, but all cotton handled by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business handled by such association.

Mr. McKELLAR. Mr. President, this is an amendment which was offered to section 39, on page 71 of the bill, which was passed over; and those of us who are interested in this cotton amendment—and I have taken a very great interest in it—have agreed that the substitute may be adopted instead of the committee amendment. I desire to have it agreed to at this time.

The PRESIDING OFFICER. There is an amendment to the committee amendment on page 64, beginning in line 20 which is pending.

Mr. McKELLAR. Yes, Mr. President; but we ask unanimous consent that this amendment be adopted, notwithstanding the fact that there is an amendment pending.

Mr. SMITH. Without prejudice.

The PRESIDING OFFICER. Is there objection?

Mr. KING. I do not object, with the understanding that if next Monday, upon a further examination of the amendment, I desire to submit a qualifying amendment or another sentence to it, I shall have the opportunity.

Mr. McKELLAR. There will be absolutely no objection to it if the Senator finds it necessary to do so.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Mississippi [Mr. BILBO] in the nature of a substitute for the committee amendment on page 71, being section 39.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

ORDER FOR RECESS

After the conclusion of Mr. SCHALL's speech,

Mr. ROBINSON. Mr. President, I ask unanimous consent that when the Senate completes its labors today it take a recess until 10 o'clock a. m. Monday next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ACCEPTANCE OF BIDS FOR GOVERNMENT CONTRACTS

Mr. WALSH. Mr. President, there is an emergency measure on the Senate Calendar to which I call the attention of the Senate. It is a matter I have discussed with the Senator from Arkansas [Mr. ROBINSON] and the Senator from Oregon [Mr. McNARY]. Therefore I ask unanimous consent for the immediate consideration of Calendar No. 1193, being Senate Joint Resolution 163. I will explain the joint resolution as soon as it shall have been laid before the Senate for consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution referred to by the Senator from Massachusetts?

There being no objection, the Senate proceeded to consider the joint resolution (S. J. Res. 163) to authorize the accept-

ance of bids for Government contracts made subject to codes of fair competition, which was read, as follows:

Resolved, etc., That no bid submitted prior to the enactment of this joint resolution in response to the invitation of any executive department, independent establishment, or other agency or instrumentality of the United States, the District of Columbia, or any corporation all the stock of which is owned by the United States (all of the foregoing being hereinafter designated as "agencies of the United States"), if otherwise valid and acceptable, shall be rejected because made subject to the provisions of any code or codes of fair competition, or any related requirements (as provided in Executive Order No. 6646 of Mar. 14, 1934), if the bidder, with the assent of his surety, shall agree in writing that the contract, if entered into, shall, in lieu of such code provisions or other related requirements, be subject to all acts of Congress, enacted after the date of enactment of this joint resolution, requiring the observance of minimum wages, maximum hours, or limitations as to age of employees in the performance of contracts with agencies of the United States. In such cases the compensation provided for in the contract shall be reduced from that stated in the bid by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract is reduced solely by reason of the contractor not complying with the provisions of such code or codes or related requirements; and the compensation for the performance of the contract shall be increased from that fixed in the contract by the amount that the contracting officer, subject to the approval of the Comptroller General, shall find the cost of performing the contract has been increased solely by reason of compliance with such subsequent acts of Congress, if any, relating to the performance of contracts with agencies of the United States.

Mr. WALSH. Mr. President, before the decision of the United States Supreme Court declaring the N. R. A. unconstitutional, various departments of the Government had invited bids for the purchase of supplies, for construction work and for various other undertakings. All of the bids were for contracts subject to code competition. After the decision of the Supreme Court, the Comptroller General ruled that these bids were illegal, and that it might be necessary for the departments to resubmit their propositions for rebidding. This would mean much delay, and create a good deal of confusion, and many Senators have had appeals for relief made to them from bidders who were the lowest bidders on the various undertakings of the Government.

It is therefore proposed, after consultation with the various departments of the Government and the General Accounting Office, that the joint resolution now being considered should be enacted into law.

This joint resolution makes valid these bids, if the bidder with the assent of his surety, shall agree in writing that the contract entered into, shall, in lieu of such code provisions, be subject to all acts of Congress enacted after the date of enactment of the joint resolution, requiring the observance of minimum wages, maximum hours, or limitations as to age of employees in the performance of contracts with agencies of the United States.

The joint resolution was submitted to various departments of the Government and also to the Comptroller General, is in form satisfactory, and will remedy the necessity of the readvertisement of such bids, which without this resolution now are being rejected by order of the Comptroller General.

In view of this explanation, I hope the joint resolution may be passed and go to the other House, so that there may be no further delay in the disposal of this vast volume of public business.

Mr. FLETCHER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Florida?

Mr. WALSH. I yield.

Mr. FLETCHER. I will refer to a situation which arose in the Joint Committee on Printing. We advertised for bids for newsprint and other paper and envelopes as required by law. Under the old code arrangement bids came in, but then the decision of the Supreme Court was handed down and the committee thought there was nothing to do but to reject the bids and to call for new bids, as we did. I do not want any complication about that, and I suppose the joint resolution would scarcely refer to a situation such as that?

Mr. WALSH. Not at all. I might say that several departments have tried personally to negotiate with the lowest bidder to meet these requirements in writing so that they would

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 20), 1935

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. McCARRAN to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: At the end of the bill insert the following new section:

- 1 SEC. That sections 6, 7, and 8 of Public Law Num-
- 2 bered 438, Seventy-third Congress, are hereby repealed,
- 3 and all Treasury rules and regulations made in pursuance of
- 4 said sections 6, 7, and 8 of Public Law Numbered 438 are
- 5 hereby declared null and void and inoperative.

No, the Court is not reactionary or anti new deal. It has done what it has always done—construe the law in the light of the Constitution and make it conform thereto. The fact that the Court has frustrated a portion of the new deal and will probably frustrate more is no reason to get mad with it. For the first 70 years of the history of the Government it was quarreled with because it upheld the acts of Congress against the wishes of a large portion of the people. Now that it holds invalid some of the acts of the Congress it naturally offends those who sympathize with such enactments. But a Constitution without a court to make its provisions effective is meaningless. Constitutions are adopted for the purpose of preventing the execution of unwise and dangerous laws by requiring that the laws conform to the basic principles laid down in the constitutions, or, in short, to prevent the people from doing the Samson stunt of pulling the temple down in the constitutions, or, in short, anger or pique. The Court is functioning as intended. Let's support it as both the great shield and guide that it is and has always been.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Wisconsin [Mr. La FOLLETTE] in the nature of a substitute for the committee amendment, on page 64. The amendment will be stated.

The CHIEF CLERK. In lieu of the language proposed by the committee to be stricken out on page 64, line 20, and extending through line 14, page 66, being section 30, it is proposed to insert the following:

Sec. 33. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"Sec. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigation under this section to determine such facts. Such investigations shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 75 percent of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

"(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until 15 days after the date of such proclamation, revocation, suspension, or modification.

"(d) Any decision of the President as to facts under this section shall be final.

"(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

Mr. VANDENBERG. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. VANDENBERG. How much time have I left on the amendment?

The VICE PRESIDENT. The Senator from Michigan has on the amendment 7 minutes left.

Mr. VANDENBERG. Mr. President, I wish to reply briefly to the attempted argument which was made last Saturday afternoon by Senators in opposition to the pending La Follette amendment.

It will be recalled that when I spoke Saturday morning I pointed out from the record that commodities which are basic commodities under the A. A. A. law came over the tariff wall during the first quarter of 1935 in a greater degree than

ever before. What was the only answer that could be made to that? The answer was an attempt to ridicule the figures on the basis that I did not indicate the percentage which the imports in the few cases I gave bore to the total domestic production. In other words, when attention was called to the fact that the corn imports, for example, leaped from 112,000 bushels during the first quarter of 1932 to nearly 4,000,000 bushels during the first quarter of 1935 Senators undertook to emphasize that at this rate the increased corn importations represented only 1 percent of the corn production of the Nation.

That is entirely correct, but what of it? If we are interested in percentages, the percentages which are eloquent in the present instant are the percentages of increase in importations. I should like to invite the attention of the Senator from Oklahoma, if he wants percentages, that the increased corn importation during the first quarter of 1935 over the importation in the first quarter in 1932 was 6,100 percent. That is enough percentage to stop almost anyone.

I invite his attention that the importation of wheat during the first quarter of the present year as compared with the first quarter of 1931 shows an increase of 31,700 percent!

There never has been such a trend in the direction of increased imports of agricultural commodities, and particularly basic agricultural commodities, as there has been during the first quarter of the present year. It is more than a coincidence. It is related in some degree of the philosophy of scarcity under which the A. A. A. proceeds.

I do not happen to believe in the philosophy of scarcity, but if Senators believe in that philosophy and in continuing to pursue it to its effective net result it will be necessary to clothe somebody with the power and authority, if, as, and when these imports flow over the tariff wall, to defeat this alien competition which will either bear down the domestic parity price or will make it an advantage to foreign agriculture instead of leaving it a domestic advantage.

Senators ask about percentages. I suppose if they smelled smoke in the house they would not deign even to look up the telephone number of the fire department until an adequate percentage of the house was in flames. It is the trend which is the challenge at the present moment. The trend is infinitely more important than the percentages in respect to our total domestic production.

Let me cite peanuts, which have been made a basic agricultural commodity for the purpose of creating a domestic advantage for the American peanut grower. What happened? The importations of peanut oil, edible, for example, increased from 278,000 pounds the first quarter of 1934 to an importation of 18,374,000 pounds the first quarter of the present year.

What about butter? There is much about milk in the pending bill, and an effort to create and preserve a parity of the milk prices. Butter is a product of milk. The imports of butter during the first quarter of last year were 127,000 pounds. The imports during the first quarter of this year were 8,538,000 pounds. Senators may figure out their own percentages. It does not make any difference what percentage 8,000,000 pounds of butter is of the total production of butter in the United States for the purpose of this contemplation. We are not discussing a tariff bill. The important relation is between 8,000,000 pounds of butter imported the first quarter of this year and almost no butter imported heretofore.

How can we create artificial agricultural prices for the commodities of this country and leave them all exposed to the jeopardy of this foreign competition? It cannot be done.

If Senators believe in the theory of scarcity, they certainly should vote for the La Follette amendment. Whether they believe in the policy of scarcity or not, at least they ought to believe in making the policy consistently complete if it is to be embraced from any point of view. The La Follette amendment being purely to carry out that philosophy within constitutional boundaries and to put optional power in the hands of those who are responsible for directing the policy of scarcity, it is logical and rational that the amendment should be approved regardless of one's attitude toward the bill itself.

Mr. BARKLEY. Mr. President, I desire to ask the Senator from South Carolina [Mr. SMITH] what is his thought on the question I am about to propound. It strikes me that much of the debate on this amendment is more or less academic. Whether we like it or not, the Congress at its last session committed itself to this policy. In the Industrial Recovery Act there is a provision almost identically similar to that contained in the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE]. The proposal is in the text of the House bill.

No matter what the Senate does, unless the Senate should adopt the House language, it has to go to conference and has to be thrashed out in conference. Even though we defeat the amendment now pending, it would not take it out of conference. The only difference would be that if the Senate should leave out any of the language of the House text, then the conferees would be a little more free to consider the matter as to whether they want to have anything at all in the bill or modify the language of the House text.

It has to go to conference. Inasmuch as it will be in conference, it strikes me it is useless to waste another day debating the amendment, and I am wondering whether the Senator from South Carolina, in view of that situation, would feel inclined to let the matter go to conference with the amendment of the Senator from Wisconsin included, with whatever differences there may be between the House language and his amendment to be worked out in conference.

Mr. SMITH. Mr. President, of course I do not know what action the Senate will take. I recognize the logic of the suggestion of the Senator from Kentucky, but the adoption of the La Follette amendment by the Senate will be tantamount to ratifying the principle which is included in the House text. I do not think those who have charge of the administration of the provisions amendatory to the present act have recommended, or even intimated, that they desire this provision which was put in by the House.

I recognize the matter will go to conference. If we strike out the House text, that would put it in conference. I for one, however, do not feel that I am justified individually in voting for the principle which is involved in the language inserted by the House and the amendment of the Senator from Wisconsin. However, I hope when the Senate has made up its mind that we may have a vote promptly. I, myself, am not disposed to contest it one way or another, but I should like to have the Senate express its opinion promptly.

Mr. NORRIS. Mr. President, the Senator from Kentucky [Mr. BARKLEY] has made a suggestion which has been in my mind ever since the debate started. Let us look for a moment at the parliamentary situation.

The committee has offered an amendment striking out certain language of the House text. The Senator from Wisconsin [Mr. LA FOLLETTE] has offered an amendment, which under the rule he has a right to do prior to the vote on the committee amendment. His amendment would change the House language. Suppose we should adopt that amendment. It would have to go to conference, because we should have stricken out some of the House language. The committee amendment inserts no language in place of the House provision. It merely strikes out the House provision. Suppose we do not adopt the pending amendment, but adopt the committee amendment, and it goes to conference. The conferees will be faced with the situation of approving the House language or any modification of it, or nothing.

If we should reject the pending amendment and adopt the committee amendment and it should go to conference, the conferees could agree on the identical language of the pending amendment and bring it in as part of their report, and it would be proper under the rule.

So it seems to me, so far as the parliamentary situation is concerned, it makes absolutely no difference whether the pending amendment shall be agreed to or rejected. The bill may ultimately come back in the shape of a conference report containing that language. The bill may ultimately come back with the language of the House entirely stricken out, and that will be true whether or not we agree to the pending amendment.

It seems to me to be peculiar that we should waste the time of the Senate in debating the subject when, no matter what we do, the matter has to go to conference, because it affects House language. It seems to me it is absolutely immaterial now whether we adopt or reject the pending amendment. I think it is generally conceded that the pending amendment has in it some language which is an improvement over the House language; but, even if we shall adopt this amendment, it will still go to conference with the House conferees.

It seems to me we are merely wasting time in debating fundamental questions and other matters pertaining to the amendment which have no parliamentary relation to the question which will confront the conferees.

Mr. ROBINSON. Mr. President, will the Senator yield for a question?

Mr. NORRIS. I yield.

Mr. ROBINSON. In the opinion of the Senator from Nebraska, if the amendment now pending should be agreed to, would it be competent for the conferees to strike out both the Senate amendment and the House provision?

Mr. NORRIS. I do not see why not.

Mr. ROBINSON. I am asking the Senator's opinion.

Mr. NORRIS. Yes; I think so, because, if the Senator will think about the matter for a moment, if we should adopt this amendment, the amendment would go in the bill in place of the House language, which would be stricken out by action of the Senate, and the matter would go to conference.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. NORRIS. Yes; I yield.

Mr. BARKLEY. I wonder whether the Senator from Nebraska understood the question propounded by the Senator from Arkansas. I understood the Senator from Nebraska to say that if the Senate should agree to the La Follette amendment, and it should go to conference, the conferees could strike out the language of both bills upon the subject. Surely the Senator does not mean that.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. NORRIS. Yes.

Mr. ROBINSON. That was the question I asked. Both Houses having incorporated in the bill a provision on the subject, would it be competent for the conference committee to eliminate all provision on the subject?

Mr. BARKLEY. My opinion is that it would not be; that the only thing in conference would be the difference between the House language and the Senate language.

Mr. ROBINSON. That is the suggestion I intended to make.

Mr. NORRIS. But the pending amendment, if we should agree to it, would go in the bill in place of the House language. The House language would still be stricken out by action of the Senate, and the entire matter would be in conference.

Mr. BARKLEY. It would all be in conference; but the conferees could not bring back a report eliminating both the House and the Senate provisions, or the principle involved in them. Of course, if the Senate should adopt the La Follette amendment and send it to the House, the House might agree to that amendment without even sending it to conference, and, of course, that would take it out of conference.

Mr. NORRIS. Yes.

Mr. BARKLEY. But as the entire bill no doubt would go to conference, the conferees would have liberty to travel the entire territory representing the difference between the provisions of the House and of the Senate.

Mr. NORRIS. Suppose we should reject the pending amendment—let us take that as an assumption—and adopt the committee amendment, and the matter should go to conference; We should have stricken out certain language of the House bill, and the conferees would be presented with a choice between that language and nothing on the subject.

Mr. ROBINSON. Mr. President, will the Senator yield for a question?

Mr. NORRIS. Yes.

Mr. ROBINSON. Why would not the matter in conference be the difference between what the Senate had adopted

and what the House had originally inserted in the bill? Under the rule which for some years has governed our practice relating to conferences, why would not the conferees be limited to the differences between the two bodies?

Mr. NORRIS. Suppose the pending amendment were just the same as the House language, and we struck out the House language and adopted the same language as an amendment to it.

Mr. BARKLEY. In that case it would not be necessary to offer an amendment. In that case the only thing the Senate would have to do would be to reject the Senate committee amendment striking out the language of the House bill.

Mr. NORRIS. But the conferees would have either to agree or to disagree to it.

Mr. BARKLEY. No; it would not be in conference.

Mr. ROBINSON. If the Senate should restore the House language, that would take the matter out of conference, and the conferees would not be empowered to consider the provision.

Mr. BARKLEY. The difference would be this: If the Senate should strike out the House language and substitute nothing in its place the conferees then could eliminate the whole subject from the bill.

Mr. NORRIS. Absolutely. Let me take up the matter right there, because the interruption of the Senator from Arkansas rather diverted me from the particular case I put. I said, suppose we should reject the pending amendment and adopt the committee amendment and the matter should go to conference. The conferees could come back with perfect propriety and within their limits bring back the La Follette amendment as part of the conference bill.

Mr. BARKLEY. They could do that or they could bring back nothing.

Mr. NORRIS. They could bring back nothing.

Mr. BARKLEY. But if the La Follette amendment should be agreed to in the Senate, the conferees could not bring back nothing. They would have to bring back something, and that would be an agreement on the differences between the House language and the language of the La Follette amendment.

Mr. McNARY. Mr. President, I shall support the La Follette amendment if opportunity shall be afforded to vote for it; but, as a parliamentary proposition, I feel certain that if the La Follette amendment should be accepted and go to conference the conferees would be acting without their jurisdiction, if they should strike out all the language, because both the La Follette amendment and the House language treat the same subject matter, with the employment of a little different language. Therefore, I must sustain the attitude of the Senator from Arkansas.

Now, I desire to propound a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. McNARY. If the La Follette amendment should be adopted and go to the House, would it be within the power of the conferees to strike out all the language appertaining to the subject?

The VICE PRESIDENT. Not so far as the La Follette amendment and the House provision coincide. The Chair has examined them, and finds that they do have similar language in some respects, and wherever they have similar language it must be retained. If the entire paragraph should be stricken out, as the committee has proposed to do, the conference committee could bring in any kind of a provision which would be germane to that particular subject.

That is the Chair's interpretation of the parliamentary situation.

Mr. LA FOLLETTE. Mr. President, may I propound a parliamentary inquiry?

The VICE PRESIDENT. The Senator will state it.

Mr. LA FOLLETTE. Is not this the parliamentary situation: If the Senate committee amendment should prevail, and the House text should be completely stricken from the bill, the conferees then would have it within their power either to agree to the House text as written, or to agree to the House text as modified, or to submit a conference report

which would eliminate all reference to this particular subject matter.

Mr. BARKLEY. No; that could not be. If they brought in such a report it would be subject to a point of order.

Mr. LA FOLLETTE. The Senator misunderstands me.

The VICE PRESIDENT. Just a moment. Let the Chair state the inquiry as he understands it.

If the Senate should adopt the committee amendment, and the matter should go to conference, the conferees could bring back an amendment agreeing to the Senate amendment with an amendment, or they could reject it and have nothing in the bill on the subject.

Mr. LA FOLLETTE. Precisely; but, Mr. President, if the pending amendment should be agreed to, then would not the situation be that the Senate conferees would be instructed in favor of the principle embodied in the Senate amendment, and, therefore, the question between the Senate and the House conferees would be that of agreeing upon language which would effectuate the objective contained in both the House text and the pending amendment?

The VICE PRESIDENT. The Chair has examined the language of the House provision and the La Follette amendment. If the La Follette amendment should be agreed to, the conferees would be compelled to bring back some kind of provision on the subject.

Mr. BAILEY. Mr. President, I wish to offer an amendment to the amendment of the Senator from Wisconsin to cover a matter which has been omitted.

Referring to the La Follette amendment as printed in the RECORD—there is no copy on the desks, so we have to use the RECORD—after the word "title", in line 5, section 22 (a), as printed in the RECORD on page 11497, I wish to insert "or to reduce or tend to reduce the amount of any commodity processed in the United States subject to this title."

I ask the Senator from Wisconsin if he will accept that as an amendment to his amendment?

Mr. LA FOLLETTE. I will modify my amendment as proposed by the Senator from North Carolina, because I am in agreement with the proposition.

The VICE PRESIDENT. The Senator from Wisconsin modifies his amendment as proposed by the Senator from North Carolina. The question is on the amendment of the Senator from Wisconsin, as modified, in the nature of a substitute for the committee amendment beginning on page 64, line 20.

Mr. LONG. Mr. President, I do not care whether this amendment is adopted or not. I merely wish to have my position straight in the RECORD on the tariff question.

I do not vote for any of these tariff authorizations to the President of the United States. In my opinion, they are not valid; and, if, by some stretch of legal imagination, they should be interpreted to be valid, I think they are positively unsound.

I was very sorry to see the position which was taken here on the last day the Senate was in session. I was not able to be here then—on the rayon amendment. It seems that we cannot get the Senate to vote on principle on the tariff at all.

We had before the Senate a proposition to bar from this country rayon coming here in competition with cotton; and our vociferous eastern tariff advocates voted against rayon being at all impeded in coming here in competition with domestic goods. The next time a tariff question comes up, however, if it affects something in which the South is interested, it seems that the southerners are quite willing to vote for a tariff on it.

The tariff policy of this country has gone to a point where it has about destroyed almost everything that has any competition to meet from foreign commodities, and it has practically all been done through the manipulations of these bureaus and executive orders of the President, exempting this and barring something else, fixing one rate for one thing and another rate for something else; and then, after we have fixed it with one country, there is some stipulation in our treaties which requires all other countries to be put on the

same basis. It is practically wiping out all the tropical fruit business we have in this country, and ruining the domestic business of Florida, Louisiana, and the southern part of Texas, and, I am told, in some parts of California.

I am not in favor of legislating further authority to the President. Whenever I take a notion that we have to put any more authority to make tariffs in the hands of the President, and to abdicate further, I am going to resign my seat in Congress, and be placed on the relief roll. I will not ask to be given \$10,000 a year to vote authority to bureaucrats to make tariffs and levy taxes in this country. I conceive that to be the duty of Congress, and I will not assess the people of the United States \$10,000 a year to vote to abdicate authority to fix tariffs and fix tolls and fix blockades which should be fixed by the Congress of the United States. On the contrary, I will undertake to keep my conscience clear, and make my application, therefore, to Mr. Harry Hopkins.

Mr. BORAH. Mr. President, in view of the discussion of the parliamentary question I do not care to take up the time of the Senate in debating the pending matter. I believe the home market belongs to the American farmer to the extent of his ability to supply it.

I ask permission to insert in the RECORD some material concerning the imports coming into this country at the present time.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

[From the National Union Farmer of July 15, 1935]

THOSE IMPORTS AGAIN

Many Farmers Union members have sent to our desk copies of mimeographed letters sent out by county agricultural agents trying to prove that our disclosures of the huge imports of food were exaggerated and that these imports were only a "drop in the bucket" compared with what this Nation uses and produces in these same products that are being imported.

Those letters are definitely misleading. It is true that figures don't lie but only when honestly used.

In the first 3 months of 1935 our imports gained 22 percent in value and the exports fell just short of maintaining their value levels compared with the same period in 1934.

Measuring imports and exports by value does not present a true picture. Measured by quantity export trade was 5 percent smaller than in 1934 and 16 percent under the 5-year average. We exported less raw material and foodstuffs but more manufactured products. Measured by value 66 percent of our chief exports showed gains but by quantity 62 percent registered increases over 1934. We exported 64 percent more automobiles, 45 percent more airplanes, 126 percent more engines, 94 percent more tractors, 59 percent more track-laying tractors, 61 percent more lathes, 61 percent more printing presses, 69 percent more scrap iron and steel, 52 percent more sawed timber, 69 percent more wood pulp, 116 percent more bauxite, 212 percent more castings and forgings, 130 percent more raw hides and skins, 70 percent more natural gasoline, and 127 percent more refined sugar.

But we sold 38 percent less manufactured cotton, 38 percent less lard, 45 percent less coaltar pitch, 49 percent less oil cake, 30 percent less apples, 31 percent less furs, 14 percent less gasoline and naphtha.

These are exports by quantity and not in dollar values.

IMPORTS

The value of imports for the first 3 months of 1935 was 22 percent larger than for the same period in 1934 and by quantity it exceeded last year's figure by 18 percent and was 11 percent more than the 5-year average.

It is interesting to note that by value our imports were 66 percent greater than in the first 3 months of 1934 and by quantity they gained 61 percent. These increases are within 1 percent the same as our increase in exports as shown above.

What did the imports consist of however? Let us look at the record.

Grains, cattle, dairy products, sugar, cotton cloth lead the list. Increases over the same period in 1934 in volume for certain products were as follows:

Product increase over period January-April 1934

	Percent
Wheat.....	123
Oats.....	73, 089
Corn.....	13, 895
Wheat feeds.....	384
Cattle.....	300
Meats.....	125
Butter.....	6, 570

(All these were more than the 5-year average.)

Sugar—76-percent increase. This is 33 percent above the 5-year average.

Cotton cloth—54-percent increase and double the 5-year average. What does this analysis prove?

First. That we do not produce enough food to feed our people and our stock or provide clothing, in spite of the reduced buying power and 11,000,000 unemployed who have no buying power at all.

Second. That foreign farmers can sell to us at a profit. Why? Because the difference in the value of currency abroad and our American currency makes it profitable for the foreign growers of food to dump their products on our markets in spite of tariffs.

Third. That the A. A. A. aided by the drought is an unqualified success and a glorious victory for those who drafted it in the first place, the United States Chamber of Commerce. Exports of industrial products have been increased in just the right quantity and are being paid for with food imports. This provides a market abroad for industry, and the enormous quantity of food dumped on our American markets is keeping food prices down, giving industry a chance to keep wages down.

Diamond imports increased 71 percent over last year and are 156 percent above the 5-year average. Who are buying them? Our farmers?

FOOD PRICES ARE UP

It is true food prices are up, but is the farmer getting his right share of the increase and is it giving him buying power?

That and that alone is the test that should be applied.

Is the farmer getting cost of production? He is not.

MAY IMPORTS

I have just received the latest Department of Commerce figures on imports. It is a bulletin which comes out each month. Anyone may subscribe for it. It is issued by the Division of Foreign Trade Statistics, Bureau of Foreign and Domestic Commerce, and is entitled "United States Foreign Trade." The price is \$1 a year. I am copying from page 7 of the June 5 bulletin some figures of interest to Farmers Union members and others:

Imports 5 months ending May [Pounds]

	1934	1935
Meat products.....	21,790,000	48,899,000
Butter.....	286,000	20,063,000
Cheese.....	19,095,000	20,069,000
Sugar from Philippine Islands.....	1,769,134,000	1,001,020,000
Sugar from foreign countries.....	424,906,000	1,904,800,000
Tobacco (unmanufactured).....	23,219,000	23,306,000
Cotton (unmanufactured).....	36,149,000	22,610,000
Wool (unmanufactured).....	60,260,000	65,723,000

Grains, feeds, and fodders are given only in dollar values, as follows:

Grains and preparations, \$6,289,000, \$29,139,000.

Fodders and feeds, \$1,107,000, \$7,646,000.

Vegetables, \$8,456,000, \$9,303,000.

The egg figures are not given in this report, but I called the Department and received the following figures over the phone:

Imports of eggs, 5 months ending May 1934

Eggs in shell, 75,472 dozen.....	\$13,306
Yolks, frozen, 167,690 pounds.....	12,969
Whole eggs, dried, 1,131 pounds.....	429
Whole eggs, frozen, 39,285 pounds.....	3,337
Yolks, dried, 774,860 pounds.....	68,872
Egg albumin, 83,400 pounds.....	39,246

1935

Eggs in shell, 257,983 dozen.....	45,219
Yolks, frozen, 509,392 pounds.....	45,162
Whole eggs, dried, 273,194 pounds.....	67,908
Whole eggs, frozen.....	None
Yolks, dried, 1,182,453 pounds.....	121,979
Egg albumin, 606,685 pounds.....	258,440

It is bad enough that these imports are nearly four times what they were last year, but from Connecticut Farmers' Union friends we learn that when 3,000 cases of eggs from the Netherlands arrived, prices for the Connecticut eggs dropped 3 cents a dozen because the imported eggs were offered at that lower price.

[From National Union Farmer, July 15, 1935]

WALLACE PLOWS UNDER MORE MARKETS

While importation of foreign meats and meat products is increasing at probably the fastest rate ever known, export of pork and lard from America is rapidly falling off. In other words, the greatest livestock country in the world is buying from foreign countries a product that was fundamental in the building of this Nation, and the alarm with which stockmen are regarding the changing conditions for American agriculture is not entirely groundless.

Figures furnished by the Government show that exports of lard since the first of the year have dropped 73 percent, compared with the same period in 1934. Pickled pork exported from the United States during this period shows a decrease of 37 percent, and bacon exports have dropped 59 percent. Some foreign countries, former customers of our American lard, are now stiff competitors for trade in Europe. Poland, for many years an importer of American lard, recently sent a trial shipment of lard to England in competition with the American product.

During the period January 1 to June 8, 1935, Germany bought only 702,000 pounds of lard from America, as compared with a total of 21,217,000 pounds during the same period in 1934. The United Kingdom took only 45,972,000 pounds during the same period, compared with 150,936,000 pounds a year ago. In all, America exported only 65,654,000 pounds of lard from January 1 to June 8, as compared with 247,040,000 pounds a year ago. Exports of lard from America during the entire year of 1934, at 431,237,000 pounds, were lowest in recent history, and compared with the 579,101,000 pounds exported in 1933, and with 944,095,000 in 1924, when American hog production was on a normal scale.

Pickled pork exported from January 1 to June 8 this year at 4,244,000 pounds, compared with 6,750,000 pounds the same period last year. Bacon exports for the same period at 3,849,000 pounds compared with 9,558,000 pounds a year ago, and hams and shoulders at 24,635,000 pounds compared with 24,981,000 pounds the same period a year ago.

In addition to this, Great Britain has just added new restrictions. Imports of cured pork from nonempire countries during July, August, and September have been cut to 160,620,000 pounds, or a reduction of 20.7 percent from the 202,552,000 pounds imported during the corresponding period in 1934.

CALLAHAN & SONS, INC.,
Louisville, Ky., July 15, 1935.

HON. WM. E. BORAH,
Senate Building, Washington, D. C.

DEAR SENATOR BORAH: Our local paper stated in an article a few days since that Senator BORAH had taken the position that the United States Government should prohibit the importation of grain and foodstuffs where it seriously interferes with the interests of the American farmer.

I have no desire to burden you with additional correspondence, but am going to take the liberty of complimenting you upon the stand that you have taken on one of the most important questions now before the public.

By repeated statement in the last year or so, the Government has expressed its determination to do everything in its power to enable the American farmers to get a proper price for the products which they raise. Various methods have been adopted to this end, paying the farmer to reduce acreage of corn and wheat, and hogs, etc.

On an average of a great many years, nature has enabled the farmer to produce bountiful crops, but the last corn crop was reduced almost 50 percent, and the last oats crop about the same proportion. A condition was thus presented to the farmers which, except for the importation of foreign grains, would have enabled them to secure a price which would in a measure compensate them for these reduced yields, and give them a price sufficient to increase their purchasing power.

Take the corn crop, for instance, there is only about 20 percent of the corn crop that goes into interstate commerce. This would mean about 300,000,000 bushels on the crop referred to.

Argentina has been shipping into this country large quantities of corn and oats, delivering same to Gulf ports and along the Atlantic seaboard at prices so far below the value of domestic grain produced in the Midwest that these sales have had a very adverse effect on values.

By comparison, we have the following situation:

Value of corn in central Illinois, 80 cents; freight rate to	Cents
Baltimore, 33 cents per 100 pounds; value-----	98.48
Argentine corn offered at-----	75.00

This price on Argentine corn is obtained from bulletin issued dated "Washington, June 29" by the Bureau of Agricultural Economics, from which we quote:

"Shipments of Argentine corn destined to the United States during the week totaled 2,020,000 bushels. The Argentine corn is of good quality, and was quoted delivered at Atlantic seaboard markets at about 75 cents per bushel, duty paid."

We have the same relative situation on oats, although the difference between the price of domestic oats and Argentine oats is not quite so great as it is in corn.

The immediate effect of this is very marked, but the ultimate effect, if this situation is not remedied either by increasing duty of prohibition of imports, will be very disastrous to the American farmer, for the reason that Argentina has an almost unlimited rich, virgin soil, and a wage scale which is absurdly low compared with the wage scale of the United States. Competition with our American farmers will be made permanent.

Just what our trade relations with Argentina are, I am unable to state.

Farmers in the Middle West are denied their usual market; the railroads are denied the haul to the seaboard, and the effect on values runs into very large sums of money.

Your truly,

R. L. CALLAHAN, President.

AMERICAN FARM BUREAU FEDERATION,
Washington, D. C., July 15, 1935.

Senator WILLIAM E. BORAH,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR BORAH: I have a telegram from the Arizona Farm Bureau Federation which contains a motion of the board of directors of that federation, giving unqualified support to a report, as carried in the press, that you intend to present an amendment to H. R. 8492, to prohibit the importation of all

products similar to those which American farmers have agreed to curtail in return for Federal benefit payments.

You may be assured, in behalf of the American Farm Bureau Federation, that the national policies of the federation demand that if and when the American farmers are to adjust their production into the domestic requirements, that the American market must be protected against foreign importations of crops and foodstuffs. It is illogical and uneconomic for our farmers to limit their great powers of production and at the same time turn the American market over to foreign competitors. The provision in the pending measure, as it passed the House of Representatives, is fairly satisfactory from Farm Bureau points of view, in regard to tariff matters as they relate to the adjustment program. It was unfortunate that the Senate committee deleted this provision. It, or something similar to it, should be reinstated on the floor of the Senate.

Very respectfully,

AMERICAN FARM BUREAU FEDERATION,
CHESTER H. GRAY,
Washington Representative.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE], as modified, to the amendment of the committee, which will be stated.

The LEGISLATIVE CLERK. In lieu of the language proposed to be stricken out beginning on page 64, line 20, and extending to line 14, page 66, being section 30, it is proposed to insert the following:

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS"

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken under this title or to reduce or tend to reduce the amount of any commodity processed in the United States subject to this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 percent of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

"(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until 15 days after the date of such proclamation, revocation, suspension, or modification.

"(d) Any decision of the President as to facts under this section shall be final.

"(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

Mr. LA FOLLETTE. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. KEYES (when his name was called). I have a general pair with the junior Senator from Utah [Mr. THOMAS], which I transfer to the senior Senator from Wyoming [Mr. CAREY], and vote "yea." I am advised that if present and voting the Senator from Wyoming [Mr. CAREY] would vote "yea."

The roll call was concluded.

Mr. AUSTIN. I desire to announce the necessary absence of the Senator from New Jersey [Mr. BARBOUR] and the Senator from Oklahoma [Mr. GORE], who are paired on this question.

I also wish to announce the necessary absence of the Senator from Delaware [Mr. HASTINGS] and the Senator

from the Missouri [Mr. CLARK], who are also paired on the pending question.

If present and voting, the Senator from New Jersey [Mr. BARBOUR] and the Senator from Delaware [Mr. HASTINGS] would vote "yea", and the Senator from Oklahoma [Mr. GORE] and the Senator from Missouri [Mr. CLARK] would vote "nay."

Mr. ROBINSON. I desire to announce that the Senator from Washington [Mr. BONE], the Senator from Virginia [Mr. BYRD], the Senator from Oklahoma [Mr. GORE], the Senator from Louisiana [Mr. OVERTON], and the Senator from Florida [Mr. TRAMMELL] are detained on departmental matters.

I also desire to announce that the Senator from Montana [Mr. WHEELER] is detained in an important committee meeting. I am advised that if he were present he would vote "yea."

I wish further to announce that the Senator from Missouri [Mr. CLARK], the Senator from New York [Mr. COPELAND], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Pennsylvania [Mr. GUFFEY], the Senator from Maryland [Mr. RADCLIFFE], the Senator from Texas [Mr. SHEPPARD], and the Senator from Utah [Mr. THOMAS] are necessarily detained from the Senate. I am informed that if present and voting the Senator from Pennsylvania [Mr. GUFFEY] would vote "yea."

Mr. HOLT. I desire to announce that my colleague the senior Senator from West Virginia [Mr. NEELY] is necessarily detained from the Senate. If present, he would vote "yea."

The result was announced—yeas 60, nays 17, as follows:

YEAS—60

Ashurst	Costigan	La Follette	Pope
Austin	Davis	McAdoo	Reynolds
Bachman	Dickinson	McGill	Russell
Bailey	Donahay	McNary	Schall
Barkley	Duffy	Maloney	Schwellenbach
Bilbo	Fletcher	Metcalf	Shipstead
Borah	Frazier	Minton	Steiwer
Brown	George	Moore	Thomas, Okla.
Bulkley	Gibson	Murphy	Townsend
Bulow	Hale	Murray	Truman
Burke	Hatch	Norbeck	Vandenberg
Capper	Hayden	Norris	Van Nuys
Chavez	Holt	Nye	Wagner
Connally	Johnson	O'Mahoney	Walsh
Coolidge	Keyes	Pittman	White

NAYS—17

Adams	Gerry	Lonergan	Smith
Bankhead	Glass	Long	Tydings
Black	Harrison	McCarran	
Byrnes	King	McKellar	
Caraway	Logan	Robinson	

NOT VOTING—19

Barbour	Copeland	Hastings	Sheppard
Bone	Couzens	Lewis	Thomas, Utah
Byrd	Dieterich	Neely	Trammell
Carey	Gore	Overtton	Wheeler
Clark	Guffey	Radcliffe	

So Mr. LA FOLLETTE's amendment, as modified, in the nature of a substitute for the amendment of the committee, was agreed to.

Mr. SMITH. Mr. President, I simply desire to rise and congratulate the Democratic Senate on the vote just taken.

The PRESIDENT pro tempore. The question is on the committee amendment as amended.

The committee amendment as amended was agreed to.

Mr. ASHURST. Mr. President, as a "free trader", I wish to congratulate the Senate on its present action. It is a move toward a high protective tariff, and therefore I am not without hope.

Mr. LONG. I wish to say to the Senator from South Carolina that I voted with him on this tariff question, but for different reasons. I voted with him for what I gathered from the record to be honest reasons.

The PRESIDENT pro tempore. The next amendment passed over is the committee amendment on page 66, to strike out section 31.

Mr. BORAH. Mr. President, what is that amendment?

The PRESIDENT pro tempore. Section 31, on page 66, which the committee propose to strike out. The Chair will state that the parliamentary situation is as follows: The

Senator from Texas [Mr. CONNALLY] heretofore offered a substitute for section 31, which was rejected, and the committee amendment was not at that time agreed to. The question is on agreeing to the committee amendment.

The amendment of the committee was agreed to.

The PRESIDENT pro tempore. That completes the committee amendments.

Mr. BORAH. Mr. President, have the committee amendments been disposed of?

The PRESIDENT pro tempore. All committee amendments have been disposed of.

Mr. BORAH. I desire to return to page 11, and in line 5, after the word "vegetables", I desire to insert "not including beans." I will say that the bean producers seem to be almost universally agreed in their desire not to be included.

Mr. JOHNSON. Mr. President, did the Senator say "bees" or "beans"?

Mr. BORAH. Beans.

Mr. SMITH. Mr. President, is that in line 4?

Mr. BORAH. No, Mr. President. In line 5, page 11, after the word "vegetables", I propose to insert the words "not including beans", so as to exclude beans from the operation of the act.

Mr. KING. Mr. President, may I inquire of the Senator whether he understands that all vegetables will now be left in the bill other than beans?

Mr. BORAH. Certainly.

Mr. ROBINSON. Does the Senator think that the language he is proposing coordinates the other language in the bill?

Mr. BORAH. The language I propose is "not including beans", preceding the words "not including vegetables for canning." I neglected to ask to have inserted the word "and." The language I ask to have inserted is "not including beans and."

The PRESIDENT pro tempore. The question is on the amendment of the Senator from Idaho [Mr. BORAH].

The amendment was agreed to.

Mr. JOHNSON. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. It is proposed, on page 11, line 5, and on page 16, line 8, after the word "fruits", to insert a comma and the words "other than olives."

Mr. JOHNSON. Mr. President, I take it there will be no objection to this particular amendment, because it is in concert with the desires of both packers and growers. The only olives which are canned in this country are canned in the State of California. Successfully they have operated thus far under marketing agreements. There is no objection upon anyone's part to including olives in this particular connection. I do not care to take up time unless some query may be made respecting it. I have the statistics before me in regard to the quantity of olives produced in California and the amount canned there, and I submit the amendment.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from California.

The amendment was agreed to.

Mr. JOHNSON. Mr. President, I have one other small amendment which I endeavored to submit to all those who might be interested in the subject matter, in the hope that there would be no discussion respecting it.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. It is proposed, on page 11, lines 5 and 6, to strike out "(not including vegetables for canning)" and insert in lieu thereof "(not including vegetables, other than asparagus, for canning)."

Mr. KING. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. KING. My understanding is that that matter has been disposed of; that the vote was had upon the motion to strike the words "(not including vegetables for canning)."

Mr. JOHNSON. No; the Senator is in error. This relates merely to the desire to bring within the bill asparagus for canning, and that has not been disposed of and has not been considered.

The PRESIDENT pro tempore. The amendment is offered to the House text, which has not been, as yet, disposed of. The amendment will be stated.

The CHIEF CLERK. On page 16, line 10, it is proposed to strike out "(not including vegetables for canning)" and insert in lieu thereof "(not including vegetables, other than asparagus, for canning)."

The PRESIDENT pro tempore. The question is on the amendment of the Senator from California [Mr. JOHNSON]. The amendment was agreed to.

Mr. LONERGAN. Mr. President, I call up an amendment, which was read on Friday, July 12, and ask for action on it. I send the amendment to the desk and ask to have it stated.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. It is proposed, on page 23, at the end of line 13, to insert the following:

No order shall be issued under this act prohibiting, regulating, or restricting the advertising of any commodity or product covered hereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

Mr. LONERGAN. This amendment has the approval of the Department of Agriculture and of the senior Senator from South Carolina in charge of the bill.

Mr. SMITH. Mr. President, I think this amendment has been entirely misunderstood. This amendment is an appropriate one in view of the fears which have been expressed that certain terms of the bill might enable the Secretary of Agriculture to govern certain advertising and restrict the use of certain kinds of paper. I talked the matter over with Department officials. They did not consider that there was any such power in the bill, but in order to make it perfectly clear they accept the amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Connecticut [Mr. LONERGAN].

The amendment was agreed to.

Mr. LONERGAN. Mr. President, I offer another amendment, which I send to the desk and ask to have stated.

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. LONERGAN. I yield.

Mr. FLETCHER. I wish to make a statement with reference to this bill. I have endeavored to attend all the sessions of the Senate every minute, and I have been in the Senate Chamber most of the time while the bill has been under consideration. On Saturday afternoon late, while the Senate had under consideration the so-called "La Follette amendment", I happened to be absent a short while, and by some kind of move the Senate took up section 39. It was perfectly well known that I was interested in that section. I had previously discussed it, and had put into the RECORD a letter from the Secretary of Agriculture, one from the Governor of the Farm Credit Administration, and numerous communications from farm cooperatives, who insisted that that section ought to go out of the bill. While I was absent, in some way, without any knowledge on my part whatever, action on the La Follette amendment was postponed, and the section to which I refer was taken up, an amendment to it was agreed to, and the amendment as amended was accepted by the Senate.

I wish to say that I am opposed to, and have been all along opposed to, that section. It does not belong in the bill. It never did belong in it. It has no relation to the subject covered by the bill and it ought to have gone out. The amendment offered by the Senator from Mississippi [Mr. BILBO] very much improved it. It is not so bad with that amendment in it, but I still feel the entire section, even as amended, ought to be eliminated from the bill. I make that statement for the benefit of those who will have the bill in conference, and ask them to refer to the data which I have heretofore submitted.

Mr. KING. Mr. President, will the Senator yield?

Mr. FLETCHER. I yield.

Mr. KING. The Senator will perceive that with respect to the measure to which he refers this colloquy occurred:

Mr. KING. I do not object, with the understanding that if next Monday, upon a further examination of the amendment, I desire to submit a qualifying amendment or another sentence to it, I shall have the opportunity.

That was understood. So I will say that if the Senator desires to have this matter reconsidered I shall, under that understanding, ask to have it reconsidered.

Mr. FLETCHER. No, Mr. President; I desire to get this bill disposed of. I shall not ask to have anything reconsidered. Let us go on with the bill.

Mr. KING. I may do it before the bill shall finally be voted on.

Mr. LONERGAN. Mr. President, may I have my amendment stated?

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. It is proposed, on page 46, at the end of line 2, to strike out the period, insert a colon and the following proviso:

Provided, That no such tax shall be levied upon the processing of any material which processing results in the production of news-print.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Connecticut [Mr. LONERGAN].

Mr. LONERGAN. Mr. President, this amendment relates to the same situation which caused the offering of the other amendment. It has the approval of the Department of Agriculture and of the senior Senator from South Carolina.

Mr. SMITH. Mr. President, this amendment is in conformity to the previous amendment, and I think it should be agreed to.

The PRESIDENT pro tempore. Without objection, the amendment offered by the Senator from Connecticut is agreed to.

Mr. WHEELER. Mr. President, I send to the desk an amendment which proposes to appropriate \$50,000,000 for the purpose of purchasing certain lands known as "sub-marginal lands." The Agricultural Department has gone out all over the United States in many different States and has obtained options upon submarginal lands from various farmers. The understanding was when the Department took such options that the lands would be taken up.

When the \$4,800,000,000 work-relief appropriation measure was before the Senate, there was an amendment placed in it to the effect that a certain amount of that money should be used for that purpose. The measure passed the Senate and also passed the House containing that amendment, but when it got into conference, I am informed—and the Senator from South Dakota [Mr. NORBECK] will bear me out—that in some manner the amendment was left out in conference.

Mr. NORBECK. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. NORBECK. I wish to state that as the work-relief measure came from the House it provided that a certain portion of the funds appropriated should be used for land purchases. As the joint resolution passed the House it permitted the administration to use money for that purpose as well as for other purposes. It came to the Senate, and there was a contest in the Senate committee over that matter for 2 days; but finally it was agreed to put it in the joint resolution, and it was put in it by the Senate; and as the joint resolution was passed by the Senate it contained that provision, though in slightly different wording from the House provision. Therefore the matter was in conference, but when the measure came out of conference both the House provision and the Senate provision seem to have disappeared.

Mr. WHEELER. I thank the Senator.

Mr. McNARY. Mr. President—

Mr. WHEELER. I yield to the Senator from Oregon.

Mr. McNARY. To what bill does the Senator make reference? Was it the \$4,800,000,000 joint resolution for work relief?

Mr. WHEELER. Yes; since that joint resolution has passed, the Comptroller General has ruled, because that provision was stricken out, that none of the funds could be used for the purpose of purchasing submarginal lands. The condition in which the farmers all over the country find themselves is that, after they have given options and the Government has made arrangements to take up the options, and they desire to leave their submarginal lands, the sales are hanging in the air. The farmers did not go ahead with the planting of their crops because of the fact that they thought the Government was going to take up the options.

In fairness to those to whom the Government has made these commitments, I think the amendment should be included in the bill. I have taken the matter up with the Senator from South Carolina, who is handling this bill, and I do not think he has any objection to taking the amendment to conference.

Mr. GERRY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. GERRY. Will the Senator tell me how much has already been appropriated for the purchase of submarginal lands.

Mr. WHEELER. While I do not know how much has been appropriated, my understanding is that it is a comparatively small amount. However, the Department has gone out and taken options on land all over the country, particularly in the South and the West and the Southwest. They have beaten the farmers' price down and taken the options on the land, and then find, because of the ruling of Comptroller General McCarl, that they cannot go ahead because they have no money to complete their contracts.

Mr. GERRY. Will the Senator tell me how much it amounts to?

Mr. WHEELER. Yes; I have a statement here, from which I quote as follows:

During the fiscal year just closed the various agencies cooperating in the President's purchase program initiated 253 demonstration projects, involving a total estimated cost for the land, exclusive of development costs, of \$107,000,000 and involving nearly 20,000,000 acres in 45 States. Late in the year, however, the necessity of impounding emergency relief funds for direct relief—

This money was set aside for direct relief—

left funds for the purchase of only 6,000,000 acres at a total cost of approximately \$28,000,000.

I think that will answer the Senator's question.

Mr. GERRY. Does that refer to the contracts which have been made?

Mr. WHEELER. It covers only a small portion of the contracts which have been made or the options which have been taken.

Of the original program, therefore, there remain 14,000,000 acres to be purchased, involving \$79,000,000, exclusive of development costs, of which nearly half is already under option. For a considerable part of this acreage the immediate development work justified would not provide sufficient direct labor in relation to land and other costs to comply with the standards laid down for projects under the new Relief Appropriation Act. But if funds for purchase of the land were otherwise provided for, development and resettlement can be provided for under the new work-relief program, and thus these projects will give work on constructive useful projects to the unemployed.

In the total purchase area of 20,000,000 acres it is estimated more than 52,000 families reside. It is clear, however, that they are doomed to disappointment if funds are not provided to help them. These farm families want to move. Most of them have definitely indicated their firm desire to move by voluntarily optioning their land to the Government. They are depending upon the Government to give them that chance by providing the funds for carrying through the original program. Many other farm families outside of the present demonstration purchase areas have petitioned that they, too, be given an opportunity to sell their land to the Government.

I am only including those as to which direct options have been taken.

Mr. GERRY. What I am anxious to know is how much do the contracts cover. Has the Senator been reading from a report of the Department?

Mr. WHEELER. Yes; I have been reading from the report of the Department, and they say the amount is \$28,000,000.

Mr. GERRY. How much does the Department say will be required under the contracts?

Mr. WHEELER. In the neighborhood of \$50,000,000.

Mr. GERRY. In the neighborhood of \$50,000,000?

Mr. WHEELER. Yes.

Mr. GERRY. Is it the purpose of the Senator's amendment to appropriate an additional forty or fifty million dollars, or is it the purpose to make money available under the Work Relief Appropriation Act?

Mr. WHEELER. I am asking that an appropriation of \$50,000,000 be made available because the Comptroller has already ruled that the Government cannot use any of the particular funds appropriated in the Work Relief Act.

Mr. McNARY. I did not quite understand the Senator from Montana. I thought he said a few moments ago that this money was to be made available out of the \$4,800,000,000 appropriation measure which passed a few months ago, as, under some ruling by the Comptroller General, therein provided could not be used.

Mr. WHEELER. The Senator did not quite understand me. What I said was that when the \$4,800,000,000 measure came to the Senate from the House it contained a provision that a certain portion of the money should be made available for this purpose. After some difficulty in the Senate the provision in the House joint resolution was adopted with some change, but when the joint resolution went to conference the whole thing was left out for some reason which no one seems to understand.

The Comptroller held that because of the fact that the law did not contain a specific provision, although it did contain a provision that a certain amount should be used for work-relief purposes, that this money could not be used for that purpose. Consequently it left the whole thing hanging in the air, and with the farmers having commitments practically on the part of the Government and options taken by the Government.

Mr. McNARY. But the money was carried in the \$4,800,000,000 measure?

Mr. WHEELER. Yes.

Mr. McNARY. And the amount the Senator now seeks to have appropriated is equal to the full amount as specified in the \$4,800,000,000 Work Relief Act?

Mr. WHEELER. That is my understanding.

Mr. McNARY. Under what specification in that measure did this come; under the heading of "Rural Rehabilitation"?

Mr. WHEELER. For the purchasing of submarginal land.

Mr. McNARY. What was the total amount?

Mr. WHEELER. I do not think the total amount was specified in the bill.

Mr. McNARY. The work-relief bill contained eight specifications.

Mr. WHEELER. But no definite amount for this purpose.

Mr. McNARY. Yes; but it was included in the specifications contained in the \$4,800,000,000 measure.

Mr. WHEELER. That is correct.

Mr. McNARY. This is an attempt to cure the situation brought about by the ruling of the Comptroller of the Currency.

Mr. WHEELER. That is correct.

Mr. NORBECK. Mr. President, it is not attempting to cure it so far as the policy in the future is concerned. This is to clean up some hang-overs that the Department was not able to close after they had attempted their program and taken the options.

Mr. GERRY. Mr. President, will the Senator from Montana tell me where the land is located?

Mr. WHEELER. The statement I have says that it is located in 45 different States.

Mr. GERRY. And has the Senator the amount there which is to be used?

Mr. WHEELER. Yes. The statement says:

Late in the year, however, the necessity of impounding emergency-relief funds for direct relief left funds for the purchase of only 6,000,000 acres, at a total cost of approximately \$28,000,000.

Of the original program, therefore, there remain 14,000,000 acres to be purchased, involving \$79,000,000 (exclusive of development costs), of which nearly half is already under option. For a considerable part of this acreage the immediate development work justified would not provide sufficient direct labor in relation to land and other costs to comply with the standards laid down for projects under the new Relief Appropriation Act.

Consequently Comptroller General McCarl ruled, and I think correctly, that it would not be used for that purpose.

Mr. GERRY. The Senator has not stated where these lands are to be bought.

Mr. WHEELER. They are to be bought in 45 different States.

Mr. GERRY. Can the Senator state the amount to be spent in the respective States?

Mr. WHEELER. The amount, as I understand, is around \$50,000,000.

Mr. GERRY. But as to the amount in each State the Senator does not know?

Mr. WHEELER. I have not those figures.

Mr. KING. Mr. President, if I understand the Senator from Montana [Mr. WHEELER], the amendment which he has offered is justified upon the ground that Congress, in measures heretofore enacted, authorized the Federal Government to acquire privately owned lands in various parts of the United States; and that pursuant to such authorization, representatives of the Government have taken options upon parcels of land in at least 28 States. He contends, as I understand, that there is no money available to purchase the various parcels and that the \$50,000,000 carried in the amendment is to be devoted to the purchase of at least a portion of the lands upon which the Government holds options. Representatives of the Department of Agriculture, and perhaps other departments of the Government, have contended that there was too much land under private ownership devoted to agriculture, grazing, and other legitimate purposes, and that millions of acres of such privately owned land were to be acquired by the Government and withdrawn from cultivation. This view was based upon the assumption that there were too many farms and too much land under cultivation, and too great a production of agricultural crops. In other words, the theory was that the Government must interpose obstacles to the creation of wealth, and materially restrict the production of cotton, wheat, corn, and other agricultural commodities, though millions of American citizens lacked adequate food supplies and sufficient clothing and other products resulting from human labor.

Officials of the Department of Agriculture, acting upon what I conceive to be unsound and false philosophy, formulated a plan which would further restrict the production of the necessities of life and reduce pro tanto food and other supplies indispensable to the welfare of the people. This plan rested upon the theory that scarcity was a blessing and that high prices artificially produced were evidence of general prosperity. I repeat, as stated, during the past 2 or 3 years we have heard cries from all parts of the land that men, women, and children lacked food and clothing, and billions of dollars have been expended by the Government, States, and local communities in order to meet the tragic situation and to partially, at least, supply the needs of those in distress. Yet during this period Government officials have been insisting upon destroying crops and cattle and sheep and, as stated, restricting their production.

Throughout the world hundreds of millions of people were without food or clothing and tens of millions went to untimely graves because they were unable to obtain food. In my opinion, our policy was unsound from an economic standpoint and indefensible upon humanitarian grounds. It seems to me that our policy not only from a domestic but from an international standpoint was unsound, and it has brought tragic results in our own land and unsatisfactory consequences in our foreign relations. This policy called not only for the destruction of crops but the withdrawal of lands from production. In other words, lands were to be sterilized and nature's gift in the shape of mother earth was to be rejected. Accordingly tens of millions of dollars were authorized to be expended to pur-

chase so-called "submarginal and agricultural lands" and to prevent their utilization, except possibly for grazing purposes. It was known that large areas in all of the States were used for grazing purposes and were indispensable for the production of livestock.

Only a few years ago Congress passed an act dealing with public lands under which citizens of the United States could enter, as I recall, 640 acres of land as a sort of appendage to their homes or their agricultural lands. It was known that the lands to be acquired under this law were not suited for agricultural purposes, but were valuable for grazing purposes; and it was known that a man with a small farm needed contiguous lands for grazing purposes; and, as stated, many entries were made upon the public domain and hundreds of thousands, if not millions, of acres of land thus passed from the Government into private ownership.

These lands are now denominated "submarginal lands", and they, as well as millions of acres of lands in the various States, are assigned to the category of submarginal lands and are to be withdrawn from private ownership. Under policies which have been, and are being, adopted, the Federal Government will soon be the owner in all of the States of millions and hundreds of millions of acres of land. They will be withdrawn from private ownership and from taxation. States and their local subdivisions will be deprived of revenue from taxation which would flow from the private ownership of such lands. Policies which we are now pursuing all contribute to making the Federal Government a universal landlord. Millions of people are indebted to the Government for lands, and mortgages have been executed to the Federal Government upon homes and farms and personal property. Assets of all kinds have been transferred or assigned to the Federal Government as collateral for loans which have been obtained. Foreclosures by the Federal Government of mortgages and trust deeds are of daily occurrence, and many parcels of land are being transferred from private ownership into the hands of the Federal Government.

It is obvious that a situation of this character will not conduce to the happiness or the welfare of individuals and will more and more add to the power of the Federal Government and create in it an overlordship not compatible with democratic institutions or with the best interests of the people.

In the Lincoln administration the Homestead Act was passed, and under its terms hundreds of thousands of citizens acquired lands, built homes, founded States, and made vital and important contributions to the welfare and development of this Republic. But the policy now is to reverse the Lincoln theory, to restrict production, to transfer from private ownership to Federal ownership large areas of lands in all of the States. The theory seems to be that the Federal Government can handle lands better than private individuals. As I understand the amendment under consideration, the lands may not be used for agricultural purposes, but for grazing purposes. Does that mean that the Government is to go into the raising of cattle and sheep? Is the Government better fitted to run ranches and acquire herds of cattle and sheep than private persons? However, I think it is the purpose of the Government to have the lands lie idle, because it is obvious that it cannot properly utilize the millions of acres which, under the plan referred to, it is contemplated shall be acquired.

However, there is evidence that plans have been matured, or are being evolved, to have the Government enter into many fields of private endeavor. It is not an inaccurate statement to say that a number of policies of the Government are either socialistic or extremely paternalistic, and we are receiving admonitions almost daily of more expansive plans upon the part of the Federal Government to enter into many of the fields of activity which under our form of government, and, for that matter, under every liberal form of government, are regarded as purely within the domain of private endeavor.

I have not the time to enumerate the many socialistic and paternalistic schemes that are receiving support and making heavy drafts upon the Treasury of the United States. It is safe to say that hundreds of millions of dollars

are being expended, and will be expended, in the execution of the policies which are under way or are being formulated for execution at as early a date as possible.

Mr. President, there is some question as to the authority of the Federal Government to acquire lands except for governmental purposes. Certainly it ought not to go into States and acquire large tracts of land not for governmental purposes and to permit them to lie idle or to engage in some socialistic enterprise. The States, as I have indicated, need the taxes to be derived from within their borders, and when the Government acquires lands within sovereign States they are, of course, withdrawn from State taxation.

Mr. BORAH. Mr. President, may I inquire what provision the Senator from Utah is now discussing?

Mr. KING. I am discussing an amendment offered by the Senator from Montana to appropriate \$50,000,000 out of the Treasury of the United States for the purpose of acquiring so-called "submarginal lands."

Mr. BORAH. By condemnation?

Mr. KING. By purchase and, as I understand, by condemnation.

Mr. BORAH. The Government could purchase them, could it not?

Mr. KING. Perhaps so, assuming that the Federal Government has no limitations upon the activities in which it shall engage. Of course, in order to acquire the land referred to, either by purchase or condemnation, payments for the same can only be made from taxes wrung from the people.

I question the right of the Government to tax the people of the United States for the purpose of acquiring millions of acres of land which it is not to use or, if used, would be for purposes not of a governmental character.

Mr. STEIWER. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. STEIWER. With reference to the question just asked by the Senator from Idaho [Mr. BORAH], I notice near the bottom of page 2 language to this effect:

In carrying out the provisions of this act the President is authorized (a) to make contracts and grants, or both; and (b) to acquire by purchase or by the power of eminent domain—

And so forth. It appears to be both by purchase and condemnation.

Mr. WHEELER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Montana?

Mr. KING. I yield.

Mr. WHEELER. May I say to the Senator from Utah that it is simply to carry out the reclamation work in the West. In his State, and in every other State of the West, this work is to be carried on. The only reason why the Department has been willing to go on with reclamation work in the West has been because of the fact that they took out of cultivation these submarginal lands. The idea is to take those people who are living on the submarginal lands and put them on the irrigation projects in his State and my State and in other States. It is in line with a policy which I am sure the Senator favors.

Mr. BORAH. Mr. President—

Mr. KING. I yield to the Senator from Idaho.

Mr. BORAH. Aside from the question of policy, and considering it purely as a question of power, I do not see how the Government could go into the States and take lands by eminent domain.

Mr. WHEELER. I have eliminated that portion of my amendment entirely and simply confine it to the purchase of land. I am not now proposing to attempt to take by eminent domain or condemnation, because I am of the same opinion as the Senator, that we have not the right to take somebody's land in that way. It is merely a question of getting the land where it is desired on the part of the owners to sell the submarginal lands.

Mr. SHIPSTEAD. Mr. President, will the Senator from Utah yield so I may ask the Senator from Montana a question?

The PRESIDENT pro tempore. Does the Senator from Utah yield for that purpose?

Mr. KING. I do.

Mr. SHIPSTEAD. For what purpose is the land being purchased?

Mr. WHEELER. It will be taken by the Government and held the same as other public lands are held.

Mr. SHIPSTEAD. Will it be open to homesteading again?

Mr. WHEELER. No; it will not be open to homesteading again at all.

Mr. KING. It is to be condemned and permitted to lie fallow or await the desire of some Government official in the matter. Perhaps they may make a bird reserve of some desert or so-called "submarginal lands", which are being purchased. We cannot tell.

Mr. SHIPSTEAD. This land should never have been opened in the first place. It should never have been plowed.

Mr. KING. I do not agree with the Senator in that respect.

Mr. McCARRAN. Mr. President, will the Senator from Utah yield?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Nevada?

Mr. KING. I yield.

Mr. McCARRAN. I remember very well the interest of the Senator from Utah and his experience in all reclamation projects in his own State and in the arid and semi-arid regions of the West. Many of the projects were located in the early stages of the history of the reclamation law when we did not know and did not have the opportunity we now have to investigate.

In the Senator's State and in my own State there are reclamation projects which have borne the burden of experiment. The experiment has been disastrous to nearly three sets of farmers. The first came in and found himself unable to go forward. The second took advantage of everything the first one left. Then the third purchaser was able to sod the soil so as to hold it.

Then again came a condition where a substratum, unsuspected, presented conditions destructive to vegetation and vegetable life. It is proposed that those lands shall be taken up and set aside so that reclamation projects may not bear the burden of paying all the taxation of lands which are impossible of use.

I respectfully draw these matters to the Senator's attention, in keeping with his splendid knowledge of the subject and his wonderful ability in relation thereto, he having been a member of the Senate and of the House when the Newlands reclamation project was initiated and enacted. In fact, I know from history that he was a part of the great movement. I draw his attention to these facts that he may not object to the amendment, which to my mind has wonderful merit.

Mr. KING. Mr. President, I thank the Senator for his reference to the rather humble part which I took in preparing and in securing the passage of the Newlands bill. When I was a Member of the House of Representatives the committee of which I was a member reported the bill by a majority of one, and I have suggested that it was my vote that reported out the measure. May I state, however, that Utah has not been generously treated in the matter of reclamation projects. Though it was the pioneer in reclamation, for many years it obtained from the reclamation fund only sufficient to construct one small project. A short time ago it constructed another project, and during the past 2 years it received allocations for the construction of several other projects, but the greater part of the fund allocated for that purpose was commandeered and turned over to the Federal relief organization.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. KING. Certainly.

Mr. McCARRAN. As I recall, the State of Utah was deprived of and is now in hopes of the restoration of \$8,000,000.

Mr. KING. The sum was somewhat in excess of that amount. It is hoped, and I hope our hopes may be realized.

Mr. WHEELER. Mr. President, will the Senator yield further?

Mr. KING. I yield.

Mr. WHEELER. With reference to all the irrigation projects, I had a conference the other day with the Secretary of the Interior, who told me that in the State of Utah and the other States \$100,000,000 will be allotted in a very short time for the purpose of restoring to the State of Utah the very thing about which the Senator is speaking.

Mr. KING. I do not want to confuse the reclamation projects with the authority which is sought by this amendment, to go out and buy private lands in 28 or more States. This appropriation is not to be used for the purpose of buying lands for irrigation purposes. It is not to be used for the purpose of supplementing the reclamation fund which has from time to time received accretions from lands which have been reclaimed by the sweat and toil of pioneers who have entered upon arid lands of the West.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Wyoming?

Mr. KING. I yield.

Mr. O'MAHONEY. As I understand, the amendment does not undertake to grant any new authority. It merely provides a means whereby contracts which have already been authorized and made shall be carried out, merely because there was a technical ruling by the Comptroller General that the moneys already made available should not be used for this purpose.

Mr. KING. Mr. President, I do not agree with the Senator. I know there have been galloping up and down the country scores of representatives of Federal Departments during the past year or two, looking at this and that and the other alleged submarginal pieces of ground in 28 States, and enthusing the people with the idea that they were going to be able to sell their lands to the Government. There have been no contracts entered into, and no valid contracts were authorized. Doubtless many persons were of the opinion that the Government would purchase some of their land, but as stated no contracts of purchase were made.

I question the right of the Government of the United States to go out and buy lands in every part of the country, not for public purposes, not to be restored, as was stated a moment ago, to the public domain so they might be entered by persons desiring homes, but to be held indefinitely for no one knows what purpose or held pending the determination of some Federal official as to the use to which it may be put.

There will be withdrawn from taxation millions of acres of lands which are now subject to the jurisdiction of the respective counties and States of the Nation and from which they derive taxation. I think the policy is unwise, unsound, and certainly it is in contravention of our theory of government.

Mr. HATCH. Mr. President, I merely wish now to say to the Senator from Utah, as I did not desire to take the time to do so during the course of his remarks, that some days ago I introduced a bill which would prohibit the Federal Government from acquiring lands within any State without the consent of the legislature of the State. That bill is now pending before the Public Lands Committee, and I desire to call it to the Senator's attention, because, from his remarks, I am sure he will enthusiastically support it.

Mr. KING. Indeed, I shall support it whole-heartedly.

Mr. HATCH. There is another bill pending in this body which I am sure is of interest to the Senator from Utah and which has the support of the Department of Agriculture. For that matter, I may say that Dr. Tugwell himself told me that he had no objection to the passage of my bill requiring the consent of the State legislature, and was rather inclined to think it was a good idea; but he did discuss with me the question of taking lands away from the States so that they would not be subject to taxation, and called my attention to a bill which I think was introduced by the Senator from North Dakota [Mr. FRAZIER] permitting the Federal Government to make payments to the States in lieu of taxes. I mention that to the Senator from Utah

because, again, I surmise that he will give his enthusiastic support to that bill.

There is a great deal to what the Senator from Utah has said about the acquisition of lands within our Western States without the consent of the States to be affected.

Mr. BORAH. Mr. President, the Senator has in his State the same problem I have in mind. That is, about 69 percent of the territory is under Federal control and not subject to taxation, which makes a very serious problem for those who are taxed. If this marginal land, and so forth, shall be gathered up and turned over to the Federal Government, will that remove it from the tax roll?

Mr. WHEELER. The amendment as I originally offered it provided that in the event the land should be taken over, the Government should pay the taxes on the land according to value; but I have eliminated that provision from this amendment. I agree entirely with what the Senator from Idaho says about these lands being taken off the tax roll; but I wish to call to his attention, and to the attention of the Senator from Utah, the fact that he will find, if he will make a check-up in his State as I have made it in mine, that the taxes are not being paid on these submarginal lands at the present time, because of the fact that the farmers on those lands cannot make a living. Therefore, they are not paying the taxes, and the counties at the present time are holding the title to those lands. In some areas in the West almost the entire amount of the lands in the whole counties is now owned by the counties themselves.

What is proposed is that if these submarginal lands shall be taken out of cultivation, the Federal Government will reclaim those lands in an equal amount, and put them in irrigation, so that a farmer can make a decent living upon a small tract of land. I mean, that is the program of the President.

Answering the Senator from Utah [Mr. KING], let me say that there is nothing socialistic about this proposal. There is not anything socialistic about it as there is about a proposal to have the Government of the United States take money out of the Treasury and reclaim and irrigate lands, as he has proposed. If there is anything that is socialistic, it is for the Government of the United States to reclaim lands. The Senator from Utah is in favor of that, and so am I, and so is everybody else who knows anything about the western part of the country.

Mr. BORAH. Of course that would be subject to the control of Congress in the future.

Mr. WHEELER. Of course.

Mr. STEIWER. Mr. President, it occurs to me that there is some confusion in the minds of some Senators with respect to this proposal.

It has been suggested in behalf of the proposal that it will be helpful in order to bring under Federal control and dominion land which is suitable for reclamation in the arid and semiarid States. This proposition, I think, is not tenable under the language of the amendment.

At the end of the first paragraph we find this sentence, which I quote:

This appropriation shall be available for the acquisition and the retirement of submarginal land from agricultural use, except for grazing purposes.

Therefore it could not be used in the way that lands ordinarily are used when they are reclaimed by reclamation, and could be used only for pasturage of livestock.

Then it was said, in further support of the proposal, that the appropriation really was for the purpose of providing money to consummate arrangements already entered into or projects already authorized. I think that argument cannot be maintained. I take it that it might be that the money, or some part of it, could be used for that purpose; but there is nothing in the amendment which limits it to such purpose, and there is nothing which would justify us in the conclusion that even one dollar of it would be so used. The fact is that this amendment, carrying this appropriation, authorizes the President within a very wide latitude to do a number of things.

In the first place, he is authorized, in order to carry out the provisions of the amendment, to delegate the powers conferred upon him to any governmental agency, and it is implied that he may set up special and additional governmental agencies; and apparently he may delegate those powers to the special agency or to any of the established agencies of the Government.

The agencies to which he delegates the powers, in order further to carry out the provisions of the act, may acquire and, according to the language here, may acquire either by purchase or by condemnation, but according to the statement made by my friend from Montana they may acquire only by purchase—they may acquire land; and then, having acquired it, they are authorized to do the following things:

To improve, develop, maintain, grant, sell, exchange, lease, or otherwise dispose of any such property or interest therein.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. STEIWER. Certainly.

Mr. WHEELER. Let me call the attention of the Senator to the fact that he is reading from the amendment which I offered the other day, which I have amended and changed in the one I have sent to the desk. The amendment I have sent to the desk is as follows:

In order to develop a national program of land conservation and land utilization, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be used in the discretion and under the direction of the President, to be immediately available and to remain available until expended, the sum of \$50,000,000. This appropriation shall be available for the acquisition and development of lands in furtherance of the national program for the retirement of submarginal lands from agricultural use.

So that the amendment does not give the President any option excepting to buy submarginal lands. I wished to correct the Senator in that regard.

Mr. STEIWER. I am indebted to the Senator for calling my attention to that fact. Has he now read the entire amendment?

Mr. WHEELER. No. Then the amendment proceeds:

In carrying out the provisions of this section, the President is authorized:

- (a) To establish and prescribe the duties and functions of governmental agencies;
- (b) To utilize and prescribe the duties and functions of any governmental agency;
- (c) To delegate the powers conferred upon him under this section to any governmental agency;
- (d) To make contracts and grants; and
- (e) To acquire, by purchase or by power of eminent domain—

I will eliminate that—

any real property or any interest therein, and improve, develop, maintain, grant, sell, lease, or otherwise dispose of any such property, or interest therein.

I think that covers the matter.

Mr. STEIWER. The amendment, as now read, constitutes the entire amendment?

Mr. WHEELER. It constitutes the entire amendment.

Mr. STEIWER. Am I justified in my conclusion and understanding that the paragraph which appeared in the printed amendment at the top of page 2, and which provided relief from civil-service laws and the Classification Act, has been eliminated?

Mr. WHEELER. That has been eliminated.

Mr. STEIWER. I am very glad that provision has been eliminated.

Mr. WHEELER. The only purpose I have in mind in offering this amendment is to take up the options which are now outstanding, which have been executed by farmers all over the country. The representatives of the Department went out and took these options, thinking they had the money with which to purchase the land. They induced the farmers to sign the options. Many of the farmers made provisions for going somewhere else, and some did not plant crops, relying upon the fact that they had entered into these options; and I feel that the Government is under a duty to carry out this program with the farmers in the case of the options which have been taken.

Mr. NORBECK. Mr. President, the matter goes a little further than that. Field men assured the farmers that if they would sign the options the deal would go through.

Mr. WHEELER. Absolutely.

Mr. STEIWER. In view of the explanation which the Senator now makes, would there be any objection to an express stipulation in the amount that the money is to be used for the purposes which the Senator from Montana now outlines to the Senate?

Mr. WHEELER. Not the slightest. I thought that was what it did. It does not say "the options already executed", but I should not have any objection to that language being in the amendment if the Senator feels it should be there.

Mr. STEIWER. In view of the amendment to the amendment to which the Senator from Montana now draws my attention, may I ask whether there is any provision protecting the local tax agencies from loss of the land acquired by the United States?

Mr. WHEELER. No; there is not.

Mr. STEIWER. Did the Senator purposely exclude such a provision from the amendment?

Mr. WHEELER. I purposely excluded it, because, quite frankly, I felt that it would be a rather dangerous policy to adopt to have the Congress say that the Government, for an indefinite period of time, would pay the taxes upon the lands it might purchase. I expressly and purposely eliminated that.

Mr. STEIWER. What is to be the treatment of a school district, we will say, in which one-half or two-thirds of all the taxable property is removed from the tax roll, under the proposal now made by the Senator from Montana?

Mr. WHEELER. Let me say to the Senator that at the present time, as the Senator well knows, there is not any farmer who can make a living on these submarginal lands. I will venture to say that in the Senator's State, as in my State and in many of the other States, where farmers are living upon these submarginal lands, the taxes have not been paid for many years, and the lands are in the name of the particular county where they are located. We have not only an economic but a social problem to deal with, because when we leave people upon land where they cannot make a living we have had to grant relief to them out of the Public Treasury of the United States; and during the past few years, because they could not make a living, their lands have been held for taxes by the county. They cannot redeem the lands, and the county is getting no taxes out of them at the present time in the case of practically all these submarginal lands. The submarginal lands are the only lands that have been optioned, and, as a matter of fact, those lands never should have been homesteaded in the first instance.

As the Senator will recall, a few years ago the great railroad systems of the United States, from one end of this country to the other, advertised lands in the West, and showed glowing pictures of what crops could be raised upon those lands. They brought people out from the Middle West and the East and located them upon those lands, and those people have never been able to make a living there. Some came out with a few thousand dollars, and lost every cent they had, but they have had to live there, and the purpose of the pending proposal—and I think it is a perfectly proper proposal—is to take those people off those submarginal lands and put them on some irrigated lands where they can make a living. Then they would be contented citizens. Instead of tending toward socialism, the amendment tends in the other direction. It would take the people off this land where they cannot make a living and put them on land where they can make a living, where they can bring up their children in a decent, orderly fashion, and send them to the public schools. We would make better citizens of them.

Mr. STEIWER. Mr. President, I have no quarrel at all with the idealism of the Senator from Montana. However, I regret that this amendment is not better calculated to carry out the purpose which he has so eloquently outlined to the Senate.

Mr. SHIPSTEAD. Mr. President, can the Senator from Montana tell me what is the average price of the lands offered for these options?

Mr. WHEELER. I am sorry I cannot give the figures, but I know it is a very small amount. In some places it runs as low as \$2 or \$3 an acre, as I recall.

Mr. SHIPSTEAD. The tax question mentioned by the Senator from Oregon, I think, has broader ramifications than have been indicated here. Many of the counties affected are not all submarginal lands; they are not all out in the so-called "desert area." There are some submarginal lands in practically every State of the Union.

In some of the counties where there are submarginal lands the Government buys the land, and the county and the school district are in debt—have bond issues outstanding.

For instance, a school district may be bonded and the county may be bonded a certain percentage, sometimes large, sometimes small, on the submarginal land; and when the Government buys them, whether for the purpose intended by this bill or for reforestation purposes, to enlarge the forest areas of the Federal Government, the land is taken out of taxation of the local community. The remaining settlers then must bear the burden of the public debt, which sometimes is doubled upon the citizens remaining. There is a very serious problem involved in the Federal purchase of land. These citizens who remain on the land are entitled to have some relief. Under this policy the Federal Government in effect doubles the taxation burden, in many instances, upon those who remain, maintain their local government, and maintain their local school expenses; and so when the Federal Government purchases the land some provision should be made for it carrying the burden of the local government according to the value of the property the United States possesses in the community.

The purchase of this land and shouldering the bonded indebtedness upon the remaining settlers is not a fair proposition; it is not equitable; it is not good morals for the Federal Government to buy this land at whatever price it can get it and then leave the burden imposed on the land to the remaining settlers.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. WHEELER. Let me call attention to the fact, as I pointed out a moment ago, that the Senator will find that in the State of Minnesota, for instance, the submarginal lands have practically all been bought in by the counties for taxes. The same thing is true in practically all the States, that the people have not been able to pay the taxes. Consequently it does not mean any more burden upon the rest of the people where they take these lands and where the people cannot make a living upon them. If they cannot make a living upon them, it is not any further burden upon the people of the particular county. On the contrary, it would relieve the burden resting upon the rest of the people, because the people of the county are going to have to feed those people if they cannot make a living and become a burden on the community.

Mr. SHIPSTEAD. What the Senator says is partially accurate. However, where land is being purchased by the Government—for instance, for the Superior National Forest, in the State of Minnesota, and also in northern Michigan and Wisconsin, where reforestation projects are now in progress—much of the land has been bought by lumber companies. The lands have been deforested. The companies have, however, paid taxes because of the fact that those lands had potential value, in that they have iron ore under them. Sometimes the value of the ore is not known. The land has a potential value for iron-mining purposes. The iron mines not having been developed, the iron ore region not having been thoroughly explored, we do not know what the value is, but it has such a potential value that the lumber companies have paid taxes on it.

When the Federal Government buys land it buys the surface rights, and that takes the land off the tax rolls. The lumber companies reserve the mineral rights. They throw the surface of the land upon the Government and therefore

escape paying taxes, but they retain what may be a very valuable asset. The remaining settlers must carry the burden of paying off the interest and the principal of whatever bonded indebtedness the region may have incurred. So I say the matter should be more thoroughly explored.

Mr. WHEELER. Mr. President, in conjunction with the Senator from Wyoming [Mr. O'MAHONEY] I have further modified the amendment and limited it so that it will take care of only those lands upon which options have been granted at the effective date of the enactment of the law.

Mr. SHIPSTEAD. Mr. President, I am going to object to that, because if the bill has merit, it should extend to other people than those who already have been able to sign options.

Mr. WHEELER. I desire to call the Senator's attention to the fact that this is a situation where the Department has been authorized to obtain options, and has obtained them, and the people who signed the options were of the opinion that the Government of the United States was going to carry them out in good faith.

If some relief shall not be afforded, these people will be left up in the air, in many instances without having put in crops. They have made arrangements to move off the land, and it would just leave them up in the air.

If it should be decided that we should further extend the law, that would be all right, but in the amendment I merely provide the following:

That in order to develop a national program of land conservation and utilization there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be used in the discretion and under the direction of the President, to be immediately available, and to remain available until expended, the sum of \$50,000,000.

Mr. HASTINGS. Mr. President, will the Senator yield right there?

Mr. WHEELER. I yield.

Mr. HASTINGS. I was wondering why the Senator did not provide that the \$50,000,000 should be paid out of the \$4,880,000,000, instead of our appropriating a new \$50,000,000. I wish also to inquire whether or not that would necessarily upset the President's Budget. He has insisted time and again that if amounts very much smaller than this, a \$16,000,000 item, for instance, should be appropriated, it would be necessary to levy new taxes. It seems to me it would be more reasonable and would be more nearly in line with what the President desired if it should be provided that the \$50,000,000 must be paid out of the \$4,880,000,000. I merely wanted to call the Senator's attention to that suggestion.

Mr. WHEELER. In reply I merely wish to say that it would establish a precedent which we do not want to establish at this particular time. Others might come and say that some appropriation they desired should be taken out of the \$4,880,000,000.

Mr. HASTINGS. The \$50,000,000 the Senator is now asking to have appropriated would in itself be a very expensive precedent.

Mr. WHEELER. Let me say to the Senator from Oregon that I have inserted in the amendment a provision reading as follows:

Provided, That no lands shall be so acquired unless prior to the effective date of this act options had already been made for their purchase.

Mr. VANDENBERG. Mr. President, pursuing the inquiry submitted by the Senator from Delaware, may I ask if the original \$50,000,000 which the Senator is now proposing to bail out was not part of the \$5,000,000,000 work-relief measure?

Mr. WHEELER. My understanding is that there was no amount specified.

Mr. VANDENBERG. But that was the contemplation.

Mr. WHEELER. It was the contemplation that part of the money appropriated in the measure referred to was to be used for this purpose.

Mr. VANDENBERG. Very well. Then if the amount be now taken out of the general fund instead of out of that fund we have simply increased by \$50,000,000 the Tugwell "pot" which is to be used in these experiments. Is that not true?

Mr. WHEELER. No; I do not think that is true at all. I do not think the Senator is quite fair when he says that it is to be put into the Tugwell "pot" for experimentation, because that is not correct. The truth about it is that this was not a Tugwell "pot" and had nothing to do with Mr. Tugwell. The program which has been suggested was outlined not only by the administration but it was suggested and had been before the people of this country many years prior to the time when Mr. Tugwell was heard of in connection with the Government.

Mr. VANDENBERG. Will the Senator further yield?

Mr. WHEELER. I yield.

Mr. VANDENBERG. Let us withdraw the definition, although I still cling to it. The basic proposition about which I am asking the Senator is, If this \$50,000,000 is not taken out of the \$5,000,000,000 fund, does it not increase by \$50,000,000 the sum which is used in this type of enterprise?

Mr. WHEELER. Of course; there is no question about that. However, if a Senator should ask for \$50,000,000 to build some more battleships, we would hardly hear one single person raise his voice in protest against it on the floor of the Senate.

Mr. VANDENBERG. Oh, yes.

Mr. WHEELER. We would hear the Senator from Michigan, I agree, but we would hear very little protest if we were to ask for \$50,000,000 for battleships, or for war materials, or for something of that kind, but when we ask for \$50,000,000 for the purpose of carrying out for the farmers of the country a project with reference to land which has already been optioned, and when the money is to be used only to carry out an agreement which has already been authorized, and to carry out a policy laid down, then protest is made.

Mr. VANDENBERG. Can the Senator from Montana tell me whether included within the boundaries of this particular appropriation are the farmers in the Matanuska Valley in Alaska? Are they included?

Mr. WHEELER. No; the Senator knows perfectly well they are not included, because no option has been taken there.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. HASTINGS. I was not protesting. I was merely asking why, if it was necessary to provide the \$50,000,000, it could not be done merely by directing that the \$50,000,000 be paid out of the \$4,880,000,000 appropriation heretofore made? That latter amount has surely not been spent as yet.

Mr. WHEELER. I am not in position to answer that question. It may be worked out in conference along that line. What I am asking the Senate to do is to let this amendment go to conference, and there it may be necessary to do as the Senator suggests. I am not prepared to say at this time whether or not the amount should be taken out of the \$5,000,000,000 appropriation. It may be that the conferees will be entirely willing that it should be worked out in that way, but I now ask that it go to conference, and let us see if it can be worked out, because it is necessary that the Government keep faith with the farmers in cases where it has taken options.

The PRESIDENT pro tempore. The time of the Senator from Montana on the amendment has expired.

Mr. SHIPSTEAD rose.

The PRESIDENT pro tempore. Does the Senator from Minnesota want the floor?

Mr. SHIPSTEAD. I will take the floor only for the purpose of asking the Senator from Montana a question, but first I should like to make a statement.

Mr. McCARRAN. A parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.
Mr. McCARRAN. I am trying to understand correctly the amendment offered by the Senator from Montana. I understood he had presented a printed amendment which has been lying on the desk. Now I understand that he is offering an amendment which would be an amendment to an amendment. The reason I am making the inquiry is that I desire to offer an amendment to the Senator's amendment, but I wish to know whether it would be in the third degree.

I do not know whether I would have a right to offer an amendment to his amendment or not.

Mr. WHEELER. I withdrew the other amendment. In fact, I did not offer it, but I offered the amendment now pending in lieu of the amendment I had printed and lying on the table. I did not offer the original amendment.

The PRESIDENT pro tempore. The Senator from Montana withdrew his original amendment, so there is only one amendment pending at the present time.

Mr. McCARRAN. After the Senator from Minnesota [Mr. SHIPSTEAD] has concluded, he having the floor at this time, I should like to offer an amendment to the amendment of the Senator from Montana.

Mr. SHIPSTEAD. Mr. President, I should like to have the attention of the Senator from Montana for a moment. Of course, we know when we buy a piece of property and there is any indebtedness against that property provision must be made for the liquidation of the debt. If a man has a mortgage on a farm or a house the mortgage must be taken into consideration, because the creditor has an equity; he has a right; and he must be taken care of. Provision is made in the sales price either that out of the money paid to the equity holder sufficient is paid to satisfy the mortgage or the purchaser assumes the mortgage. When the Federal Government goes into a county or a State and buys property against which there is an indebtedness, a liability, it is certainly fair and just that the Federal Government shall assume its share of the indebtedness; that some provision shall be made to discharge that indebtedness.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I will yield in a moment.

In the case of a county where bonds have been issued, or in the case of a school district where bonds have been issued, for the Government to pay a sufficient amount to get title and leave the incurred indebtedness to be paid by the remaining settlers leaves a problem by placing an unjust burden upon those settlers.

I am asking the Senator from Montana what he thinks of an amendment which I intend to offer to his amendment which will call upon the Government to pay its just share of the indebtedness—the public debt—against whatever land is purchased.

Mr. WHEELER. I do not agree that the Government should do so. The Government has purchased land for the Indians in various sections of the United States and taken it off the county rolls. That has been done in several States. The question has never been raised from the legal standpoint, and I do not think there is anything to it from the legal standpoint.

Mr. SHIPSTEAD. Of course, it has no legal standing unless we make it legal; that is what I am trying to do.

Mr. WHEELER. Submarginal lands, and the people living upon them, when they cannot make a living, are a burden to the community and a burden to the county rather than a benefit to it; and, if we look at it from the standpoint as to whether or not they are a burden or a benefit to the community, with the idea that the community or the county is going to lose something, other questions fade into insignificance.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. WHEELER. I yield.

Mr. O'MAHONEY. I desire to call the Senator's attention to the fact that there is now pending before the Committee on Public Lands and Surveys a measure introduced by the Senator from North Dakota [Mr. FRAZIER] to accomplish the purposes which the Senator from Montana has in mind and to give some relief to the counties and school districts which would be affected by the elimination of this land. There is another committee which is giving some study to the whole question of land and water policies; so the program which the Senator has in mind would have a direct bearing upon both the measures referred to.

This particular amendment is designed, as I understand, primarily to correct a defect which has arisen by reason of a ruling of the Comptroller General. All the other matters will be gone into and carefully studied. The Senator from

Montana has modified the amendment because it was felt that at this time it was desirable to restrict this particular amendment to the actual necessity merely of carrying out the options which so many individuals in so many States had believed would be carried out by the Federal Government. I think the Senator may safely allow these other matters to go until the proper committees shall have submitted their reports.

Mr. SHIPSTEAD. Does this amendment arise out of the fact that people have contracted for land when they did not have money to pay for it?

Mr. O'MAHONEY. No; my understanding is that authority had been granted for this submarginal land retirement, but the Comptroller General ruled that in some manner the appropriation was not available for that particular kind of work.

Mr. SHIPSTEAD. It is proposed to spend \$50,000,000, which would indicate a wide-spread program. I am not thinking of the settlers who are going to be able to sell their lands. I want to protect the settlers who remain, who will have to carry the burden of public debt and the burden of maintaining local government. That has to do with future expenses. But the debt which has been incurred for road and school purposes ought to be liquidated so far and to the extent and in the proportion to which the Government buys this land. What I am suggesting for the purpose of protecting the man who is able to and wants to stay where he is, and to make sure that he shall not assume the debt caused by the failures in his community or in his county; that he shall not suffer from their failure, and the policy of the Federal Government. Being of such a wide-spread character as this whole problem is, it seems to me that if the Senator from Montana will postpone action on this amendment until the proposal under consideration may be framed in a more satisfactory manner, there would be more equity and justice done.

Mr. WHEELER. I think there is something to be said about that, but it seems to me that it would complicate the question so that it would be almost an impossibility to carry out what it is intended to carry out, because then we would have to go into every community and county and find out what proportion of the county indebtedness or the city indebtedness or the State indebtedness each particular piece of land bore. It would make the provision almost unworkable and impracticable and, under the circumstances I do not see how it could possibly be worked out.

Mr. SHIPSTEAD. I think it would be very simple. We know how much a school district owes; we know what a farm is valued at for taxation purposes. That taxation value can be taken and there can be figured the proportion it bears to the public debt of the school district or of the county. It is not a difficult matter at all.

Mr. McCARRAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Minnesota yield to the Senator from Nevada?

Mr. SHIPSTEAD. I yield.

Mr. McCARRAN. I should like to draw the attention of the Senator from Minnesota to conditions of which he may not at this time be cognizant, as, for instance, where projects were established wholly out of the open public domain. When the projects were established years ago it was regarded that certain lines should bound them. Mind you, Mr. President, all the land was then open public domain, or, we will say, a high percentage of it was. The projectors were obligated; the settlers who came in entered into written agreements whereby they paid for the water as payment for the land. Then later, when it was discovered that parts of these projects were unfitted to produce anything, or, being fitted, there were no settlers who cared to go in, because, perchance, the hardship was too great, remember that the projects are at all times obligated for the full amount, and the projectors are now bearing the burden of the full amount. In the case of many of these projects—I have one in mind, of course—it is desired that relief be afforded on account of the unused land, the land found unfitted for actual reclamation, the land which when water is applied will not produce; in fact,

in many instances water is a destructive element, because, by capillary attraction, it brings from the substrata destructive substances. The projectors are bound to pay that original indebtedness, and many of them desire to be relieved of it. The land has never been taken from the tax roll because it was never on the tax roll. It was, as I have said, open public domain of the United States, and hence not taxable. But it is, nevertheless, taxed against the projectors, because they assumed the obligation of the entire expenditure.

The amendment of the Senator from Montana, with one which I hope to have adopted in connection with it, would permit the Reclamation Bureau to write off—there would be no loss—any taxation, either to local or State or Government. It would simply be a writing off of an obligation to which the projectors are now held to be obligated.

Mr. SHIPSTEAD. To the Government?

Mr. McCARRAN. To the Government only. In writing it off there would simply be reduced the burden on those who will remain on the lands which are susceptible of reclamation.

I wanted to draw the attention of the Senator, because I realize his zealousness in this matter, to that state of facts which exists perhaps not in the Senator's State but in the arid and semiarid regions.

Mr. SHIPSTEAD. In the Senator's section of the country, where there are irrigation districts, they also build schools and have local self-government. What becomes of the bonds that have been issued, if any, against projects for building schools and roads, and so forth?

Mr. McCARRAN. Let me answer that question in this way: The bonds have been issued, perhaps, against a school district within a part of which there may be some of the marginal lands to which I have drawn the Senator's attention, but such submarginal lands constitute no value to support the bonds, because they have never been brought into value producing; they are simply lost.

Mr. SHIPSTEAD. They were assumed to be of value as an asset when the bonds were issued.

Mr. McCARRAN. I would doubt that, for the reason that those who accepted the bonds naturally took into consideration the productivity of the land which was really capable of producing, and the lands which I have in mind were never capable of producing.

The PRESIDENT pro tempore. The time of the Senator from Minnesota on the amendment has expired.

Mr. McCARRAN. I apologize to the Senator from Minnesota for taking up so much of his time.

Mr. VANDENBERG. Mr. President, I move to amend the amendment submitted by the Senator from Montana by striking out the words "out of any money in the Treasury not otherwise expended", and inserting "out of the money made available by the Emergency Relief Appropriation Act of 1935."

In other words, Mr. President, we should be putting this expenditure back where it originated, if any amendment to the amendment of the Senator from Montana were adopted.

Mr. WHEELER. Mr. President, let me say to the Senator I will accept his amendment.

The PRESIDENT pro tempore. The Senator from Montana accepts the amendment, and the amendment of the Senator from Montana is modified accordingly.

Mr. SHIPSTEAD. I send to the desk an amendment which I desire to offer to the amendment of the Senator from Montana.

Mr. FLETCHER. Mr. President, may I ask the Senator from Michigan a question?

Mr. VANDENBERG. Certainly.

Mr. FLETCHER. I cannot quite understand this proposal. The Senator from Montana says we are authorizing the purchase of lands which are worthless and useless and upon which people cannot make a living. Why should they become valuable simply by a change of ownership?

Mr. KING. It is socialism.

Mr. VANDENBERG. The Senator from Florida cannot quarrel with me on that subject. I decline to defend the

appropriation; I simply want to make sure that there will not be a double appropriation.

The PRESIDENT pro tempore. To the amendment proposed by the Senator from Montana the Senator from Minnesota has offered an amendment, which will be stated.

The LEGISLATIVE CLERK. At the end of the amendment submitted by Mr. WHEELER, as modified, it is proposed to insert the following:

That the Secretary of the Treasury, upon order of the Secretary of the Interior, shall pay to each municipality or other political subdivision of any State, including (but not hereby limiting the generality of the foregoing) any county, parish, township, unincorporated tax or special assessment district, and any school, drainage, irrigation, reclamation, levee, sewer, paving, sanitary, port, improvement, or other district (hereinafter referred to as a "taxing district"), in which lands in private ownership have been or are hereafter acquired by the United States, an amount bearing the same proportion to the indebtedness of such taxing district outstanding at the time of acquisition of such lands by the United States as the value of the lands so acquired bore or bears to the value of all the lands in such taxing district at the time of such acquisition. Payments on account of such indebtedness which is not due or paid on the date of enactment of this act shall not be paid until such indebtedness becomes due.

Sec. 2. The Secretary of the Interior shall determine the amounts payable under this act, the time of payment, and the persons to whom they are to be paid; and shall have authority for such purpose to fix the value of the lands on account of which payments are made. The determination by the Secretary of the Interior of any such amount shall be final, and each amount so determined shall be submitted to the Secretary of the Treasury together with a report thereon and an order for payment.

Sec. 3. All transactions of the Treasury Department with respect to such payments shall be final and conclusive upon all officers of the Government, except that all such transactions shall be examined by the General Accounting Office at such times and in such manner as the Comptroller General of the United States shall prescribe. Such examination shall be for the sole purpose of making a report to the Congress and to the Secretary of the Treasury of expenditures in violation of law, together with such recommendations in respect thereto as the Comptroller General deems advisable.

Sec. 4. No payment shall be made to any taxing district under the provisions of this act, unless such taxing district maintains books, records, accounts, and memoranda and permits the examination of and produces such books, records, accounts, and memoranda, in accordance with such regulations as the Secretary of the Interior shall prescribe.

Sec. 5. There is hereby authorized to be appropriated annually such sums as may be necessary to carry out the purposes of this act.

Mr. SHIPSTEAD. Mr. President, if adopted, this amendment will carry out the general purpose we have discussed. Simply stated, it means that the Federal Government will discharge the present indebtedness proportionately according to the amount of land which it purchases in any municipality, parish, county, or within the boundaries of any State. It does not apply only to the proposed program of buying submarginal lands under the amendment of the Senator from Montana. We have had a very serious tax problem arise under purchases by the Federal Government for various purposes such as national forests, indeed, wherever the Federal Government purchases land.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. VANDENBERG. I notice in the Senator's amendment the amount necessary to finance this enterprise is left anonymous. Can the Senator indicate how much he thinks will be involved in carrying out the program proposed by his amendment?

Mr. SHIPSTEAD. I cannot, because, over the entire United States, the policy of the Federal Government purchasing land has been going on for years. I have no information as to how much the purchases would involve.

Mr. VANDENBERG. Would it be a hundred million or would it be five billion? Would it be an enormous sum? What, probably, would be the bracket in which the expenditure would fall; would it be a billion dollars?

Mr. SHIPSTEAD. The Senator realizes, as well as anyone, that we do not know how much would be involved. That would have to be determined; that is a matter of record. Of course, if this amendment shall become a law, the business of the Government will be to determine where they are going to purchase land, and where they have purchased land, what public debts are involved. A private purchaser of land must see that he has title, and he should

pay sufficient for the land so that the seller may discharge the mortgage and give him clear title. So when a private owner sells to the Government, particularly when it is done on a large scale, I repeat that it is not fair that the land should escape local tax burdens in the discharge of public debts within the area where the land is located, because in that case an injustice will be done to the remaining settlers.

It would place the entire indebtedness upon them, and in many instances of which I have personal knowledge such a procedure has made the tax burden impossible to bear. Men who have lived 20 or 30 or 40 years in a community and raised families and supported the local governments, the township, county, and local school districts, have been forced to leave their happy homes because of the policy of the Federal Government of purchasing lands which would then be able to escape the payment of indebtedness of the local units of government, and thus ruining those who remained to pay such indebtedness.

This is not submarginal land in many instances, and even where there is submarginal land there are many people, as Senators from those areas have told me, who make a living and desire to remain. If we pursue this policy we are going to ruin those people. They have a right to be protected. It is proposed now to purchase the land and remove those who have been failing. We protect them, we safeguard them, but those who have been successful and who desire to remain are to be ruined by this policy.

I have knowledge of a case in the Superior National Forest of Minnesota, where some good lands have been purchased for reforestation purposes by the Federal Government, and where there has been only a modicum of success. Those who remained, who spent their lives building up their farms and prosperous homes, will have a situation created which will make it impossible for them to remain longer. For that reason I have offered the amendment.

Mr. NORBECK. Mr. President, may I ask the Senator from Minnesota a question?

Mr. SHIPSTEAD. Certainly.

Mr. NORBECK. Why offer this amendment to the amendment of the Senator from Montana? It is a broad subject in itself. Why not offer it as a separate amendment to the bill?

Mr. SHIPSTEAD. We are being asked to pay out \$50,-000,000 for submarginal land, and I thought this would be a good place to offer my amendment.

Mr. NORBECK. Some of us might vote for the Senator's amendment in the one case, but vote against it if he insists upon offering it as an amendment to the amendment of the Senator from Montana. I am not attempting to tell the Senator what to do. I merely asked the Senator the question.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. WHEELER. The Senator's amendment sets forth a very broad principle which I wonder whether the Congress may want to adopt. It would mean, if the Government of the United States wanted to buy land for a post-office site in the city of New York, that the Government, before it could purchase the land, would have to check up with the city of New York to ascertain how much of the city's bonded indebtedness would be borne by the land which was being purchased for the post-office site.

If the Federal Government should want to take some property for a national park or a national monument or an Indian reservation or any other public purpose, before it could be done the Government would have to pay to the community or the district or the county or the city or the State a certain proportion of its bonded indebtedness which the purchased land would bear to the general indebtedness. It would be quite an impossible task.

The Senator is dealing with a broad general policy, while my amendment simply deals with an emergency situation with reference to certain options which are outstanding at the present time, the Federal Government having taken options from farmers in the various States and now have them merely hanging in the air. It is not fair to those farmers,

when their options were taken with the understanding that the money would be paid and the options taken up immediately, for the Government to repudiate them and say that because of some ruling of a department the options cannot be taken up.

We are dealing with an immediate emergency. The only reason why I ask to have it taken care of in this bill is because of the urgent need, in view of the situation which exists at the present time, to provide the money with which to take up these options. I hope the Senator will not ask to have his amendment attached to my amendment, because his amendment has relation not only to these lands, but to every piece of private land the Government may purchase, whether for a navy yard, a post-office site, or anything else.

Mr. SHIPSTEAD. Being of the opinion that this is a farmers' bill to help the farmers, I modify my amendment by striking out the word "municipalities."

Mr. WHEELER. Even that does not change it at all, because if the Federal Government went out to purchase land for a navy yard in Virginia or Maine or any other place, or a post-office site in a city or county which might have a bonded indebtedness, then the Government would have to ascertain what proportion that particular piece of land bore to the total bonded indebtedness.

Mr. SHIPSTEAD. The amendment I have offered, with the word "municipalities" stricken out, could not include New York City, because I assume that post offices are built in municipalities.

Mr. WHEELER. But the Senator's amendment would still apply to State and county bonds. State bonds are just the same as municipal bonds. If the Senator is correct that municipal bonds cover all the property in a city, likewise county bonds cover all the property in the county, and State bonds cover all the property in the State. When the Government of the United States sought to buy land for a post-office site in the city of New York, it would have to figure the exact proportion that piece of land bore to the entire taxable land of the city of New York, so as to determine the proportion of bonded indebtedness the particular piece of land bore, and likewise as to the county and the State.

Mr. SHIPSTEAD. The Senator is laboring under a misapprehension. My amendment applies only to subdivisions of States. It would not include State bonds. It would include only county school districts and subdivisions of States except municipalities.

Mr. WHEELER. I think the amendment is much broader than that. There can be no excuse for applying it to farming communities rather than to city communities. If the Federal Government goes into the heart of a city and takes out the finest piece of land for Federal uses, the result is that the taxpayer of that community must pay a larger proportion of the bonds, and the same thing is also true of the State. I cannot conceive how it could be worked out. If we should adopt that policy it would mean the Government of the United States, with reference to every piece of land purchased for its own public use and for the benefit of the general public, would have to pay to the particular county or city or State a certain proportion of the purchase money. Probably the next thing desired would be that we should provide for the additional taxes which would not be paid in the future because of the sale of the particular piece of land to the Government. A policy of that kind would stifle public enterprise on the part of the Government of the United States.

Mr. SHIPSTEAD. The Senator is again arguing under a misapprehension. Even though I should not eliminate municipalities, he would still be laboring under a misapprehension. When the Government goes into a municipality and buys ground for a public building it adds to the assets of the city. It gives to the city something of value. Usually, for instance, if the Government spends a million dollars for a post office where only a \$100,000 post office is needed, the taxpayers can afford to carry the additional

taxes involved in taking off the tax roll a lot or a block, because the Government is adding to the assets of the city.

When the Government goes into a farming community and removes farmers from lands where they cannot make a living, it adds to the tax burden of those remaining; so the effect of the governmental policy in farming areas is quite the opposite of that in purchasing land in a municipality.

However, in view of the zealous purpose of the Senator from Montana to rectify the error which has been made by Government agents contracting for land where they have no funds with which to purchase it, I shall withdraw this amendment, and press it either as a separate bill or as an amendment to some bill in the future.

Mr. WHEELER. I thank the Senator.

Mr. GLASS. Mr. President, I shall not address myself to the merits of the amendment proposed by the Senator from Montana [Mr. WHEELER], because we have spent so much of the taxpayers' money which ought not to have been spent that, without knowing anything about the merits of the Senator's amendment, I should readily and cheerfully guess that it has more merit than many things which have been done. I desire, however, to correct a misapprehension.

The Senator made the statement that his proposition, or a somewhat similar proposition, was contained in both the House and Senate forms of the joint resolution when it went to conference, and that in some mysterious way it was omitted from the conference report. Of course, that is not true, and could not be so, because had the conferees undertaken to omit from their report matter which was contained in both the House and Senate versions of the joint resolution, a point of order could have been made against the report and the entire measure sent back to conference.

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. WHEELER. Let me say that the Senator from South Dakota [Mr. NORBECK] was the one who called my attention to that matter, and I made the statement upon the basis of what the Senator from South Dakota stated to me with reference to it.

Mr. NORBECK. That is correct.

Mr. GLASS. It is a mistake. I have not had time this morning to examine the RECORD fully, but I have before me the joint resolution as it went to conference from the Senate, and nothing exactly akin to the amendment now proposed by the Senator from Montana was in the joint resolution as it went to conference from the Senate.

I recall very distinctly that I voted in committee for the proposition submitted by the Senator from South Dakota, and hoped it might be adopted by the Senate; but it was not adopted by the Senate, and it did not go to conference. Perhaps it was not adopted by the Senate, though I have not been able to examine the RECORD thoroughly, because it was contended that reclamation projects were distinctly embraced in the joint resolution as reported from the Senate committee; and not only were reclamation projects embraced in the joint resolution but it was declared that funds made available by the joint resolution might be used, in the discretion of the President, for the purchase of farm lands.

With those two provisions in the joint resolution, and with the further provision authorizing the use of \$330,000,000 for grants or loans for miscellaneous purposes, it was urged that the proposition in the exact form presented by the Senator from South Dakota was not necessary.

I simply wish to acquit the conferees of having surreptitiously, or otherwise, eliminated from their report anything which was contained in both versions of the joint resolution, because that could not have occurred.

Mr. NORBECK. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. NORBECK. No one knows better than the Senator from South Dakota that that could not be done. The point which perhaps I failed to make clear was that the House language was changed. The language in the Senate version

of the joint resolution was not the same as in the House version.

Mr. GLASS. No.

Mr. NORBECK. But the same subject matter was in both measures, and it was lost. I do not claim that the conferees exceeded their rights at all.

Mr. GLASS. I do not concede that it was lost. The Comptroller General—who has made a ruling on the subject, so the Senator from Montana says—thinks it was lost, but I do not think so. Certainly it was not the intention of the conferees to lose it.

Mr. NORBECK. I maintain that this was authorized both by the House and by the Senate, but it is not authorized in the joint resolution as we finally passed it. That is all I claim.

Mr. McCARRAN. Mr. President, I send to the desk and ask to have read an amendment to the amendment of the Senator from Montana [Mr. WHEELER], which I have submitted to him, and which I hope he will accept.

The PRESIDING OFFICER (Mr. O'MAHONEY in the chair). The amendment to the amendment will be stated.

The CHIEF CLERK. At the end of the amendment it is proposed to add the following:

Provided further, That wherever in any Federal reclamation project there exist submarginal lands against which or by reason of which the reclamation settlers are, by reason of contract with the Government of the United States or the Reclamation Bureau, obligated for payment, such submarginal lands may be eliminated from such project and any reclamation charge against such lands canceled.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Nevada to the amendment of the Senator from Montana.

Mr. WHEELER. I have no objection to the amendment. As a matter of fact, I understand that is the policy which the Department is following at the present time wherever it can do so.

The PRESIDING OFFICER. Without objection, the amendment to the amendment is agreed to.

The question is on the amendment of the Senator from Montana, as amended.

Mr. AUSTIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	La Follette	Radcliffe
Ashurst	Coolidge	Logan	Reynolds
Austin	Costigan	Loneragan	Robinson
Bachman	Davis	Long	Russell
Bailey	Dickinson	McAdoo	Schall
Bankhead	Donahay	McCarran	Schwollenbach
Barbour	Duffy	McGill	Shipstead
Barkley	Fletcher	McKellar	Smith
Bilbo	Frazier	McNary	Steiwer
Black	George	Maloney	Thomas, Okla.
Bone	Gerry	Metcalf	Townsend
Borah	Gibson	Minton	Trammell
Brown	Glass	Moore	Truman
Bulkeley	Hale	Murphy	Tydings
Bulow	Harrison	Murray	Vandenberg
Burke	Hastings	Norbeck	Van Nuys
Byrd	Hatch	Norris	Wagner
Byrnes	Hayden	Nye	Walsh
Capper	Holt	O'Mahoney	Wheeler
Caraway	Johnson	Overton	White
Carey	Keyes	Pittman	
Chavez	King	Pope	

The PRESIDING OFFICER. Eighty-six Senators having answered to their names, a quorum is present.

The question is on agreeing to the amendment of the Senator from Montana [Mr. WHEELER] as modified and amended. The amendment to the amendment will be stated.

The CHIEF CLERK. It is proposed to insert the following at the end of the bill:

Sec. —. In order to develop a national program of land conservation and land utilization, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be used in the discretion and under the direction of the President, to be immediately available and to remain available until expended, the sum of \$50,000,000. This appropriation shall be available for the acquisition of submarginal land and its retirement from agricultural use other than for grazing purposes.

In carrying out the provisions of this section the President is authorized:

(a) To establish and prescribe the duties and functions of governmental agencies;

(b) To utilize and prescribe the duties and functions of any governmental agency;

(c) To delegate the powers conferred upon him under this section to any governmental agency;

(d) To make contracts and grants; and

(e) To acquire, by purchase, any real property or any interest therein in accordance with the policy herein set forth.

Any proceeds or receipts derived by the President by virtue of the activities conducted pursuant to this section shall be available to the President as a revolving fund to be used in the furtherance of this section: *Provided*, That no lands shall be so acquired unless prior to the effective date of this act options had already been made for their purchase: *Provided further*, That wherever in any Federal reclamation project there exist submarginal lands against which or by reason of which the reclamation settlers are, by reason of contract with the Government of the United States or the Reclamation Bureau, obligated for payment, such submarginal lands may be eliminated from such project and any reclamation charge against such lands canceled.

Mr. DICKINSON. I ask for the yeas and nays.

The yeas and nays were not ordered.

The amendment was agreed to.

Mr. VANDENBERG. Mr. President, I offer an amendment, and I call the attention of the senior senator from Georgia [Mr. GEORGE] to it as it is read, because I wish to ask him a question regarding it.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed on page 65, after line 25, to insert the following new subsection:

In the event that any tax imposed by this title is held invalid by the Supreme Court the President is authorized to make the payments contemplated by this title during the fiscal year ending June 30, 1936, out of the money made available by the Emergency Relief Appropriation Act of 1935.

Mr. VANDENBERG. Mr. President, it is my understanding that the Senator from Georgia was the author of the amendment to the emergency relief-appropriation act which permitted administration expenses under the A. A. A. law to be charged to the emergency fund under certain conditions.

It would not be my judgment, as a layman, that the term "expenses of administration" in the Senator's amendment to the original appropriation act permitting expenses of administration to be charged to the emergency fund would include benefit payments, and I should like to ask the Senator what his judgment would be respecting the interpretation of his original amendment in that respect.

Mr. GEORGE. Mr. President, I think the amendment was not confined to the administration expenses, but we might make any sum available out of the appropriation for the purpose of administering the Agricultural Adjustment Act, and I think anything done under it would be included. However, I should have no objection to making it clear in such an amendment as the one now offered, and I imagine the chairman of the committee would probably not object.

I was about to make this suggestion. The amendment which I offered to the work relief measure, the \$4,800,000,000 appropriation bill, was limited to a period of 12 months next after the approval of the act. Some of the contracts which are made, and perhaps some which are now in existence, will run beyond the expiration of that period. There might at least be obligations which the Agricultural Adjustment Administrator has incurred which would not be discharged or could not be discharged within the period of 12 months next after the approval of the appropriation act. So, if the Senator desires to offer this amendment, I shall have no objection to it, and I would suggest that it might be limited as to the time of payment, but that the payment might be made available out of these funds as long as the funds are unexpended. Of course, by operation of the appropriation act itself they will be available for 2 years rather than 1 year.

Mr. VANDENBERG. Mr. President, the Senator will note that the text of the amendment as drawn would permit the payment during the fiscal year ending June 30, 1936. That would carry us well through the next session of the Congress, and would permit the Congress at the next session to meet the fundamental question as to where the benefit

payments should come from, if the processing tax should be held to be unconstitutional. My thought was that we are simply bridging the gap until another session of Congress may determine the fundamental questions of policy.

Mr. GEORGE. That was the view I took of the matter after it had been called to my attention that the limitation might interfere with the operations under the act, inasmuch as some of the obligations incurred by the Secretary of Agriculture perhaps would not have been discharged within the period fixed in my amendment.

Let me say to the Senator that he will find that in the original public-works bill of 1933 a sum was appropriated, not exceeding \$100,000,000, in what I believe is substantially if not identically the same language carried in the amendment which I offered to the present \$4,880,000,000 appropriation act, and out of that \$100,000,000 so appropriated in the first Public Works Act expenditures were actually made for purposes authorized under the Agricultural Adjustment Act. In other words, payments were made out of that appropriation in the nature of benefit payments. That act itself was renewed by a provision in the present work-relief law, but a limitation of \$100,000,000 was carried in the first public-works appropriation bill and, therefore, I offered the amendment, which was agreed to, when we had that bill before us.

Personally, I have no objection to the amendment at all.

Mr. VANDENBERG. I thank the Senator.

Mr. SMITH rose.

Mr. VANDENBERG. Will the Senator from South Carolina permit me briefly to state the hypothesis upon which this amendment is offered?

Mr. SMITH. Certainly.

Mr. VANDENBERG. It seems to me quite obvious, after reading the thoroughly persuasive opinion of the United States circuit court of appeals in Boston last week, that the processing taxes under the act are almost inevitably going to be declared to be unconstitutional; in fact, that is one of several reasons why I cannot support the pending bill as a whole.

If the processing taxes shall be declared to be unconstitutional during a recess of Congress—and it may be a very violent assumption that there is to be any recess of Congress—if that shall happen, the entire agricultural benefit-payment program will be either suspended or jeopardized, unless there shall be a temporary source of funds to finance the parity program.

Again, regardless of whether or not one believes in the parity program, it seems to me that if it is to be held out to the American farmer as the program upon which he should rely, we should make every possible effort to assure to the farmer that it is not an idle gesture under the circumstances which might develop in the event the processing taxes should be held to be unconstitutional.

Therefore, since it would in essence be a relief situation, since it would be in essence an emergency situation, and since Congress already, through the adoption of the George amendment to the original act, has indicated its willingness under such circumstances to have the benefit payments made out of the emergency-appropriation fund, I am proposing that we directly legalize this sort of procedure.

I add, in conclusion, that it appears to be the opinion of the legislative counsel—and I address myself particularly to the junior Senator from South Carolina [Mr. BYRNES], who apparently has the original law in his hand at the moment—that the language of the original law would not cover or might not cover the benefit payments as included within the term "expenses of administration."

Mr. SMITH. Mr. President, if I understand the object of the amendment, it is this: The processing tax is now available for paying benefits to those who restrict production, either by voluntary agreement or otherwise, and the object is to provide that recourse may be had to the emergency fund to carry out the contracts.

Mr. VANDENBERG. That is entirely and only the theory and the intent.

Mr. ROBINSON. Mr. President, I do not believe this amendment should be agreed to. It seeks to divert the funds heretofore appropriated for work relief under the Relief Appropriation Act of 1935 to the reimbursement of claimants who may, after litigation, recover on claims for payment of benefits or taxes under the Agricultural Adjustment Act.

In my judgment, there is no necessity for such an amendment. If the process of litigation involved in the attack on benefit payments and on the processing taxes should be successful, then the Congress could take whatever action may be necessary to pay the claims, just as in the case of any other claims. This is an effort to concede the claim before it is tried out. It originates in unfriendliness to the Agricultural Adjustment Act and to the processing tax. It should not be agreed to by the Senate if the Senate is going to sustain the Agricultural Adjustment Act.

Mr. GLASS. May not all of the funds be expended before this matter in litigation shall have been determined?

Mr. ROBINSON. Certainly.

Mr. GLASS. The litigation may not sustain the processing tax, but even if it should be declared invalid, all this money meanwhile may have been expended.

Mr. ROBINSON. The statement of the Senator from Virginia is correct.

Mr. BYRNES. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. BYRNES. Even though the fund should not be entirely spent, certainly we can anticipate that the fund will be obligated to such an extent that it would not be possible to get a sufficient amount from it for the purposes suggested. This amendment provides that it shall be available during the fiscal year ending June 30, 1936. Congress will meet again in January; Congress will be in session, and should there be a decision against the Government and a refund required, the Congress can provide for its payment just as it has always been provided. There is no necessity for the provision in this amendment in view of the fact that Congress will meet on January 1 and could then pass a deficiency bill just as it has done in every other case.

Mr. ROBINSON. This amendment puts a double burden on the funds appropriated in the Work Relief Act of 1935. Those funds were authorized to be used for certain purposes. Allotments have been made and are being made. Now the effort is made, before the cases have been tried, before any judgment has been rendered, to divert funds which have already been appropriated for other purposes to the payment of claims. I wish to say now that this effort to destroy the effectiveness of the Agricultural Adjustment Act should not succeed. The Agricultural Adjustment Act has brought great benefit to the farmers of the country, and we should not by legislation of this character concede defeat before the court of final jurisdiction has had the opportunity of passing upon the subject.

The amendment is fundamentally wrong in committing the Congress to the appropriation of funds for two distinct purposes. As suggested by the Senator from Virginia [Mr. GLASS] funds which have been appropriated and allotted for other purposes, and which are in process of expenditure, will also become liable for the payment of claims which have not yet been adjudicated.

Mr. BYRNES. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. BYRNES. Would it not be just as logical to provide that that fund shall be available for the payment of all other claims against the Government which have not as yet been paid?

Mr. ROBINSON. Yes; certainly. There has been an effort made here several times to divert the funds carried in the Work Relief Act to various purposes. It ought not to be done. There is no occasion for doing it.

Mr. NORRIS. Mr. President, as a layman, and not pretending to know much about constitutional law and procedure in a legal sense, I am very much perplexed by this amendment. Coming as it does from the great constitutional lawyer of Michigan [Mr. VANDENBERG], it seems to me

it might well be interpreted—I may be entirely wrong about it, of course—by a court as an invitation to hold this measure to be unconstitutional, and as an expression of opinion, if the Senate shall agree to the amendment, that in the Senate's opinion, after all, the bill is unconstitutional. I anticipate if this amendment shall be agreed to and the law shall be held to be unconstitutional, that when the opinion is written the learned judge will say, "The constitutionality of this measure was before the Senate at the time the Senate passed it, and suggestion was made there that it was undoubtedly unconstitutional, and upon the basis of that argument and that statement the Senate agreed to the amendment, with the provision that if the court found the law to be unconstitutional something else would have to be done, and the money would be paid in some other way."

So it seems to me, Mr. President, if we want to express an opinion as to the unconstitutionality of this measure, we ought to do so by adding an amendment that, in the opinion of the Senate, this bill is unconstitutional, but that we are going to submit it to the Supreme Court or to some district court somewhere, or to a court of appeals, and if they find it to be constitutional we proclaim now, through this law, that we are loyal citizens, and we are going to stand by the court if the court holds it valid, notwithstanding our opinion is different.

I do not remember Congress ever having enacted legislation so broad in its character. I do not understand why Senators should now rush to the front to let the country know that laws which we are passing are unconstitutional or why they should believe them to be unconstitutional.

I know of no opinion of the court which causes me to fear the unconstitutionality of this bill any more than any other bill. I cannot see, and I do not believe anybody here can, unless he has some advance information, which I do not believe anyone can get, that this measure is going to be held to be unconstitutional. I do not know why we should assume that it is going to be held to be unconstitutional. It seems to me, therefore, without knowing the inside of the whole question and understanding it all so completely as others do, that it is well for us to let the Supreme Court decide, and then we will abide by the decision, no matter what it may happen to be.

Mr. GEORGE. Mr. President, when the first public-works bill was before the Senate there were those connected with the Department of Agriculture who were anxious to have a part or portion of that appropriation allocated to the A. A. A. When that bill was in conference the conferees had considerable difficulty over a provision in the bill which allowed the President to use not exceeding \$100,000,000 for the purpose of carrying out the functions of A. A. A.

When we had the second public-works bill, or the work-relief joint resolution, before the Senate, at the present session—the \$4,800,000,000 appropriation bill—I offered an amendment authorizing the President, in his discretion, to allocate any sum from the appropriation authorized for the purpose of administering the Agricultural Adjustment Act. That amendment is a part of the law. The language is substantially and the authority is identically the same, in my judgment, in both of the public-works programs. So that under the law as it now stands I have no doubt that the President could allocate a sum from the \$4,800,000,000 appropriation to the Agricultural Adjustment Administration if he found it necessary and if he approved it.

While I am discussing it, Mr. President, I wish to say that my purpose in offering the amendment to the \$4,800,000,000 appropriation bill was not to scuttle or destroy the Agricultural Adjustment Act. I thought I foresaw that the President, in all probability, and the Agricultural Adjustment Administration, in all probability, would have need for some funds, and that need might arise at a time when Congress was not in session. But my primary purpose was to enable the President to allocate a reasonable sum out of this appropriation for the purpose of carrying out a function of the Agricultural Adjustment Administration which it has not

undertaken to carry out, to wit, the expansion of foreign markets.

Personally, I have never approved the processing taxes as such; I have approved the purpose of the bill; I have approved the general program; but I have regarded the processing taxes as exceeding onerous and burdensome sales taxes bearing upon particular products, and in the actual working out, resting too heavily upon those who were least able to bear the burden of the tax.

On that ground I stand without apology. I believe I am right about it. I know that 70 percent of the textile goods of this country are used by the working people; I know they are paying 70 percent of the processing tax on the product; and I know that is too heavy a sales tax upon our people who are least able to bear it.

I am not opposed to the payment of benefits, nor am I opposed to the general program the administration is undertaking to work out under the act which we are proposing now to amend, if that program can be legally and validly worked out.

It seems to me that in the long run it would be far wiser to distribute more equitably the burden of these taxes on all our taxpayers, rather than to restrict them to the processors, who in turn, of course, pass them on, or attempt to pass them on, and probably do pass them on, to those who consume the particular products.

No matter who may take the contrary view, I contend that when such a heavy sales tax is placed upon the bread, upon the meat, and upon the necessary clothing of the people of the country an undue burden is imposed. Assuming that the whole purpose of the law is good, and that those who support it are honest and sincere in their advocacy, it is putting a very heavy burden upon those who consume the bread and the meat and wear the clothing, which, of necessity, is made from cotton.

So I thought, Mr. President, in a period when increasing costs are certainly adding to sales resistance, that many who are called upon to pay the processing taxes prior to the time they actually sell the products upon which they pay them might be relieved by the exercise of another function which is conferred upon the Agricultural Adjustment Administration in the original act, and that is through the expansion of markets. That was the provision put in the original act with the consent—in fact, with the approval—of the Department of Agriculture; and in the original Public Works Act there is provision made for the allocation of not exceeding \$100,000,000 for the purpose of carrying out the Agricultural Adjustment Act. So in the second measure that limitation only is lifted, and the President may set aside or allocate any sum within his discretion that he may see fit out of the public-works appropriation.

I do not think this amendment is necessary at all; but I wanted to emphasize my position in offering the amendment to the public-works bill, which also carried the appropriation. My motive was not one of hostility to the Agricultural Adjustment Act as a whole, and certainly not to the purposes of the pending bill.

I express the hope now that we may be able to continue the benefits to agricultural producers, because I believe, while it is not a part of our tariff system precisely, it is a necessary aid and assistance to those who live under a tariff system and who receive no very great direct benefit from that system. In other words, Mr. President, I think that those who study Alexander Hamilton's famous report will reach the conclusion, that as he said, the only remedy for agriculture under a tariff system when that system has been developed is a system of bounties. This is not a tariff, it is in the nature of a bounty, paid in the way indicated. I believe strongly, in fact, I believe unalterably that many years ago we reached the time in this country when we should have begun some kind of a bounty system, for the benefit of the producers of agricultural products, who receive no direct benefits, at least, or little direct benefits, in most instances, from the tariff. Therefore, while I am in harmony with this general legislation, and strongly support it,

I must recognize that we have rested it upon a sales tax, which must necessarily bear very heavily upon only a portion of our taxpayers, or the chief burden of which must rest upon a limited percentage of our taxpayers.

Mr. BYRNES. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BYRNES. The language of the work relief act is:

Funds made available by this joint resolution may be used, in the discretion of the President for the administration of the Agricultural Adjustment Act, as amended, during the period of 12 months after the effective date of this joint resolution.

It does not say "for administrative purposes."

Mr. GEORGE. Oh, no.

Mr. BYRNES. But it says "for the administration of the Agricultural Adjustment Act", so that for anything in connection with the administration of this act, where the funds are not available from any other source, the \$4,830,000,000 fund is available. In view of the circumstances I think there can be no reason for the adoption of the amendment.

Mr. GEORGE. I think the Senator from South Carolina is entirely correct. That provision, of course, went into the original act, and the President had the opportunity to have earmarked, if he so desired, or to have reserved a portion of the fund at the time before our commitments were made. I urged the allocation of a reasonable amount, or a very small amount, as a matter of fact, for the purpose of expanding foreign markets.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER (Mr. MURRAY in the chair). Does the Senator from Georgia yield to the Senator from Idaho?

Mr. GEORGE. I yield.

Mr. BORAH. Assuming that the court should hold that the processing tax was unconstitutional, and assuming that the court should hold that the delegation of power rendered the old act invalid, that would not necessarily destroy this scheme, because the question of taxation to be taken care of in the manner which has been suggested by the Senator undoubtedly would be constitutional.

Mr. GEORGE. I think the Senator from Idaho is quite correct. I have always so believed and have always so felt about the matter.

Mr. BAILEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from North Carolina?

Mr. GEORGE. I yield.

Mr. BAILEY. May I ask the Senator, before he takes his seat, if in his reference to bounties and his advocacy of bounties from the General Treasury in preference to the processing taxes, would he carry his position far enough to include bounties on export crops as well as on domestically consumed crops?

Mr. GEORGE. Mr. President, the Senator, of course, raises a rather interesting question, but I have no hesitancy in saying that I supported the export bounty plan farm-relief measure which was considered by the Senate several years ago, and which I think was twice voted favorably upon by this body. I favored that program.

Mr. BAILEY. The point I am suggesting is this: The processing tax relates only to parity for the domestically consumed crops and only to the extent of domestic consumption.

Mr. GEORGE. That is very true.

Mr. BAILEY. But the bounty would take in the whole crop, if it were extended to include the export trade as well?

Mr. GEORGE. Yes; that is true, and I have favored an export bounty bill.

Mr. BAILEY. The bounty plan would undoubtedly be constitutional.

Mr. GEORGE. I do not think there can be any question about that. I can appreciate the motive that lies back of this particular program. I know very well the Secretary of Agriculture and, I believe, the President are of the opinion that the A. A. A., with the processing tax, is the practical way to approach the problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Michigan [Mr. VANDENBERG].

The amendment was rejected.

Mr. VANDENBERG. Mr. President, may I ask the chairman of the committee for an interpretation of a certain provision of the bill, if he will be good enough to refer to page 56, line 15. As I understand, this section of the bill changes the privilege of extension in the payment of the processing taxes. It is my understanding that at the present time processors may obtain extensions of 180 days for the payment of their taxes and that under this proposed change the extension will apply only to three-fourths of the tax. It is suggested to me that this will fall with chief hardship upon the small processors who may not be financially equipped to carry the investment over to the point where he is reimbursed by his sales. I am thinking particularly of the collection of the processing tax on sugar.

Mr. SMITH. Under the extension of time, the processor is only required at first to pay one-fourth of the processing tax, and then three-fourths of it is carried for the length of time authorized by the bill.

Mr. VANDENBERG. At the present time we can extend four-fourths?

Mr. SMITH. Yes.

Mr. VANDENBERG. Will the Senator indicate to me whether there is any moving necessity to change the present law?

Mr. SMITH. As I understand, the Department is anxious to get available funds to meet the benefit payments. The charitable refunds are the main things because there are a good many of these payments which go for charitable purposes upon which the processing tax has been paid, and under the law that tax is to be refunded. Unless collections are made it will be impossible to meet those payments.

Mr. O'MAHONEY. Mr. President—

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Wyoming?

Mr. VANDENBERG. I yield.

Mr. O'MAHONEY. The point which the Senator from Michigan raises is, I think, covered by an amendment I submitted last week and which I wish to call up, an amendment by which it would be provided that in cases where the Secretary of the Treasury allows the tax to be paid monthly the extension for 180 days for the entire amount of the tax may still be permitted. I have submitted that amendment to the chairman of the committee, and he has stated that he has no objection to it.

Mr. VANDENBERG. Will the Senator call up that amendment now while we are on this matter, because that will entirely answer the question?

Mr. O'MAHONEY. If I may have the floor, I shall do so.

Mr. VANDENBERG. I yield the floor.

Mr. SMITH. Mr. President, I think this is a very good place to settle the matter, because immediately upon the disposition of this amendment I have another important amendment to offer.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. O'MAHONEY. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed, on page 56, line 19, after "the", to insert:

And by adding at the end of the proviso the following: "but postponement of all taxes covered by returns under this title for a period not exceeding 180 days may be permitted in case in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. SMITH. Mr. President, I offer the amendment which I send to the desk. It is very important because it involves the practicability of the whole matter.

The PRESIDING OFFICER. The Senator from South Carolina offers an amendment, which will be stated.

The CHIEF CLERK. On page 60, after line 20, insert the following new section:

(d) The making of rental and benefit payments under this title prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulation of the Secretary, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purpose as if each such agreement, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior act of Congress.

Mr. BORAH. Mr. President, what is the difference between the amendment now offered and subdivision (c) on page 60 of the bill?

Mr. SMITH. This amendment applies to the voluntary agreements which have been entered into by the Government under the act with the producers.

Mr. BORAH. Does the amendment go any further than to legalize the voluntary agreements which have been made with the producers?

Mr. SMITH. No; it does not. Such agreements were in the nature of a contract, but in the act the contract was not specifically provided for. The Secretary was given the right to enter into agreements if the farmers volunteered to come into them. The agreements have been entered into. Under many of them payments have been made. We desire to legalize the agreements made prior to the passage of this bill because each agreement was in the form of a voluntary agreement upon the part of the farmers or producers. The amendment has nothing to do with taxes whatever. It relates to the benefit payments which have accrued.

Mr. BORAH. It does not modify or change the provisions of subsection (c)?

Mr. SMITH. No; it has nothing to do with it.

Mr. ROBINSON. Mr. President, will the Senator from South Carolina yield?

Mr. SMITH. Certainly.

Mr. ROBINSON. The amendment is absolutely essential if the benefits of the A. A. A. are to be maintained.

Mr. SMITH. It is the heart of the whole business.

Mr. BORAH. If I understand it correctly, I am in sympathy with the amendment. I simply wanted to understand that it did not have the effect of modifying or changing subdivision (c) which we covered the other day.

Mr. SMITH. No; it has no relation to that whatever.

Mr. VANDENBERG. Mr. President, what could happen to create a situation in which it would be necessary to rely upon this power?

Mr. SMITH. I think it is necessary for us to legalize what in the court decision was called a "roving commission", that is, authority to go out and make these contracts, which was done without specifically defining the conditions under which they were to be made. In good faith the farmers came in voluntarily and the benefit payments were provided for, and now we want to legalize them up to date.

Mr. VANDENBERG. I have no quarrel with that in the world.

Mr. ROBINSON. Mr. President, there might be proceedings instituted against all who have received benefit payments for the recovery of them if it should be finally held that the payments were not valid.

Mr. VANDENBERG. Does that mean not constitutional?

Mr. ROBINSON. Yes; or not valid in any respect.

Mr. VANDENBERG. I am trying to discover if we are now endeavoring to do something in anticipation of the provision being held to be unconstitutional.

Mr. ROBINSON. I do not think that the proponents of the A. A. A. should think that it is unconstitutional, but they recognize that many of its provisions are being attacked and they realize that a question may arise as to the authority of the Secretary of Agriculture to make the contracts and

to make the marketing agreements under which the benefit payments were authorized. In order to give the sanction of Congress to what has been done, it is proposed that it be ratified.

Mr. SMITH. Yes; in other words, what has been done for the benefit of the farmers up to the passage of this bill shall be legalized by this body, and I think that all are in accord with that principle.

Mr. VANDENBERG. In other words, my previous vice is now a virtue!

Mr. BORAH. Mr. President, I think, as stated by the Senator, this is of course a very desirable thing to do if it is properly limited. As I understand, it has nothing to do with the question of taxes?

Mr. SMITH. Nothing whatever.

Mr. BORAH. If there were technical defects in the voluntary agreements which were entered into, they are to be legalized?

Mr. SMITH. Certainly.

Mr. BORAH. I have no objection to that. In fact it seems very necessary and entirely just.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. SMITH. Certainly.

Mr. WAGNER. I want to have it clearly explained what it is that is being validated. Is it the agreements which were entered into by the parties?

Mr. SMITH. The Government made these agreements with the farmers. They have been carried out in good faith. As the Senator from Arkansas [Mr. ROBINSON] pointed out, there may be some adverse decisions which might cause a suit for recovery even of the benefit payments which have been made to the farmers. All we are asking is to legalize those payments which were made in good faith and which have already been completed.

Mr. WAGNER. I do not see any objection to it except I was curious to ascertain how a payment made under a contract between two parties, and in pursuance of that contract, could afterward be repudiated.

Mr. SMITH. I hope it could not be.

Mr. WAGNER. If there is no question about it, I see no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. BYRD. Mr. President, on page 18 I move that paragraph (F), as amended, be stricken from the bill.

The Senate, after extended debate, struck out paragraph (G); and paragraph (F) is a companion paragraph. I understand that the chairman of the committee is agreeable to striking it out. I move, therefore, to strike out paragraph (F), as amended, on page 18.

The PRESIDING OFFICER. The Senator from Virginia offers an amendment, which will be stated.

The CHIEF CLERK. On page 18 it is proposed to strike out lines 13 to 20, both inclusive, being paragraph (F), as amended.

Mr. SMITH. Mr. President, this paragraph has to do with the minimum price, and was incorporated in the bill by the House. The Senate went still further in paragraph (G). I have said before, and now repeat, that I do not know whether or not the Department can use that paragraph to any benefit. I said before, and now repeat, that I think it was a mistake to eliminate paragraph (G), for I considered it an attempt to give the producers some opportunity to fix their price. However, I shall not enter any objection to the proposal of the Senator from Virginia, and I shall leave the decision to the Senate.

The VICE PRESIDENT. The question is on the amendment of the Senator from Virginia [Mr. BYRD] proposing to strike out paragraph (F), as amended, on page 18.

The amendment was agreed to.

Mr. BYRD. Mr. President, I offer another amendment, which I send to the desk and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 21, line 2, after the word "order", it is proposed to insert a colon and the following:

Provided, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture, with the approval of the President, determines that the issuance of such order is approved or favored by at least two-thirds of the producers by volume or number, such approval to be determined by the referendum vote of said producers, and who during a representative period, determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market in interstate commerce of the commodities specified therein.

Mr. BYRD. Mr. President, that amendment provides that no orders may be issued unless two-thirds of the producers by number or volume agree to it. I understand it has been approved by the chairman of the committee and also by the members of the committee.

Mr. SMITH. That is true.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Virginia.

The amendment was agreed to.

Mr. BYRD. Mr. President, I offer three amendments, which I send to the desk and ask to have stated. They are all on the same line.

The VICE PRESIDENT. The amendments will be stated.

The CHIEF CLERK. On page 16, line 23, it is proposed to strike out "marketed in or transported to any or all markets" and to insert in lieu thereof "transported in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof."

On page 17, line 15, it is proposed to strike out "market in or transport to any or all markets" and to insert in lieu thereof "transport in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof."

On page 17, line 21, it is proposed to strike out "marketed in or transported to any or all markets" and in lieu thereof to insert "transported in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof."

Mr. BYRD. Mr. President, those amendments are simply to make the rest of the bill conform to the first part of it and to the decision of the Supreme Court.

Mr. SMITH. Mr. President, was the word "marketed" eliminated?

The VICE PRESIDENT. It is proposed to strike out the words "marketed in or transported to any or all markets."

Mr. SMITH. And then what is the language which the Senator proposes to insert?

The VICE PRESIDENT. The clerk will state the language proposed to be inserted.

The CHIEF CLERK. It is proposed to insert in lieu thereof:

Transported in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects interstate or foreign commerce in such commodity or product thereof.

Mr. SMITH. The words "marketed in" ought to be left in the bill just before "transported", because the object of this provision is to affect the marketing.

Mr. BYRD. Mr. President, is it not true that to use the words "marketed in" would mean that a producer who lived next to a market within the same State would then be controlled, although that is strictly intrastate business?

Mr. SMITH. But those words are followed with the modifying words "in interstate commerce", and the words "marketed in" would mean in the process or in the movement in interstate commerce; but if the words "marketed in" were left out, the provision would control the mere fact of transportation.

Mr. BYRD. Then I will accept an amendment to put in "marketed in and transported" in each case.

Mr. SMITH. "Or transported."

The VICE PRESIDENT. The Senator from Virginia modifies his amendment. The clerk will state the amendment as modified.

The CHIEF CLERK. It is proposed to modify the amendment to read, in each case, "marketed in or transported."

The VICE PRESIDENT. Without objection, the amendment, as modified, is agreed to.

Mr. BYRNES. Mr. President, I offer an amendment, on page 56, to strike out subsection (b), which reads:

(b) Section 2 of the Department of Agriculture Appropriation Act, 1936, is amended by striking out the first word "The" and inserting in lieu thereof the following: "Seventy-five percent of the."

The VICE PRESIDENT. The Senator from South Carolina offers an amendment which will be stated.

The CHIEF CLERK. On page 56, it is proposed to strike out lines 20, 21, 22, and 23, which read:

(b) Section 2 of the Department of Agriculture Appropriation Act, 1936, is amended by striking out the first word "The" and inserting in lieu thereof the following: "Seventy-five percent of the."

Mr. KING. Mr. President, will the Senator explain that amendment?

The VICE PRESIDENT. The Chair calls the attention of the Senator from South Carolina to the fact that this is an amendment to a committee amendment which has already been agreed to; and in order to consider an amendment to a committee amendment, as proposed by the Senator from South Carolina, it would be necessary to reconsider that action.

Mr. BYRNES. Then, I ask unanimous consent to reconsider the vote by which the committee amendment was adopted.

The VICE PRESIDENT. Is there objection?

Mr. ROBINSON. Just a moment, please.

Mr. SMITH. Just a moment. I wish to ascertain the facts in reference to the matter, because my attention has not been called to the amendment prior to its offer.

Mr. BYRNES. Mr. President, I will say to the senior Senator from South Carolina that I did not know of this language in the bill until a few minutes ago, when this section was under discussion.

When the agricultural appropriation bill was under consideration, the Senate adopted and thereafter the Congress adopted a provision that so far as the processing tax upon cotton was concerned, the tax should not be required to be paid for 90 days after the filing of a report by the processor. The reason was that the report is filed immediately upon the raw cotton coming into a mill, the first processing.

The purpose of the amendment to the agricultural appropriation bill was to give to the manufacturer 90 days after the filing of the report within which to pay the processing taxes, so, under the existing law, the manufacturer cannot be forced to pay the tax in less than that time. It was essential because it requires some time to manufacture raw cotton into finished goods. In times of depression, such as the period we have been passing through, the manufacturers often, for the purpose of retaining their organizations and giving their employees work, run when they have no orders for goods. If the goods are manufactured, and remain in the warehouse for 6 months or 5 months, it simply means that the manufacturers are out of their money all the time during which the product is manufactured and the time during which it is in the warehouse.

The existing law gives them only 90 days from the filing of the report, and then the language of the existing law is:

That, under regulations to be prescribed by the Secretary of the Treasury, the time for payment of such tax upon cotton may be extended, but in no case to exceed 6 months from the date of the filing of the report.

Therefore, as to any extension after the 90 days, the Secretary of the Treasury makes such provision as he deems wise in the regulation, and can require that one-fourth be paid, or one-third, or any amount, in the time exceeding the 90 days.

All this amendment does is to assure the manufacturer that during the 90 days' time within which cotton is going through the processing he will not be forced to borrow money, as is too often the case, in order to pay the tax, and be out of his money when he has no chance of passing the tax on to the consumer.

I will say to my colleague that the purpose of the suggestion from the Department was to provide for a refund; that my colleague and I know that it does take some time after the raw cotton comes into the mill before it can be processed and can possibly be sold; and that if the law is permitted to stand as it is, the manufacturer has only 90 days after the first report is filed within which to pay; and under the authority which is given to the Secretary to regulate any further extension, the Secretary may do just what is anticipated by the language of the bill—require that one-fourth be paid then—but if the existing law remains in force, it will compel the manufacturer to pay in less than 90 days.

That is the only purpose of the amendment. I did not have time to explain it to my colleague. That is the language of the suggestion from the Department, as I understand. It is 75 percent. It would read:

Seventy-five percent * * * shall be payable 90 days after the filing of the processor's report.

In other words, he must pay 75 percent within 90 days.

Mr. SMITH. As I understand from those who have this matter under administration, 25 percent must be paid within the 90 days, and 75 percent at the expiration thereof.

Mr. BYRNES. Their language is to strike out "The" and insert "75 percent of the", so that it would read:

Seventy-five percent of the processing tax authorized by Public Act No. 10, Seventy-third Congress (48 Stat. 31), when levied upon cotton, shall be payable within 90 days after the filing of the processor's report.

Mr. SMITH. Seventy-five percent immediately, and then 25 percent at the expiration of 90 days.

Mr. BYRNES. Under the existing law, the processing tax shall be payable 90 days after the filing of the processor's report, but the regulations give to the Secretary the right after that to fix any terms upon which he can get any further extension, because it provides:

Under regulations to be prescribed by the Secretary of the Treasury the time for the payment of such tax upon cotton may be extended.

It may be extended 30 days, or 60 days, "but in no case to exceed 6 months from the date of the filing of the first report."

Mr. SMITH. Mr. President, both before the committee and subsequent to the action of the committee it was shown that the payment of 25 percent is absolutely essential in order to meet the obligations incurred under these agreements. There are refunds to be made upon exports, there are charitable amounts to be refunded, and the collection of 25 percent of the processing tax under the agreement is absolutely essential, according to the Department, for the proper carrying on of their affairs. Therefore if we are to have this matter properly carried out, the processor should be required to pay at least 25 percent, and we have given wide latitude as to the other 75 percent. As the Department is dependent upon these funds coming in for the discharge of obligations which they assume, I do not see how we can avoid keeping this amendment as proposed by the committee.

Mr. BYRNES. Mr. President, if the Senator will yield to me a moment, because I think I have spoken on the amendment and the bill prior to this time—

Mr. SMITH. I yield.

Mr. BYRNES. The object of the existing law was that it should govern the period of manufacture, and if the situation arose which the Department had in mind, where it would affect refunds, it would be a different case, but I think the Senator and I would agree that within 90 days it would hardly reach the point where the goods would be manufactured and carried through the distributors and reach the exporters, to be shipped out of the country. That condition would arise after the 90 days, and under the existing law the Secretary may require that after the 90 days 25 percent, or any percentage he deems wise, may be paid. It only assures the manufacturer that during the time he has the cotton in process of manufacture when he cannot possibly get back his money, he will not be required to pay it. I hope the Senator will see his way clear to permit a reconsideration.

Mr. SMITH. All I can go upon is the fact that the Department drew this amendment after the House had acted, and assured the committee that it was vitally necessary to have a collection of 25 percent immediately upon the filing of the report.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. MURPHY. Did I understand correctly, the junior Senator from South Carolina to say that, under the regulations as promulgated by the Secretary, the processor now has 6 months within which to pay the tax?

Mr. BYRNES. The manufacturer cannot be forced to pay before the expiration of the 90 days from the time the cotton enters the mills. This applies only to cotton. There is an additional provision that, under certain regulations which may be prescribed by the Secretary of the Treasury, the time for payment may be extended beyond the 90 days, but in no case to exceed 6 months.

Mr. MURPHY. What extension beyond 6 months would the Senator desire?

Mr. BYRNES. I am not seeking an extension at all. I do not think there should be any. All I am asking is that the law be permitted to remain as it is, because the committee report is that "75 percent shall be payable within the 90 days."

Mr. MURPHY. May not that similarly be extended under regulations promulgated by the Secretary?

Mr. BYRNES. Not with this amendment, as I understand it, and that is what I am afraid of. I know the existing law does cover it, and I dislike very much to interfere with the provision as it now stands.

Mr. FLETCHER. Mr. President, what is it the Senator proposes?

Mr. BYRNES. I propose only to leave the law as it is at present.

Mr. FLETCHER. The Senator proposes merely that the Senate disagree to the committee amendment?

Mr. BYRNES. That is all I am asking, that we let the law stand as it is, because I do not know the effect the proposed change would have upon our people.

Mr. SMITH. I understand that after the processor of cotton begins his process, say on the first of January, he is not required to make his return until the last of the next succeeding month, so he has 2 months from the time he begins the processing until he makes his return. In addition to that, we have added 90 days, which gives him practically 5 months from the time he purchases until his tax is due, and all that we are requiring is that during that period he shall pay 25 percent.

Mr. BAILEY. Mr. President, the Senator used the word "purchase." Does he mean 5 months from the time of the purchase?

Mr. SMITH. No; from the time he goes into the processing. This has no reference to the time of purchase.

Mr. BYRNES. Mr. President, if my colleague will yield, as I understand him, he is under the impression that it requires 25 percent. If this language is stricken out, it will read "75 percent of the processing tax authorized by Public Act No. 10, Seventy-third Congress, when levied upon cotton shall be payable 90 days after the filing of the processor's report." Seventy-five percent shall be payable.

Mr. SMITH. We have modified that under the bill to 25 percent.

Mr. BYRNES. No; the law now reads that the processing tax shall be payable 90 days after the filing of the processor's report.

Mr. SMITH. Yes.

Mr. BYRNES. It is within the discretion of the Secretary to carry that out, but he cannot make it less than that. That is working satisfactorily, and I do not believe there has been any complaint on the part of the department officials. So far as the manufacturers are concerned, they have never heard of any complaint from the Department.

Mr. SMITH. The only thing I have to go by is the fact that the Department brought in this amendment on the

ground that they needed that amount to meet obligations they were compelled to pay. That is all I know about it. It seems to me that 5 months from the time the processing begins until the amount is due is about as liberal as it should be. However, the Senate may decide.

The VICE PRESIDENT. Objection is heard, and the question is on the engrossment of the amendments and third reading of the bill.

Mr. BYRNES. Mr. President, I asked my colleague whether he objected to reconsideration of the vote by which the amendment was agreed to. I understood the Senator to say that he would let the Senate vote on it.

Mr. SMITH. Mr. President, I should be very glad to have the Senate vote on this matter, but, in view of the fact that this is a Senate committee amendment, and has to go to conference, I should be delighted to take the matter up in conference. However, in justice to my colleague, I think we ought to reconsider the vote, and let the Senate vote on the matter.

Mr. LONG. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Connally	La Follette	Radcliffe
Ashurst	Coolidge	Logan	Reynolds
Austin	Costigan	Loung	Robinson
Bachman	Davis	Long	Russell
Bailey	Dickinson	McAdoo	Schall
Bankhead	Donahey	McCarran	Schwellenbach
Barbour	Duffy	McGill	Shipstead
Barkley	Fletcher	McKellar	Smith
Bilbo	Frazier	McNary	Steiner
Black	George	Maloney	Thomas, Okla.
Bone	Gerry	Metzger	Townsend
Borah	Gibson	Minton	Trammell
Brown	Glass	Moore	Truman
Bulkeley	Hale	Murphy	Tydings
Bulow	Harrison	Murray	Vandenberg
Burke	Hastings	Norbeck	Van Nuys
Byrd	Hatch	Norris	Wagner
Byrnes	Hayden	Nye	Walsh
Capper	Holt	O'Mahoney	Wheeler
Caraway	Johnson	Overton	White
Carey	Keyes	Pittman	
Chavez	King	Pope	

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

Is there objection to the unanimous-consent request that the vote by which subsection (b) on page 56 was agreed to be reconsidered? The Chair hears none.

The Senator from South Carolina [Mr. BYRNES] offers an amendment to strike out the committee amendment in lines 20 to 23, inclusive, on page 56.

Mr. McNARY. Mr. President, what would be the percentage required if the present language were eliminated?

Mr. BYRNES. If this language should be eliminated, the existing law—which was adopted in May of this year, only 60 days ago—would prevail. That law provides that the processing tax, when levied upon cotton, shall be payable 90 days after the filing of the processor's report—

Provided, That, under regulations to be prescribed by the Secretary of the Treasury, the time for payment of such tax upon cotton may be extended, but in no case to exceed 6 months from the date of the filing of the report.

All I wish to do is to retain the provision of the existing law, which was approved 60 days ago, to which only now the manufacturers are beginning to adjust themselves.

Mr. McNARY. The language of the committee amendment is "75 percent of the." What effect has that language on the bill which was passed a few days ago, which touches wholly upon the agricultural product of cotton?

Mr. BYRNES. This does not affect anything except the language I have just read, which is contained in the agricultural appropriation bill, which provided for the collection of the processing tax upon cotton 90 days after the filing of the processor's report. The committee amendment to the bill now pending provides that 75 percent of the tax shall be payable within 90 days, meaning that 25 percent is payable immediately. That is the object of the amendment, as I am advised. I am asking that the existing law be retained—the language of the agricultural appropriation act approved in May of this year.

Mr. FLETCHER. Mr. President, a parliamentary inquiry. The VICE PRESIDENT. The Senator will state it.

Mr. FLETCHER. Subparagraph (b) on page 56 is a committee amendment, and it was reported to the Senate as a committee amendment. It was agreed to. The vote by which the amendment was agreed to has been reconsidered. Therefore, the committee amendment is now before the Senate.

The VICE PRESIDENT. The Senator from Florida is correct.

Mr. FLETCHER. There is no need to make a motion to strike it out. The question is simply whether the Senate shall agree to the amendment.

The VICE PRESIDENT. The Senator from Florida is correct. The question is on agreeing to the committee amendment on page 56, lines 20 to 23, both inclusive.

The amendment was rejected.

The VICE PRESIDENT. The question is on the engrossment of the amendments and the third reading of the bill.

Mr. BAILEY. Mr. President, I desire now to offer an amendment which I filed and had printed several days ago, providing for the control of the production of potatoes.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed to insert at the proper place in the bill the following:

TITLE —

SECTION —. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "rice" a comma and the word "potatoes" and by adding at the end of said section 11 a new sentence, as follows: "As used in this title, the term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*."

SEC. 3. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "tobacco", in both the second and third sentences of said subsection, the words "and potatoes."

TITLE —

DEFINITIONS

SECTION 4. When used in this title, unless the context otherwise requires—

(a) The term "person" includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means a collector of internal revenue.

(d) The term "sale" includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

(e) The term "allotment year" means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

(f) The term "change in the form of potatoes" means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(g) The term "tax stamp" means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

(h) The term "tax-exemption stamp" means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from the tax has been established.

(i) The term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.

(j) The term "producer" means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

(k) The term "continental United States" means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

(l) The term "operator" means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

(m) The term "farm" means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land.

IMPOSITION OF THE TAX

SEC. 5. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That where there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof.

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 12 of this act) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

(c) At least 30 days prior to the beginning of each allotment year after the first allotment year, the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer shall be entitled to one vote for each 60 pounds of potatoes apportioned to him pursuant to sections 8, 9, and 10 hereof for the last allotment year for which such apportionments were made. If one-third of the votes cast in such referendum are cast in opposition to continuing such taxes in effect, the provisions of this title shall not be operative with respect to potatoes produced during such succeeding allotment year.

(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section, will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal-revenue collections.

(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The Commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

ALLOTMENTS

SEC. 6. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least 30 days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919-July 1929 without reducing the total net income of potato producers from potatoes below the largest probable net income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall for each allotment year, be apportioned by the Secretary of Agriculture as hereinafter provided.

SEC. 7. When a quantity is determined in accordance with section 6 of this act, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the 4 years in which the highest potato acreage was harvested in such State in the years 1927 to 1934, inclusive, multiplied by the average yield per acre for the 4 years that the yield of potatoes per acre for such State was highest

in the years 1927 to 1934, inclusive, multiplied by the average annual percentage of the crop produced in such State during the years 1929 to 1934, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing practices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 per centum of the quantity of potatoes determined in accordance with section 6 of this act may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

SEC. 8. Ninety-five per cent of the quantity of potatoes apportioned to any State pursuant to section 7 of this act shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932 to 1934, inclusive. Such apportionment to any farm shall be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any 2 or more years during the years 1932 to 1934, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

SEC. 9. Not in excess of 5 percent of the quantity of potatoes apportioned to any State pursuant to section 7 of this act shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 8 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 8 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 8 of this act.

SEC. 10. If an apportionment is made to a farm under section 9 of this act for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 9 of this act but shall be made from the quantity available for apportionment under section 8 of this act.

SEC. 11. For the purposes of the apportionments to be made pursuant to sections 7, 8, 9, and 10 of this act, the District of Columbia shall be considered as a part of the State of Maryland.

SEC. 12. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 8, 9, and 10 of this act: *Provided*, That under such regulations as the Secretary of Agriculture shall prescribe he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 5 of this act for the amount of potatoes stated on the face of each such stamp.

(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each

such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 5 of this act upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant, or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area, (2) speculation in tax-exempt stamps, or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exempt stamps.

Sec. 13. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to and/or use by the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year of the tax-exemption stamps which have been or would have been issued to such deceased person for such allotment year.

PACKAGING

Sec. 14. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 5 of this title, all potatoes harvested on and after December 1, 1935, and sold in the continental United States during any period such tax is in effect shall, in accordance with such rules and regulations as the Commissioner with the approval of the Secretary of the Treasury shall prescribe, be packed in closed and marked containers to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner with the approval of the Secretary of the Treasury may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of such tax. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 5 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

RULES AND REGULATIONS

Sec. 15. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancelation, destruction, and

disposition of tax stamps and the cancelation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

Sec. 16. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

Sec. 17. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced or sold may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records, or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 1 year, or both.

REFUNDS

Sec. 18. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within 1 year after the date of payment of such tax, penalty, interest, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this act alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of 6 months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of 2 years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within 2 years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within 90 days after such disallowance, notify the taxpayer thereof by registered mail.

(c) The amount of the taxes imposed by subsection (a) of section 5, paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

APPROPRIATION

Sec. 19. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, for refunds of taxes and for other payments under this act. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected during a period following any such estimate not in excess of 4 months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 33 of this title, collected upon potatoes coming from the possessions or territories of the United States, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid in the treasuries of the said possessions and territories, respectively, to be used and expended by the governments thereof for the benefit of agriculture.

(b) The Secretary of Agriculture is hereby authorized to expend, out of the sums available to the Secretary of Agriculture under the Agricultural Adjustment Act, as amended, such sums as may be necessary for administrative expenses, for refunds of taxes, and for other payments under this title.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of references, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

(d) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this act, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

(e) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses for refunds of taxes, and for other advances or payments under this act.

GENERAL AND PENAL PROVISIONS

Sec. 20. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection

(a) of section 5 of this act would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 14, and from the taxes imposed by subsection (a) of section 5 of this act until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

SEC. 21. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

SEC. 22. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act and to establish regional, State, and local committees and associations of producers of potatoes.

(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this act, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of this section 22 of this act, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

SEC. 23. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than 1 year.

SEC. 24. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than 1 year's imprisonment, or both.

SEC. 25. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon. Any revenue officer may destroy the tax stamps or tax-exemption stamps upon any emptied potato package.

SEC. 26. Any person who willfully violates any provision of this title, or who willfully fails to pay when due any tax imposed under this title, or who with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession, any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this title without destroying the tax stamp and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding 6 months, or both.

SEC. 27. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a

special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200.

SEC. 28. All provisions of law, including penalties applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926, except section 1121 of the Revenue Act of 1926, and except section 614 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of the act, be applicable with respect to all taxes imposed by this act.

SEC. 29. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who changes the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

SEC. 30. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change of form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than 2 years after such sale or change of form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

EXPORTS

SEC. 31. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 5 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

IMPORTS

SEC. 32. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 5 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 5 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929-34, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary under section 6 of this act is of the annual average of the quantity of potatoes sold in the continental United States during the years 1929-34, inclusive; and

(b) Allot the quotas provided for by subsection (a) to the importers of such potatoes in the United States in such manner as he may deem fair and equitable, having due regard to the respective amounts of potatoes imported during the years 1932-1934, inclusive, by such persons.

SEC. 33. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or imported prior to release from customs custody and control, or entry into the continental United States.

SEC. 34. During any period the tax imposed by subsection (a) of section 5 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States.

SEC. 35. The provisions of sections 32 and 35 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens or results in, unduly depressing the potato market in or

for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 32 and 33 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

Mr. BORAH. Mr. President, how many pages are there in this amendment?

Mr. BAILEY. There are about 30 pages in the amendment.

Mr. BORAH. I do not care to take the time to read it, but I should like to ask some questions about it.

Mr. BAILEY. I was about to explain the amendment, if the Senator will permit me to do so. If then there shall be questions, I shall be glad to answer them.

Let me say, in the first place, that I desire to modify the amendment on page 4 by striking out one sentence beginning with the words "The term" on line 21.

The VICE PRESIDENT. The Senator has a right to modify his amendment.

Mr. BAILEY. This amendment has been approved by the Committee on Agriculture of the House of Representatives. It was introduced in the House by Mr. WARREN, of North Carolina. It has also been approved by the Committee on Agriculture and Forestry of the Senate; and I request that the chairman make a statement indicating that he accepts the amendment.

Mr. SMITH. Mr. President, this matter came up, and after investigation by the committee it was approved by all the members present. There was almost a full committee membership present.

I think the terms of the amendment are proper, and that it should be agreed to in order to protect the potato growers of this country, who, perhaps more than the producers of any other necessary food element, have been the victims of a manipulated market.

Mr. BORAH. Mr. President, I understood that the Senator was about to explain the amendment. I wish to ask a question or two about it. Does the amendment provide for a processing tax?

Mr. BAILEY. No; it does not.

Mr. BORAH. Or a reduction of acreage?

Mr. BAILEY. Yes; a reduction of production on the basis of acreage.

Mr. BORAH. How is the allotment made?

Mr. BAILEY. The allotment is to be made equally amongst the States and the producers of potatoes on the basis of production in certain years. I read from page 2 of the committee hearings:

The crop year is the 12-month period beginning December 1, but the first crop year is to begin 100 days after the effective date of the act and end November 30, 1935.

The basis for allotment to States and in turn to growers is as follows: The 3 years of highest acreages of potatoes in each State in the period 1927-33 are averaged, and the 3 years of highest yields per acre in the same period are also averaged. These two averages are multiplied and the result is again multiplied by the percentage of the crop which was actually sold by growers in the State during the years 1929-33. This State figure is then compared with a similar figure from all other States. On the basis of these figures the percentage of sales for each State for a given total allotment shall be figured.

From a total allotment for any year for the country as a whole, 2 percent may be deducted and used to adjust allotments between States which might otherwise be unfair.

Allotments to individual growers shall be made upon application by the grower, but may be made by the Secretary of Agriculture when no such application is made by the producer. This allotment by the Secretary is based upon a fair period of any 2 or more years within the years 1929 to 1933, inclusive. Such allotments shall be uniform for all producers similarly situated. Provision is made for making allotments to producers operating farms other than those operated during the base period and to new producers.

In that sense the bill is more liberal than some bills of similar character heretofore passed here.

Persons not bona fide producers of potatoes are excluded from allotments. State and local committees may be established to aid in the equitable distribution of allotments.

The whole principle of the bill is the principle of the Kerr-Smith Act which passed the Senate last year by unanimous agreement.

Mr. BORAH. What act?

Mr. BAILEY. The Kerr-Smith Act with reference to tobacco. The tax is imposed upon the crop of the farmer, but

he is remitted the tax to the extent of the allotment he receives.

While the amendment seems to be long, that is the gist of it. All the rest of it is mechanics, analogous to the mechanics of the Kerr-Smith Act, but not analogous to the mechanics of the Bankhead Act, the mechanics here being much improved, as I see, by reason of the experience; first, under the Bankhead Act and, second, under the Kerr-Smith Act.

Now, if the Senator from Idaho has any further question to ask, I will be glad to yield to him.

Mr. BORAH. Is this what is known as the "Warren bill" originally?

Mr. BAILEY. That is correct; this is the Warren bill.

Mr. BORAH. I am somewhat familiar with it.

Mr. BAILEY. Mr. President, I should like to state the arguments for this amendment before I yield to further questions, as my time is limited to 15 minutes under the rule. Under the Cotton Control Act and the Kerr-Smith Act, with reference to tobacco and the provision with reference to peanuts—

Mr. KING. Peanuts!

Mr. BAILEY. The Senator from Utah makes a remark with reference to peanuts, but I wish to say that the provisions with respect to peanuts have had a very good effect in North Carolina. At any rate, under the operation of the Crop Control Act, farmers have continually been driven from cotton, tobacco, and peanut production, as well as the production of other crops, and have gone into the production of potatoes. It is an act of simple justice, practical justice, regardless of the questions that might be raised, constitutional or otherwise, to give the producer of potatoes some sort of protection against the operations of the other control acts. So I make my plea for this amendment and I have submitted it because of the considerations of practical justice to a very great number of potato farmers on our coast, I am sure, all the way from Florida to Maine. I do not think we can avoid the force of the appeal for practical justice in the matter.

The effect of the overproduction of potatoes in this country in the season just now coming to an end, beginning on the 1st day of May or the 15th of April and ending about now, is just this: Potatoes have been produced to such an extent that the price of potatoes in the State of Maine fell to 15 cents a barrel, and I may say rather gratefully to the State of Maine and to the Senators from Maine that the North Carolina farmers certainly appreciated the fact that the farmers of the State of Maine dumped, destroyed 7,000 carloads of their last year's potatoes without any reward whatever. I think the Senators from Maine will corroborate my statement.

There is, Mr. President, such a thing as producing farm commodities to such an extent that they are worth nothing. That is the justification for the control program. Certainly we cannot afford to limit the number of farmers producing cotton and induce them to go into the production of potatoes or something else that is not protected; limit the number of farmers going into tobacco or peanuts or other crops and drive them all over into the potato field. So that is the argument for the amendment, and I hope the Senate will adopt it.

Mr. BORAH. Mr. President, I quite agree with the Senator that the effect of crop-control legislation has centered largely upon potatoes, and that it seems necessary, if other control acts are to continue, that potatoes should receive the protection which it is supposed they will have under this proposal. However, I was going to ask, can the Senator from North Carolina advise us as to what extent the acreage of potatoes has been increased in the last year or two?

Mr. BAILEY. Yes; I have the data up to 1934, but I do not have them for the present year. There was an increase of about 100,000 acres in 1934. The acreage in 1933 was 3,194,000, and in 1934 it was 3,303,000 acres. That is an increase of a little more than a hundred thousand acres; the crop increased from 320,000,000 bushels to 385,000,000, and the price fell from 82.3 cents a bushel to 50 cents a bushel. That

was in 1934. I do not have the data for this year, because this year is not yet finished, and I could not possibly expect to have them.

While I am speaking on this point, I will send to the desk, and ask to have published in the RECORD, two exhibits which I have received from the Department of Agriculture.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

United States total acreage, production, season weighted average farm price of potatoes, and farm value, 1927 to 1934

Year	Acreage	Production	Farm price per bushel ¹	Total farm value ²
	1	2	3	4
	1,000 acres	1,000 bushels	Cents	1,000 dollars
1927.....	3,166	386,813	108.9	461,637
1928.....	3,469	425,626	57.2	243,458
1929.....	2,973	327,652	131.5	430,862
1930.....	3,030	332,693	91.5	304,414
1931.....	3,366	372,994	46.4	173,069
1932.....	3,379	357,871	39.5	141,359
1933.....	3,194	320,203	82.3	263,527
1934 ³	3,303	385,287	50.0	192,644

¹ Weighted average season prices.

² Farm value obtained by multiplying production in column 2 by prices in column 3.

³ Data for 1934 are preliminary.

Source of data: Columns 1 and 2: U. S. Department of Agriculture, Bureau of Agricultural Economics, Crop Reporting Board. Mimeographed Reports, July 15, 1933, Feb. 4, 1935, and Apr. 2, 1935. Column 3: U. S. Department of Agriculture, Bureau of Agricultural Economics, Crops and Markets, 1935. Column 4: Column 2 times column 3.

Monthly farm prices of potatoes, 1933 and 1934 seasons

Month	1933-34 season	1934-35 season
July 15.....	97.9	66.9
Aug. 15.....	131.0	68.0
Sept. 15.....	100.8	62.8
Oct. 15.....	74.9	49.0
Nov. 15.....	68.8	45.9
Dec. 15.....	69.4	45.4
Jan. 15.....	77.2	46.1
Feb. 15.....	87.7	45.2
Mar. 15.....	92.0	43.6
Apr. 15.....	83.4	49.1
May 15.....	73.7	44.1
June 15.....	64.4	40.9
Weighted average ¹	82.3	50.0

¹ Crop year average prices, by States, weighted by production to obtain weighted averages for the United States, 1933-34.

² Preliminary.

Source of data: United States Department of Agriculture, Bureau of Agricultural Economics, Crops and Markets, 1935.

Mr. BAILEY. I will reserve whatever time I have left remaining on this amendment.

Mr. McADOO, Mr. POPE, and Mr. HALE addressed the Chair.

The VICE PRESIDENT. The Chair had agreed to recognize the Senator from California.

Mr. McADOO. Mr. President, I should like to call up for consideration the amendment which I sent to the desk on July 10 concerning citrus fruits of California.

The VICE PRESIDENT. The Chair will state there is an amendment now pending, that offered by the Senator from North Carolina.

Mr. McADOO. I beg pardon.

Mr. POPE. Mr. President, in reference to the amendment which has just been offered by the Senator from North Carolina [Mr. BAILEY], I wish to insert in the RECORD certain communications I have received from potato growers in my State in favor of the amendment, which, as I understand, is the same as the Warren bill introduced in the House. I wish to read one telegram which I think is rather typical of those I have been receiving from my State in favor of this bill. It is signed by a very prominent citizen of my State, Mr. Joseph Andresen, of St. Anthony, Idaho, which is in the heart of the Idaho potato growing section. Mr. Andresen in his telegram says:

IDAHO FALLS, IDAHO, July 6, 1935.

JAMES P. POPE,
Washington, D. C.

Meetings potato growers held Caldwell, Twin Falls, Pocatello, Idaho Falls, St. Anthony, and other places. Growers voted practically unanimous favoring Warren bill. Unreliable dealers refilling Idaho branded bags with potatoes grown in other States. We feel passage of Warren bill necessary to stop this practice.

JOSEPH ANDRESEN.

Also I have a letter from Mr. Ezra T. Benson, extension agricultural economist in Idaho, who speaks of having attended potato meetings practically all over the State.

Mr. McCARRAN. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Nevada?

Mr. POPE. I yield.

Mr. McCARRAN. In view of the fact that the Senator could not be heard very distinctly where I am sitting, let me ask him if he refers to a certain bill known as the "Warren bill"?

Mr. POPE. Yes; the Warren potato bill, as it is called, which was introduced in the House of Representatives.

Mr. McCARRAN. I wonder if the Senator would care to explain to those of us who probably do not understand it what that bill is?

Mr. POPE. The Senator from North Carolina has just explained his amendment, which is practically the same as the Warren bill, which was introduced in the House of Representatives. A similar bill was introduced by the Chairman of the Committee on Agriculture and Forestry in the Senate. The House bill was reported favorably by the committee of that body, and the Senate bill has been favorably reported by the Committee on Agriculture and Forestry. The Senator from North Carolina just explained it.

Mr. McCARRAN. Just one other question. Does that bill limit acreage?

Mr. POPE. I will say to the Senator that both bills to which I have referred, which are the same as the amendment offered by the Senator from North Carolina, make provision for allotments to potato-growing States upon a formula set out in the bill, which implies allotments to the individual grower. Roughly, the formula provides that the quantity of potatoes sold in the market and used and consumed in other ways shall bear a certain relation to the quantity of potatoes which are grown, and the allotment will be determined with reference to the relation between the quantity of potatoes which are used and the quantity of potatoes which are grown throughout the United States.

Mr. McCARRAN. I should like to propound one more question to the Senator. I do not care to take up his time, but should like to ask this question, in order that the situation may be clarified. Would that provision limit a farmer who is producing potatoes for the use of his own farm? I have known such a rule. I did not think it was within the province of the law.

Mr. POPE. My interpretation is that if the potatoes are grown for the use of the farmer himself for food for his family or for his livestock or other such purposes, there is no limitation. The limitation relates to the acreage on which potatoes are produced for sale in the market.

Mr. McCARRAN. I should like to illustrate to the Senator what I mean. As participating owner of a farm in eastern Nevada we have laid down to us the rule that we could only plant, that is, only seed, a limited number of acres. When we assured those in authority that we were only going to use our potatoes for our own consumption, had none for sale—and the fact is we never have sold any—we were told that we could not do it; that we had to go outside and buy potatoes at some place; and we left our land vacant accordingly.

Mr. POPE. Was it under a marketing agreement under the Agricultural Adjustment Administration?

Mr. McCARRAN. It was a rule.

Mr. POPE. As I understand, there have been only one or two marketing agreements attempted in the case of potatoes, and they have failed.

Mr. McCARRAN. If I may interrupt the Senator again—and I hope he will pardon me, but I only do so for the Senator's enlightenment and not to interfere with his remarks—the same rule has been applied in another instance. We work probably 50 teams on that farm. We never sold a pound of oats, but we produced, or tried to produce oats for our own teams. We have been told that we cannot seed the land we owned to oats with which to feed our own teams, because it would exceed the quota.

Mr. POPE. I desire to submit one or two further observations. I was about to quote from Mr. Benson, who is well known in my State. He said:

From my observation, I believe that the program will be approved and receive the full cooperation of the growers of Idaho.

I ask to have his letter inserted in the RECORD as a part of my remarks, together with another letter including a resolution adopted by the potato growers at Idaho Falls, Idaho, in favor of the bill, and also a resolution adopted by the same growers at the same place on February 26.

There being no objection the letter and resolutions were ordered to be printed in the RECORD, as follows:

UNIVERSITY OF IDAHO,
Boise, March 1, 1935.

HON. D. WORTH CLARK,
Member of Congress,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN CLARK: I acknowledge with appreciation receipt of the 10 copies of the Warren potato bill which you sent me. In view of the intense interest in this program in Idaho, I will be very happy to receive additional copies of this bill and any current information indicating recent developments.

You will be interested to know that we raised this question of potato adjustment program with the growers at two leadership week programs at Burley and Rexburg. At Burley a vote was taken which indicated, with the exception of one grower, unanimous approval of the program. The group at Rexburg also seemed to be strongly in favor of a program of this nature.

From my observation, I believe that the program will be approved and receive the full cooperation of the growers of Idaho.

I will appreciate your keeping this office on your mailing list to receive any current information pertaining to this or any other agricultural programs.

With very best wishes, I am, sincerely yours,

EGRA T. BENSON,
Extension Agricultural Economist.

IDAHO FALLS, IDAHO, February 28, 1935.

HON. JAMES P. POPE,
United States Senator, Washington, D. C.

DEAR SENATOR POPE: A resolution concerning the Warren potato bill was mailed you yesterday. This resolution was submitted as a result of the unanimous approval of the following motion at a meeting attended by 85 representative Bonneville County potato growers at Idaho Falls.

"That this meeting go on record as favoring a reasonable control measure for regulation of the production and marketing of potatoes by making potatoes a basic commodity as proposed in the Warren bill; and that a committee of two growers be appointed to act with C. J. Carlson, chairman, along the lines proposed in this motion to draft resolutions and transmit them to our congressional delegation, the Agricultural Adjustment Administration, Secretary of Agriculture Wallace, the State Department of Agriculture, and others deemed advisable."

Other growers in Bonneville County were assembled at a second meeting held in the evening of the same day in the New Sweden section of the county. Thirty-five growers attended and endorsed unanimously the action taken at Idaho Falls and the resolution submitted you yesterday.

Bonneville County potato producers are solidly behind the proposal. One hundred twenty men, representing every potato-producing section of the county, have voted their approval. We urge that you use all the power at your command to secure passage of the proposed bill.

Sincerely yours,

CHAS. J. CARLSON,
A. H. BEASLEY,
W. L. SHATTUCK,
H. W. ARNOLD,
Bonneville County Potato Growers Committee.

IDAHO FALLS, IDAHO, February 26, 1935.

Whereas the potato industry of the United States has been in an unprofitable condition for several years past; and

Whereas the Congress of the United States is endeavoring to strengthen the position of the potato industry through the introduction of the Warren bill which is now before Congress: Now, therefore, be it

Resolved by the potato growers of Bonneville County, Idaho, That we favor the passage of the said Warren bill in such form

as to regulate the production and marketing of potatoes in the United States by making potatoes a basic commodity under the administration of the Secretary of Agriculture.

Respectfully submitted.

CHAS. J. CARLSON,
W. L. SHATTUCK,
A. H. BEASLEY,
Committee.

Mr. POPE. Mr. President, I desire now to submit a few remarks in reference to the potato situation. Potatoes are raised in 48 States in the Union. It is the fourth largest crop produced in the United States. Potatoes comprise an important cash crop to about 3,000,000 farmers. The crop is strictly national, because no potatoes are exported and only an insignificant quantity are imported. The potato industry is not subject to any kind of control or regulation except, I might say, with reference to one or two attempted marketing agreements, but by reason of the peculiar character of the industry those agreements were not adaptable to it.

Mr. KING. Mr. President, will the Senator yield?

Mr. POPE. I yield.

Mr. KING. Who attempted to prescribe the marketing agreements and to enforce them along the lines suggested by the Senator from Nevada [Mr. McCARRAN]? Where was their authority?

Mr. POPE. Such marketing agreements as were attempted were initiated by the growers themselves, as they are in every instance. The Secretary of Agriculture testified before our committee that no marketing agreement was ever approved by him or made effective without an overwhelming number of growers and those interested in making application to him for it.

Mr. KING. Was the potato declared to be a basic commodity and therefore subject to the A. A. A.?

Mr. POPE. It is not a basic commodity, but it is subject to the marketing-agreement provision of the A. A. A.

Mr. KING. Under the A. A. A. may any commodity grown upon a farm be subjected to a marketing agreement according to the will of the A. A. A.?

Mr. POPE. Only those which are included in the law itself.

Mr. KING. That is what I understood, and potatoes are not included.

Mr. POPE. Vegetables, soybeans, and so forth are enumerated in the law itself.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. POPE. Certainly.

Mr. BAILEY. May I call attention to the fact that in the bill there are provisions for a referendum after the first year's trial and then to require two-thirds of those affected to carry on the program; that is, one-third can prevent it after a year's trial.

Mr. POPE. That is true. Whether the act shall be effective will depend upon a two-thirds majority of the growers themselves.

The 1934-35 crop was one of the most disastrous in the history of the industry. Potato farmers produced over 385,000,000 bushels, a surplus of 65,000,000 bushels over the amount produced in 1933, according to figures I have received from the Department of Agriculture. The potato farmers are receiving—mark this, Mr. President—about \$160,000,000 for the total crop of 385,000,000 bushels, which is about \$64,000,000 less than the amount received for the 1933 crop.

The growers of late potatoes are receiving approximately \$40,000,000 less than the actual money spent in producing the crop for the year 1934. The average price of the 1934 crop of potatoes raised in Maine was 20 cents a bushel. I understand they are selling now for about 5 cents a bushel. In Michigan the average price of the 1934 crop was 28 cents a bushel, in Wisconsin 29 cents, in Colorado 55 cents, and in Idaho 49 cents. Sixty cents per bushel may be regarded as a fair price for potatoes, and it can thus be readily seen why the 1934 crop is so disastrous.

It is interesting to note that the years 1928, 1931, and 1932, as well as the year 1934, were depressing years for the po-

tato farmer. Keep in mind all the time that about 3,000,000 farmers—in other words, about half the whole number of farmers in the United States—are engaged in growing potatoes for cash income. The year 1929 was a good year. In the years 1930 and 1933 the potato farmer was barely able to receive the cost of production. The average annual production for the 4 bad years of 1928, 1931, 1932, and 1934 were 395,000,000 bushels. The average receipts were \$174,000,000.

During the 3 years 1929, 1930, and 1933, in which the farmer got by, the average annual production was 336,000,000 bushels, and the average receipts were \$330,000,000. In other words, during the 4 best years the farmers produced an average of about 60,000,000 bushels more of potatoes and received an average of \$156,000,000 less per year. This shows what the economy of abundance has done for the potato farmer.

It has been repeatedly said that while potato farmers were suffering from low prices, the consumers were getting the benefit of them. This is true only to a very limited extent.

That is a very interesting thing with reference to the matter of the consumption of potatoes. Whether we have a good year, as we had in 1929, or a bad year, as we had in 1928, the amount of potato consumption varies very little. For instance, in 1932, when farm prices for potatoes were low and the receipts were only \$126,000,000, one would think the consumption of potatoes would be large, but there was only an average amount of potatoes used. The amount consumed was 207,000,000 bushels in the United States. In 1933, when the price of potatoes was better and \$224,000,000 was received for the crop, the amount consumed was 205,000,000 bushels.

The fact is that the consumption of potatoes varies very little from year to year. One reason is that the consumer pays almost as much for potatoes when the price to the farmer is low as when the price to the farmer is fair.

The VICE PRESIDENT. The time of the Senator from Idaho has expired on the amendment.

Mr. POPE. Very well; I shall take a few minutes of my time on the bill.

I have noted here in Washington that the price of Idaho potatoes this year at the grocery store is almost as high as it was last year, yet the prices received by the farmers in Idaho this year are considerably less than they were last year. The reason for this seems to be that charges for transportation and middlemen's profits are such as to make the price to the consumer about the same from year to year.

Therefore, in my State something must be done in order to regulate the supply of potatoes. The amendment now submitted by the Senator from North Carolina [Mr. BAILEY] has the approval of the potato growers of my State as the best thing that has been suggested or proposed to take care of the matter of surplus. It is said that if about 40,000,000 bushels of potatoes could be taken off the market each year, or the amount of production could be decreased that much, then we could have fair prices for our potatoes. That is the purpose of the amendment, and I am very strongly in favor of it, and, so far as I can tell, almost 100 percent of the potato growers in my State are likewise in favor of it.

Mr. HATCH. Mr. President, I send to the desk an amendment to the pending potato amendment, which I ask to have stated; and in explanation of my amendment I send to the desk resolutions from one of the counties of New Mexico, which I desire to have read.

The VICE PRESIDENT. The Senator from New Mexico offers an amendment to the amendment of the Senator from North Carolina [Mr. BAILEY], which will be stated.

The CHIEF CLERK. In the amendment of Mr. BAILEY it is proposed to add a new paragraph, as follows:

Provided, That any State which has never produced potatoes in any single year in excess of 720,000 bushels shall be excluded from the operation of this act, and all amendments thereto, insofar as the same relate to potatoes, their production, control, and regulation.

Mr. HATCH. Mr. President, I now ask to have the resolutions read.

The VICE PRESIDENT. Without objection, the clerk will read the resolutions.

The Chief Clerk read as follows:

RESOLUTIONS OF COLFAX COUNTY POTATO GROWERS ASSOCIATION

Whereas the yield of potatoes in New Mexico falls far short of the actual needs in the State and it is not likely that potato production will ever affect the outside market; and

Whereas due to the extreme drought in certain areas of the State many growers have not been able to plant or grow their usual crop of potatoes; and

Whereas there is much land in mountain areas on which potatoes alone can be raised with any certainty, and to curtail the production of this crop would be very unfair to New Mexico farmers: Therefore be it

Resolved, That the potato growers of Colfax County, N. Mex., in assembly on March 27, 1935, resolve that:

1. New Mexico be excluded from the Warren Potato Act or any acts governing the sale or production of potatoes.

2. That New Mexico be allowed to produce at least sufficient potatoes to supply the State needs or approximately one and one-half million bushels.

3. That because of shortage of potato production in New Mexico farmers would not benefit from any such legislation.

4. That the cost of administering the Potato Act in New Mexico, where the acreage is small and the growers scattered over a large area, would far exceed any benefits.

Mr. HATCH. Mr. President, in explanation of this amendment, I will say that the resolutions which have just been read from Colfax County, N. Mex., have been in substance adopted by each and every county in New Mexico where potatoes are grown.

I have nothing to say about the regulation of potatoes in other States. I know nothing about the conditions in those States and would not seek to impose any restrictions or regulations upon the people in States which desire to come within the provisions of this act, but in the State of New Mexico we do not raise anything like the amount of potatoes we consume. The potato growers in our State are opposed to the Warren Potato Act and desire to be excluded from it. The production is small. The amendment I have suggested will not, I believe, injuriously affect any other State.

I will ask the Senator from North Carolina if he has any objection to this particular amendment.

Mr. BAILEY. Mr. President, I regret to differ with the Senator. I think his amendment would do very great injury to the whole plan contemplated in the amendment I have offered. The policy of exempting States on the basis of 720,000 bushels of annual production, and turning them loose to produce all they please while the other States are being restrained, would constitute an inequality, and, I think, would render the whole proposal unconstitutional.

If we are to have a program about cotton, tobacco, wheat, or any other farm product that I know of, we do not except particular States. We make the program universal. It applies to all people and all States. I see no reason why we should make an exception.

The Senator's State will have a perfectly square deal. It will have precisely the same ratio that other States have. The allotment will be the same. There will be no possibility of his State suffering under this amendment. The State of New Mexico will have its allotment on a percentage basis, and, I am satisfied, will have all it can produce.

Mr. HAYDEN. Mr. President will the Senator yield?

Mr. HATCH. I yield.

Mr. HAYDEN. If a States does not produce enough potatoes to supply the local demand, it seems to me it makes a very different picture than where the State is an exporter of potatoes. That is the situation both in my State and in New Mexico.

Mr. BAILEY. An amendment might be framed along those lines; but this amendment is on the basis of 720,000 bushels of annual production. A proviso might be framed that where a State does not ship potatoes in interstate commerce, and produces potatoes only for consumption within the State, it shall be excepted; but the moment we move into that we raise other questions of constitutionality.

On the other hand, the amendment I have proposed is fair. It is on a percentage basis. It is just as fair about potatoes as it is about wheat. We make no distinction in that regard.

Mr. KING. Mr. President, will the Senator yield?

Mr. HATCH. I yield to the Senator from Utah.

Mr. KING. The Senator has come to the wrong forum. The States, and State rights, have no place for appeal here; and the State of New Mexico must subject itself to the overlordship of the Federal Government.

Mr. HATCH. If the Senator from Utah will permit me, I will ask the Senator from North Carolina to listen while I dictate an amendment which will take the place of the one I have just offered, which I think will meet the views expressed by the Senator from North Carolina.

Mr. President, I modify my amendment as follows:

Provided, That no State shall be subject to the provisions of this act which State does not produce sufficient potatoes to supply the consumption within that State.

Mr. BAILEY. There we have the question of producing sufficient potatoes. A State might not produce sufficient potatoes for local consumption, and at the same time might ship a great many potatoes in competition with the States which are controlled.

Mr. HAYDEN. If the Senator will stop to think about the matter, he will realize that that would not be possible on account of the high freight rates.

Mr. HATCH. That could not be done from the Mountain States.

Mr. BAILEY. I would not say that the potatoes could be shipped far. I realize, however, that the question of freight rates is not a very important one in these days of trucks.

Mr. HATCH. I will say to the Senator from North Carolina that the fact of the matter is that we consume in the State of New Mexico about a million and a half bushels each year, and we produce less than 700,000 bushels.

Mr. BAILEY. With a low freight rate by means of a truck system, I think a State may ship potatoes in interstate commerce notwithstanding the fact that it does not produce all it consumes.

Mr. HATCH. Mr. President, the Senator from Washington [Mr. SCHWELLENBACH] has called my attention to the necessity of a change in the modified amendment; so I offer the following in lieu of the one previously offered by me:

Provided, That any State which produces less potatoes than are consumed within such State shall be excluded from the provisions of this act in so far as the same relates to potatoes, so long as such State produces annually less potatoes than are consumed therein.

I think there is nothing further to be said on the amendment, Mr. President. The situation is perfectly clear. It is simply this:

In New Mexico we produce less potatoes than we consume; and under that condition our people do not feel that there should be any curtailment or regulation of the production of potatoes within the State.

I submit that the amendment I have offered to the amendment of the Senator from North Carolina should be adopted.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from New Mexico [Mr. HATCH] to the amendment of the Senator from North Carolina [Mr. BAILEY].

Mr. KING. Mr. President, I find myself in disagreement with the Senator from North Carolina [Mr. BAILEY], who has been such an able defender of the rights of individuals and of the States, as well as of constitutional government. If I understand him, he is defending his amendment because legislation has been enacted dealing with cotton, wheat, peanuts, and a few other commodities, the result of which it is claimed has been to drive farmers, when they were restricted in the production of the commodities referred to, into the production of potatoes. This to me seems to be a novel and indeed unique ground upon which to justify his position. It is my recollection that some of the Senators from the cotton-growing States urged, when the Agricultural Adjustment Administration bill was under consideration, that cotton be declared a basic agricultural commodity and that the drastic provisions found in that measure were essential in order to make effective the policy which they were supporting. In other words they supported the plan of reducing

the number of acres and of restricting the number of bales of cotton to be produced. Their contention was that it was necessary to increase the price of cotton and that objective could be reached only by materially reducing the production.

It was obvious that such a policy would make available lands which had produced cotton, for other purposes. It was not supposed that these lands would remain fallow or revert to their native state. It must have been evident that other agricultural crops would be grown upon these lands, and it must be said in passing that the reduction of the acreage devoted to the production of wheat and corn would make available the lands withdrawn from wheat and corn production for utilization in the production of other crops. It is now complained that some of the former cotton lands are now devoted to the production of potatoes, and therefore the Government must declare potatoes to be a basic agricultural commodity, and apply to potatoes a similar system of regimentation and control that is applied to cotton. Under this amendment the number of acres devoted to the production of potatoes is to be restricted. The complaint is that there are too many potatoes grown in the United States, and it is therefore imperative that the crop be materially reduced in order that the consumers may be compelled to pay higher prices for this indispensable food product.

May I say in passing, that, in my opinion, we have embarked upon an unsound economic policy, which in the end will result not only in disappointment but will prove injurious. We are adopting a policy which contravenes economic laws and which has proven injurious whenever and wherever it has been tried. We may not take the flattering unctious to ourselves that this is a brand-new policy conceived for the first time by master minds, by men whose knowledge of economics and the practical and material things of life is so comprehensive and profound as to command universal acceptance without criticism or consideration.

This policy has in various ages—some of which we call the "Dark Ages", and in periods where autocratic power determined the lives, if not the thoughts, of subjects—been imposed upon the people. Powerful bureaus and great armies of officials were charged with the enforcement of decrees, rules, and regulations relating to the lives and conduct of individuals and communities. A system of regimentation was applied, not only in governmental affairs but in private concerns. Wages and prices were prescribed by the governing authority, and every conceivable rule formulated and enforced that would destroy the initiative and self-reliance of individuals, and reduce them to mere automatons in the social, economic, and political life of the Government.

When the Agricultural Adjustment Act was enacted it was declared that it was an emergency measure; but there is some evidence tending to prove that it will be expanded and its life prolonged. The amendment before us is corroborative of this statement, and we may expect at the next session of Congress to find measures offered to bring other commodities—perhaps carrots and cabbages and lettuce and tomatoes and all kinds of fruits and vegetables—under similar provisions as those found in the A. A. Act and in the pending bill. It may be said then, as it is said now, that the acreage which was devoted to potatoes having been restricted, the owners planted other crops—including carrots or cabbages or lettuce, or what not—upon the same land and that the production of these commodities was increasingly great, and that they must be subjected to control of the A. A. organization, and to the limitations and prescriptions to be found in the A. A. Act. Marketing agreements will be required until all agricultural products, including fruits, will be subjected to the overlordship of the Department of Agriculture.

We are now witnessing a most remarkable spectacle. The able Senator from New Mexico, which is a sovereign State, is compelled to appeal for the right of the people of his State to produce the potatoes which they need for their own consumption. It was supposed that this was a free country; that the States were sovereign and that they could determine their own internal and domestic affairs. I suggested a few moments ago that the Senator apparently had come to

the wrong forum for the protection of the rights of his own people, as it seemed evident from the attitude of the Senate that his appeal would be denied. I suggest that it is most extraordinary for the Congress of the United States to say what the people of New Mexico, or any other State, shall produce, and to impose upon the people of that and other States restrictions, regulations, and rules which interfere with individual rights and with local self-government.

We are adopting a system of regimentation under which the conduct of individuals, communities, and States is prescribed.

We are conferring authority upon Federal agencies to formulate rules and regulations which are to be applied to the control of individuals and communities with respect to their private and domestic affairs, and these rules and regulations have penal provisions so that infractions of the same will call for fines and imprisonment, or both.

Mr. President, I cannot help but believe that some of these measures which we are adopting are taking us and our country in the wrong direction and that the temporary and apparent benefits derived therefrom will be but slight compensation for the multitude of evils that are sure to follow.

The people of this Republic have courage and those fine qualities which build great nations and raise the people to high standards of civilization. We do not need regimentation; more than a million Federal officials and scores of bureaus and agencies to supervise our lives and conduct. The American people love freedom; not only political and civil liberty, but economic liberty.

As I stated a few moments ago, the policies which some persons are suggesting and attempting to put into effect have been applied where governmental tyranny prevailed but they did not and could not stand the rising tide of independence and liberty and individualism; and so policies which many suggest and which may obtain in our own country that are contrary to our conceptions of justice and freedom will pass away. The American people will assert themselves and demand that they shall have the right to order their own lives and conduct their own affairs so long as they do not interfere with the rights of others.

Mr. HALE. Mr. President, I should like to say that this amendment did not originate in my State. It is purely a southern proposal. My people are in favor of it, however, because they are in a very desperate situation. We think this is the only possible relief in sight for us.

The potato crop in the United States for 1934 reached three hundred and eighty-five-odd million bushels, some 70,000,000 bushels more than the 1933 crop, and thirty-odd million bushels more than the average crop of the country for the past 15 years. Few white or Irish potatoes are exported from this country. The national consumption of potatoes for food, and sold away from the farm, is in the neighborhood of 190,000,000 bushels. The home consumption on the farms is about 64,000,000 bushels. The seed consumption on the farms where grown is 32,000,000 bushels, and where sold outside, 8,000,000 bushels. Shrinkage in crop from waste and unfitness amounts to about 30,000,000 bushels.

Adding these items together, we find there is normally required a potato crop of 324,000,000 bushels instead of the 385,000,000 in the 1934 crop. A surplus of production of even a very few million bushels naturally breaks the market price, and a great overplus, like that of the year 1934, comes very near spelling ruin to the potato farmer.

In the years when the potato crop has been large the market price paid has been low. In years when it has been small, the market price paid has invariably been high. The average price all over the country for the year 1934 was less than one-half of the average price for the past 15 years, and the percentage of the parity price on potatoes for the past 6 months is far below that of any other agricultural commodity.

In my State it costs from 35 to 40 cents to raise a bushel of potatoes. With a third of our crop still unsold and on our hands, we are getting for potatoes at the present time,

as has been said, from 10 to 15 cents a barrel, or less than 5 cents a bushel.

The effect of the emergency farm-relief legislation has been to increase the potato crop. Not only has the acreage increased, but through aids which the farmers have been enabled to get from the various emergency administrations the yield per acre has gone up, and that accounts in part for the surplus in this year's crop.

We see no outlook for the immediate future unless we can get some relief, and we are faced with an even larger crop this year than was produced last year. Potatoes have not before been made a basic commodity. This amendment makes them a basic commodity. As the able Senator from North Carolina has explained, the pending amendment, which has the very general approval of our potato growers, makes potatoes a basic commodity and provides a stamp tax on all first sales of potatoes, provides a fair allocation to each State based on former sales, and provides tax-exempt stamps up to the allotment on sales made.

Mr. President, our people are willing and ready to try the experiment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from New Mexico [Mr. HATCH] to the amendment of the Senator from North Carolina [Mr. BAILEY].

Mr. SHIPSTEAD. May we have the pending amendment stated?

The PRESIDENT pro tempore. The clerk will state the pending amendment.

The CHIEF CLERK. It is proposed by Mr. HATCH to add the following proviso to the amendment offered by Mr. BAILEY:

Provided, That any State which produces less potatoes than are consumed within such State shall be excluded from the provisions of this act, insofar as the same relates to potatoes, so long as such State produces annually less potatoes than are consumed therein.

Mr. BAILEY. Mr. President, I desire to be heard in opposition to the proposed amendment to my amendment.

The proposed amendment to the amendment is the first of all the amendments offered in the Senate since the agricultural program was started in 1933 by way of excepting any portion of the American people or any State from the operations of the act. In North Carolina we did not ask to be excepted from the operations of the act respecting wheat. We produce about six or seven million bushels of wheat in our State. We consume probably a great deal more than we produce. But we accepted the rule as one for the entire country.

In North Carolina we did not ask to be excepted from the corn and hog program. We considered it a national program. No Senator heretofore, and, so far as I know, no Member of the House of Representatives, has asked for an exception to the operation of the national policy with regard to crop production and crop control.

If we begin making exceptions, we will set a precedent which will justify exceptions all the way along the line. We cannot excuse ourselves on the ground that potatoes are a small crop. Irish potatoes constitute one of the major crops in the United States.

Mr. LONG. Mr. President, the Senator does not leave out sweetpotatoes, does he?

Mr. BAILEY. Sweetpotatoes are not in the bill. There is a Latin expression the Senator will find in the measure, which I am sure the Senator will understand, and he will see that that does not include sweetpotatoes.

Mr. President, what I wish to drive home is the thought that if we are to have a national policy in the agricultural program, this is the time to see to it that we do have such a program, and if we are to drive holes in the national policy, if we are to let North Carolina be excepted from the program as to wheat, or from the program as to hogs, and some other State excepted from the program as to cotton, and so on all the way around—and there are vegetables and fruits to be considered—if we are to have exceptions, then we will destroy the whole philosophy and the entire value of the legislation.

Mr. BANKHEAD. Mr. President, will the Senator yield?
Mr. BAILEY. I yield.

Mr. BANKHEAD. Is not the enforcement of the proposed legislation to be based upon the taxing power in the Constitution of the United States?

Mr. BAILEY. Yes.

Mr. BANKHEAD. I call the Senator's attention to section 8, which provides that:

All duties, imposts, and excises shall be uniform throughout the United States.

Mr. BAILEY. I may say to the Senator that I just mentioned that the amendment would seriously involve the constitutionality of the legislation. I think it is more important, and really a more valid argument, to direct the Senator's attention to the first effort to create exceptions to the application of the agricultural policy.

Suppose North Carolina should come tomorrow and ask to be excepted from the wheat program. We would have the same right the Senator from New Mexico has to have his State excepted. If we were excepted as to wheat, some other State would get excepted as to hogs. We heard no complaint about State rights with respect to wheat in Utah or with respect to sugar in Utah. We have been proceeding on a national policy.

Now as to the other question: If we leave 10 or 12 or 20 States free from the application of the act, the effect will be to induce them to increase their crops, and the whole purpose of the policy will be destroyed. So I must protest. In the name of the national policy and in the name of the effectiveness of this control I beg that the amendment offered by my good friend the Senator from New Mexico be voted down.

Mr. HATCH. Mr. President, I am somewhat surprised at the statements which have just been made in this Chamber to the effect that the Agricultural Adjustment Act contains no exceptions, and that here is a national policy applicable to all alike. I beg to disagree with my distinguished and able friend from North Carolina. There are exceptions contained in the Agricultural Adjustment Act. There are exceptions contained which relate to States. There are exceptions contained in the pending amendments which are many times more vital, and may I say more absurd and ridiculous, than the exception which I have offered here in the interest of the people of New Mexico.

When I say some of these provisions are absurd and ridiculous when it comes to exceptions, I mean exactly that.

Mr. BAILEY. Mr. President, may I interrupt the Senator?

Mr. HATCH. I yield.

Mr. BAILEY. I should like to have the Senator point out where in the entire agricultural policy any State has been excepted from the operation of the act with respect to wheat, or cotton, or tobacco, or fruits, or vegetables, or wherein there has been any exception with respect to the payment of any tax. There may be other exceptions, but, of course, we are talking about exceptions within the category of crop control.

Mr. HATCH. I have in mind long-staple cotton, which is grown in only a few States, and which is excepted.

Mr. BAILEY. That was not excepted from the operation of the act; it was simply not included. I take it the Senator sees the distinction there at once.

Mr. HATCH. I have in mind another exception.

Mr. BAILEY. There were other articles which were not included in the act. That is not an exception of a State, and I am sure the Senator will agree with me in that.

Mr. HATCH. I have in mind another provision which makes an exception, in effect, of certain States, which provision has caused in my State a feeling that New Mexico has been unfairly and unjustly discriminated against in the matter of cotton—a provision which I hope to cure by an amendment which I shall presently offer, which will make another exception as to certain States.

I will refer to this particular provision contained in the original Bankhead Cotton Act:

That no State shall receive an allotment of less than 200,000 bales of cotton if in any 1 year of 5 years prior to this date the production of the State equaled 250,000 bales.

That is the language of the Bankhead Cotton Act.

Mr. BAILEY. May I ask the Senator from New Mexico whether that was not a favor to his State, rather than a discrimination? Other States were reduced pro rata; but where the State's production was low, an effort was made in the act to see to it that there was no corresponding pro rata reduction. I think that was a favor to the Senator's State.

Mr. HATCH. The figures were placed so high in that provision that the State of New Mexico was excluded from any benefit whatever under that act and under the amendment. The people of my State feel that it was an unjust and an unfair discrimination against them, and it has brought more criticism against the Bankhead Act than any other provision.

That, however, was an exception. I merely desire to point out one of the other exceptions I had in mind—an exception which the Senate made just the other day which is to my mind most incongruous, to say the least, when there were included in the bill vegetables and fruits, and then, at the request of the processors, the canners, the people who can send a lobby to come here and fight for their interests—the Senate excluded canned fruits and canned vegetables. That has in it an exception many times more far-reaching than the exception I ask.

Mr. BAILEY. I can see that canned goods are in a category by themselves. There are a great many articles which are not within the bill. My point is that once an article is in the bill there is no discrimination.

Mr. HATCH. Very well. We had just excluded canned fruits, and then we came back to the subject and put in olives and asparagus. Fruits are on the same basis; and there are many other provisions in the bill that make exceptions.

Mr. BAILEY. Mr. President, I am sure the Senator knows that all olives are on the same basis, and the argument here is that all potatoes are on the same basis.

Mr. HATCH. That was not the Senator's argument in the first place. He was not talking about individual things, but about States; and he was saying that there were no exceptions whatever under this measure—none at all; that it was just one broad general measure without exceptions.

Mr. BAILEY. Let me say in my defense that I meant to say that there is no exception in a given category. We were talking about the categories. I take it everybody understood that I meant that. There are exceptions in the bill here and there; but my point is that there is no exception of any State with respect to wheat or cotton or tobacco or anything else, and putting in an exception with respect to potatoes will open the door.

Mr. HATCH. Mr. President, after all, perhaps all discussion as to exceptions is beside the mark.

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. HATCH. I yield.

Mr. FLETCHER. I inquire of the Senator how this amendment would affect the States where potatoes are grown in the wintertime; for instance, where they mature before May or June? Florida produces a great many potatoes. They are a winter crop.

Mr. HATCH. The amendment I have offered relates to the annual production, not to any seasonal production.

Mr. FLETCHER. How would that affect a State where potatoes are grown only in the wintertime?

Mr. HATCH. I do not think it would make any difference at all. Of course, there were other exemptions, such as citrus fruits, and one which was referred to in the committee which related to Florida alone.

After all, that is beside the point. There is but one proposition covered by my amendment, and it is simply this:

The State of New Mexico produces far less potatoes each year than we consume. Why should we be put under a curtailment program when we have to import potatoes into the State?

Mr. BAILEY. Mr. President—

Mr. HATCH. Pardon me; I am speaking under limitation of time, and there are some other matters I wish to touch upon before I conclude.

In New Mexico we have 78,000,000 acres of land. We have only about 1,000,000 acres of land in cultivation. We have rich valleys and fertile plains which can and should be put under cultivation, and which should produce crops of different varieties, such as cotton, which we are now prevented from producing because of the operations of the Agricultural Adjustment Act. We have no complaint of that. I have steadfastly sponsored and favored the actions of the Department of Agriculture in furthering agriculture in the United States, and I wish to say that, in my opinion, they have done a good job. They have done it well. The farmers have been benefited, and there is no criticism of the general program so far as concerns basic commodities. I believe in it.

However, I further believe, Mr. President, that that is a program which can be sponsored only as a temporary one. It cannot be considered as a permanent thing; and being from a Western State which has new lands and rich lands which need to be put under cultivation, I say that our salvation will not come from curtailment, but we must have expansion.

I desire to say that that thought is not contrary to the principle which today is actuating the Secretary of Agriculture. I have talked with him, and I know that he understands perfectly that our problem today is not so much a problem of overproduction as of underconsumption, and that whenever our people have their purchasing power restored to a point where they can buy the necessities of life in the way of food and clothing we shall not have a great agricultural problem.

I am informed that when that time shall come we can put into cultivation in the United States at least 50,000,000 acres more than are now under production and under cultivation; and that is the permanent program which we in the West speak for, and should strive for. To me, it seems perfectly reasonable and perfectly logical that in a State such as mine, which produces potatoes in such small quantities, so much less than we annually consume and import, our people should be encouraged to continue the cultivation and the development of that crop.

Mr. President, I submit the amendment as reasonable. It is fair and it is just. I hope it shall be agreed to.

Mr. LONG. Mr. President, I have only 15 minutes for a very important amendment which is intended to be offered, and I desire to have an opportunity to speak a little longer than 15 minutes. However, I am so impressed by the remarks just made by the Senator from New Mexico that at this point I wish to bring to the attention of the Senate wherein lies a great deal of the relief which the Senator from New Mexico has mentioned. He said that if we restore purchasing power, so that these people can consume, that will cure a lot of our agricultural troubles.

Mr. President, this bill almost partakes of the nature of a tariff bill. It has gone quite a circuitous course, but it is almost a farm tariff bill as it is now going, and the nearer it gets to a tariff bill the more it can be justified.

Personally, I favor the amendment offered by the Senator from North Carolina, and I do not believe I would injure the amendment by adding the amendment that the Senator from New Mexico talks about. But the amendment which the Senator from Nevada [Mr. McCARRAN] intends to offer, I have been told by him and others, is very necessary. It is not going to be any good to the people down in my part of the country or any other section of this country if, after we have put many provisions in this bill, these reciprocal agreements are going to wipe out all the benefits.

It does not make any particular difference what is in this bill. We may have protection here for the fruits of Florida, or for the cane of Louisiana or Florida, or we may have protection here for wheat, or for meat, for that matter; but, nonetheless, these reciprocal tariff agreements are wrecking this country, whether we pass the present bill or not.

Who is going to pay the prices for these goods? I represent a farm State, and I am presenting this matter to the Senate as a representative of a farm State. Who is going to buy these goods, who is going to pay these taxes, who is going to be able to stand the increased price which is being imposed on agricultural commodities to help the farmer? It cannot be done by the people in the East, or any other part of the United States, who depend upon manufacturing, unless we do something which will protect those people. We are undertaking now to continue to pull agriculture up by adding to the cost of agricultural products; but little has been said in this entire discussion as to where we are going to find a purchasing market for these agricultural products.

The Senator from New Mexico touches on that point. Where are we going to find the market? Is the easterner who finds the Japanese toothbrush taking away the market he had yesterday going to be able to purchase agricultural commodities of the South and West at an enhanced value? Can these commodities be sold to the people of my State, where the Cuban has taken away the market of our sugar refineries? Will it be possible to sell these goods to the man who has depended upon the clothing industry or the shoe industry, when a reciprocal tariff trade agreement has wiped out his business? Is the working man in the pulp mill going to be able to absorb this enhanced cost when we have been making reciprocal trade agreements day after day by which the pulpwood and the refined paper manufactured in foreign countries are closing down the domestic paper mills and paper manufacturing plants? Who is going to buy these things?

The time is coming, Mr. President, when we are going to be faced with our own law. We have an underconsumption, as the Senator from New Mexico points out. There is no overproduction of agricultural products. We do not produce in the United States enough meat to feed the people the meat they should consume; in some years we do not produce enough corn; we do not produce enough milk even now; we do not produce enough milk products. Agriculture is not today producing what America needs to consume, but because of the stagnated market conditions we actually have to impose restricted production upon a public that is already undersupplied. Therefore, the point is, who is going to pay the prices; who is going to absorb these costs?

Evidently we have got to look to somebody who is not engaged in agriculture. Therefore we have got to look to the manufacturing industries of the country; we have got to look to the laborer who must depend upon what this country manufactures to absorb to some extent these enhanced costs. And are we going to pass this bill imposing additional costs upon these people and leave them subject to the hazards that their entire purchasing power, even as low as it is at this time, may be wiped out? That is the problem that I hope the Senate will not fear to face in the consideration of this bill. If that should be done, if we could get back to that proposition, if this is to be an agricultural tariff bill and we are not going to destroy the other man's tariff, if this protection that is being given to agriculture can be made consistent and be given to the remainder of the people so that they may not wake up in the morning and find their market taken away with no such thing as a reasonable chance to protect themselves before the law-making power, then I think this bill might safely be regarded as an agricultural tariff bill, to some extent at least. On that basis, we could afford to support it if we struck from the law the present destructive system by which bureaucratic organizations may fix tariffs, levy taxes, and make or destroy markets at will.

Mr. President, a short time ago the people of my State were met with a manifesto or proclamation coming from Washington because of which they did not know whether it would be any use for them to plant cane from which sugar is made; they did not then know, and we do not now know. We live from day to day not knowing what is liable to be done. We do not know whether we ought to tell our people to go out in the field and prepare the ground so that in the spring-time they may begin to plant a crop of sugarcane.

We do not know what is going to be the ruling; we do not know but what tomorrow morning someone may say to us, "There is not any need for sugar being raised in Florida, there is not any need for the beet crop in the West, there is not any need for the sugarcane crop of Louisiana." We do not know what morning we are going to wake up and be faced with some little bulletin or some announcement telling us that we have got no market and hence no purchasing power whatever to absorb these increased costs. So if we are going to levy these increased costs upon the people, let us make sure that the people are going to be able to buy something. Let us give them a purchasing power, as the Senator says.

Mr. BAILEY. Mr. President—

Mr. LONG. I yield to the Senator from North Carolina.

Mr. BAILEY. The Senator refers to bringing about an increase in the purchasing power of the people. What does he say about bringing about an increased purchasing power on the part of the farmers?

Mr. LONG. I am for that, too.

Mr. BAILEY. Does the Senator know of any way other of doing that than the way we are now following?

Mr. LONG. Yes; I know a way other than that which we are now following.

Mr. BAILEY. Has the Senator proposed a bill?

Mr. LONG. Yes; I have proposed a bill.

Mr. BAILEY. What bill is that?

Mr. LONG. The share-the-wealth bill. Back to the Lord. [Laughter.]

Mr. BAILEY. Yes; that is the universal remedy.

Mr. LONG. In other words, there are three remedies, back to the Lord, back to the Constitution, and back to me. [Laughter.]

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Kentucky.

Mr. BARKLEY. In the estimation of the Senator, which of that famous trio—the Lord, the Constitution, and "me"—is the most important?

Mr. LONG. Excluding my association with the Senator from Kentucky, I do not think it makes much difference.

Mr. BARKLEY. Which I am willing to do at all times. [Laughter.]

Mr. LONG. For the information of my friend from Kentucky and my friend from North Carolina, and in a serious vein, we have approached this matter from an entirely wrong viewpoint. Never should we have said to a people undernourished, never should we have said to a people in a land that produces too little to eat—not enough meat, not enough milk, not enough butter, not enough flour, not enough corn—never should we have said we are going to embark on a policy that will restrict production in a land whose people are undernourished. It was wrong in the beginning, and the whole philosophy of the bill is wrong, topside and bottom.

It is the only thing we can get; it is not a question of taking the best. We have been confronted by these fancy and fanciful schemes, one after the other, none of which have any fundamental basis of justice to support them. It is about the only thing that we can get; we are in a horse-swapping game trying to protect ourselves in what is going on. It is almost a tariff juggling proposition, and I myself am a tariff juggler in that sense, and so are about 95 percent of the other Members of the Senate with whom I am intimately acquainted, although none of them will admit it. [Laughter in the galleries.]

The PRESIDENT pro tempore. The Chair will admonish the occupants of the galleries that it is against the rules to indulge in laughter or demonstrations of any kind or in talking in the galleries. It may become necessary to close the galleries if the rules of the Senate are not obeyed.

Mr. LONG. Mr. President, when the original bill was before the Senate I declared I had no idea of supporting it. However, they put silver in the bill, put in a provision enhancing and expanding the currency, and I became a supporter and voted for the bill to get what I thought might be some expansion of the currency.

The same course seems to be taken about this bill now. Let us go the whole route now; let us agriculturalists be consistent. The only trouble is that half the time we cannot get the easterner to vote for anything except what affects the East; we cannot get the westerner to vote for anything except what affects the West; and we cannot get the southerner to vote for anything except what immediately affects the South. My friend from Michigan, after all the learned speeches he has made for the tariff, rose here yesterday when there was a tariff proposed to protect cotton and voted against the cotton tariff; and so all the southerners, after all their talk that they wanted free trade, the minute the proposition came up of putting a tariff on rayon and keeping down the competition with cotton, voted for a tariff on rayon. So, every one of us is a tariff man, but each is for a tariff on what affects particularly the section with which he is immediately concerned. So let us put in this bill at the proper time the McCarran amendment, and let this bill say what it means. Let the Congress make the exceptions and the exclusions under this bill and not have them made by reciprocal tariff agreements.

The PRESIDENT pro tempore. The question is on the amendment proposed by the Senator from New Mexico [Mr. HATCH] to the amendment offered by the Senator from North Carolina [Mr. BAILEY].

Mr. TRAMMELL. Mr. President, the amendment proposed by the Senator from New Mexico [Mr. HATCH] should be rejected. It provides that a State shall be excluded from the provisions of the pending measure if the State produces less potatoes than are consumed by it. Since this question arose I have not had an opportunity to secure the statistics as to crop production in my State, but in Florida we produce a large quantity of potatoes which are marketed in a period of from 6 to 8 weeks. As to whether or not in my State within the period of 8 weeks the production would exceed the consumption for a period of 12 months is a serious question. We produce and sell in the markets throughout the country during a period of 2 months a large quantity of potatoes. Then, for the remaining 10 months of the year, we purchase potatoes from other sections of the country.

I should dislike very much to see the pending legislation crippled in any such way, as it probably would be by the amendment proposed by the Senator from New Mexico. That would probably be the result in many States in which during only a certain part of the year at particular seasons are marketing operations carried on, and in which for the entire year the production may be less than the consumption, although during the particular marketing period of 2 months, as an illustration, they produce far more than they consume. Such States would be precluded from the benefit of the provision offered by the Senator from North Carolina. The amendment offered by the Senator from New Mexico is so hazardous as to many of the States that I am very much opposed to having it attached to the general amendment proposed by the Senator from South Carolina.

Mr. FLETCHER. May I interrupt my colleague?

The PRESIDENT pro tempore. Does the Senator from Florida yield to his colleague?

Mr. TRAMMELL. I yield to my colleague.

Mr. FLETCHER. I wish to call attention to the fact that the potatoes produced in Florida are produced at a time when they are not produced anywhere else in the country, and the production in 1933 was 2,232,000 bushels.

Mr. TRAMMELL. That is very true. They are produced at a time when they are not being produced in other States, and to that extent are not competitive, of course, although they are competitive so far as the total quantity produced in the United States is concerned. I do not think that our State would desire by the test proposed in the amendment offered by the Senator from New Mexico to be precluded entirely from the provisions of the general amendment submitted by the Senator from North Carolina.

Mr. WHITE. Mr. President, I hope the amendment offered by the Senator from New Mexico [Mr. HATCH] to the amendment offered by the Senator from North Carolina

[Mr. BAILEY] will not prevail. The amendment proposed by the Senator from North Carolina looks to a limited and controlled production of potatoes; the amendment offered by the Senator from New Mexico looks in just the opposite direction. It is utterly impossible, in my view, Mr. President, to assert and undertake to put into effect a uniform system of control throughout the United States and then to permit a single State to escape from the burden or the privilege, whichever it may be, of such control. If 1 State is to be excepted, why not 10 States; and if 10 States, why not 20 States? That statement, it seems to me, reduces to an absurdity the proposition that we may have control of this great crop and permit exceptions of any State or of any number of States from the operation of the law.

Mr. President, may I say just a brief word in behalf of the amendment of the Senator from North Carolina?

Mr. McCARRAN. Mr. President, will the Senator yield? I do not want to take the time of the Senator from Maine.

Mr. WHITE. I hope the Senator will not do so. I yield.

Mr. McCARRAN. During the course of his discussion, will he consider this question? Perhaps he was absent from the Chamber when I brought it up a little while ago.

Where within any given State there is perchance a farming unit which desires to produce for its own consumption only and under the rules in force under the provisions of the bill and those administering the act say "You cannot do it; we are going to limit your acreage;" what would the Senator suggest?

Mr. WHITE. If I understand the amendment of the Senator from North Carolina it does not reach potatoes raised for individual use at all, but reaches only those potatoes raised for commercial purposes.

Those who have studied the problem have testified that there are only three possible approaches to a solution of the difficulties which confront the potato growers of the United States. There are some 3,000,000 farmers raising potatoes and they live in every State of the Union. Their situation is critical. Their distress is great.

The experts who have testified say one possible method of approach is through marketing agreements. They add that it has been demonstrated with respect to the potato crop that marketing agreements are not a practicable solution of the difficulty confronting the farmer and that it would require radical changes in existing law if marketing agreements were to be made effective.

A second possibility, so they tell us, is through the making of potatoes a basic commodity and by the imposition of processing taxes. The experts say as to this that we cannot with any success apply the principle of processing taxes to the potatoes of America, because there really is no processing in connection with the growth and sale and use of potatoes. So they have come, I think with almost complete unanimity, to the belief that the application of the principles of the Kerr-Smith tobacco bill to the potato crop is the only way in which the benefits which are accorded the other basic agricultural commodities may reach and may inure to the potato growers and the potato crop.

I am not particularly familiar with the situation throughout the whole United States, but I know the situation in my own State where one county raised last year more than 57,000,000 bushels of potatoes, and where they have dumped on the ground this year potatoes to the extent of 10,000 carloads, and where potatoes have brought to the growers a price ranging lately from 10 to 15 cents a barrel, if they have been able to sell them at all.

It seems to me the suggestion made by the Senator from North Carolina is most helpful and one giving the largest measure of promise of benefit of any that has been brought to my attention. I hope his amendment will prevail.

Mr. SMITH. Mr. President, I do not want to delay the matter, but, as chairman of the committee, I hope the amendment proposed by the Senator from New Mexico [Mr. HATCH] will not be adopted because the distressing condition in which the potato market finds itself calls upon this body to do what it can to relieve the situation. We have worked out a plan which has appealed to a majority of the

committee and I hope will appeal to a majority of the Senate.

Mr. McCARRAN. Mr. President, before the Senator from South Carolina takes his seat may I ask him a question in keeping with what I understand to be the policy of the Senator from New Mexico [Mr. HATCH]?

Mr. SMITH. Certainly.

Mr. McCARRAN. Where a State provides only sufficient potatoes for its own consumption and perhaps less than sufficient for its own consumption, should not the spirit of the amendment of the Senator from New Mexico prevail? In other words, if the Senator says "no", then he would say that New Mexico, if it produces less than its normal consumption of potatoes, must go into the market and buy under conditions to be imposed under the bill.

Mr. SMITH. All of us are thoroughly familiar with the fact that we cannot legislate for exceptions. There has to be a rule. I know that in the administration of the law certain very imperative and extraordinary conditions may be met. It may be, as the Senator from Florida [Mr. FLETCHER] pointed out, that there would be a period when New Mexico would desire to market a part of the potatoes she produced, while later on she would have to buy some for home consumption.

I am quite sure, in view of the fact that New Mexico raises so few potatoes, perhaps not enough for home consumption, that her Senators would not stand in the way of rendering effective a law which would affect a vast number of our people who produce that upon which perhaps a greater number of American citizens depend than on any other form of our production. It is almost a complete food. I hope the Senator from New Mexico will understand that those of us who are opposing his amendment are opposing it in an effort to obtain the greatest good for the greatest number.

Mr. HATCH. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from New Mexico?

Mr. SMITH. Certainly.

Mr. HATCH. Certainly we should not criticize the chairman of the committee for taking the attitude he does. However, I cannot agree that the adoption of my amendment would injuriously affect the program at all.

The question I desire to ask the Senator from South Carolina is this: He just stated that a majority of the committee approved the amendment of the Senator from North Carolina. As I recall, and if I am in error I shall be glad to be corrected, it is true that this particular potato bill was presented to our committee at the time we were considering the A. A. A. amendments, when we were considering committee amendments, and we decided at that time not to include the Warren potato bill, and when the A. A. A. amendments came to the Senate Chamber from our committee this amendment was not included and had been voted down in the committee?

Mr. SMITH. Yes; but there was no protest against the Warren bill. The length of the bill as an amendment and the fact that a great many members of the committee had not had an opportunity to study it was the determining element. Subsequently the matter was gone into exhaustively by different members of the committee, and it was agreed that if it was brought up here it would be accepted, because all of us who had made a study of it recognized that in justice to the potato growers of the country there should be some aid extended to them, and the Warren bill and the amendment introduced by the Senator from North Carolina [Mr. BAILEY] seemed to be the only method by which the situation could be controlled for the benefit of the producer.

There is no need for me to repeat what the Senator from Maine [Mr. WHITE] has already said. There is no processing in connection with potatoes. The potato goes directly from the producer through the channels of trade to the consumer without any intervening processing to render it available to the ultimate consumer.

Mr. HATCH. Mr. President, unfortunately I was unable to be at the subcommittee meeting when the bill was discussed, or I should have presented the amendment at that time. In fact, I did not know it was going to be discussed or considered by the committee further after it had once been voted down. The Warren bill does suggest a program for control and regulation of potato production. It would seem to be a complete and comprehensive program.

Mr. SMITH. Yes; it is almost in line with the tobacco-control bill. It is almost identical.

Mr. HATCH. But it eliminates, does it not, all question of the right of the potato grower to vote on the matter?

Mr. SMITH. No; I do not think so.

Mr. WHITE. It requires the Secretary of Agriculture to conduct a referendum, and it requires a two-thirds vote in order to make the program effective.

Mr. HATCH. But if 33 1/3 percent should vote against the program, they, nevertheless, would be compelled, by the terms of the measure, to come within its provisions.

Mr. BAILEY. That is as in the Bankhead Act.

Now, let me ask the Senator from New Mexico a question. Would the Senator be willing to vote for an amendment to the pending measure, excepting from the application of the Agricultural Adjustment Act the State of North Carolina, if it should show that it did not produce exceeding 12,000,000 bushels of wheat last year? That is a fair question.

Mr. HATCH. I should be perfectly willing, for this reason: No individual producer is compelled to come within the wheat program. It is purely a voluntary arrangement. The humblest citizen of North Carolina can step from within the provisions of that program if he so desires; and I say to the Senator from North Carolina that if any of his people do not wish to enter into a contract with the Government for the control of wheat, they have the right to say so.

Mr. BAILEY. So the Senator from New Mexico would vote to except North Carolina from the program on wheat if its production did not exceed the amount I have stated? Is that correct?

Mr. HATCH. I should be perfectly willing to have the Senator's State have what it desires, one way or the other. That is correct.

Mr. BAILEY. Then, after voting for exceptions State by State, agricultural product by agricultural product, in what sort of shape would the A. A. A. be when we got through with it?

Mr. HATCH. I will answer the Senator by saying that I am intensely anxious for the A. A. A. program to prevail and to succeed; but, more than that, I am anxious for the rights of individual Americans to stand—

Mr. BAILEY. I will agree with the Senator as to that.

Mr. HATCH. And let them determine for themselves whether or not they shall come within a program.

Mr. GLASS. How can both happen? [Laughter.]

Mr. HATCH. I will say to the Senator from Virginia that both have happened in the wheat program.

Mr. BAILEY. But I asked the Senator in what sort of shape that would leave the A. A. A. program. He speaks of individual rights. He did not tell me what the consequences of this course would be. Now I ask him if it would not shoot the A. A. A. full of holes.

Mr. HATCH. I believe not. It has not done so in the case of wheat. The wheat program has been a success.

Mr. BAILEY. North Carolina is not asking to be excepted from the application of the wheat program. I am assuming that every State has something it would wish to except. The Senator will agree that that would shoot the A. A. A. to pieces.

Mr. HATCH. Not necessarily. If the citizens of a State do not wish to come within the program, I do not believe they should be compelled to enter it.

Mr. BAILEY. Any part of it?

Mr. HATCH. Yes, sir.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from New Mexico [Mr. HATCH] to the amendment of the Senator from North Carolina [Mr. BAILEY].

The amendment to the amendment was rejected.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from North Carolina [Mr. BAILEY].

The amendment was agreed to.

Mr. McCARRAN. Mr. President, I offer the amendment, which I send to the desk and ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. At the end of the bill it is proposed to insert the following new section:

SEC. —. No foreign trade agreement entered into after the date of enactment of this act under the provisions of section 350 of the Tariff Act of 1930 shall become effective until ratified by the Senate in the manner provided in the Constitution.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Nevada.

Mr. McCARRAN. Mr. President, first of all, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Connally	King	Pope
Ashurst	Coolidge	La Follette	Radcliffe
Austin	Costigan	Logan	Reynolds
Bachman	Davis	Loneragan	Robinson
Bailey	Dickinson	Long	Russell
Bankhead	Donahey	McAdoo	Schall
Barbour	Duffy	McCarran	Schwellenbach
Barkley	Fletcher	McGill	Shipstead
Bilbo	Frazier	McKellar	Smith
Black	George	McNary	Steiwer
Bone	Gerry	Maloney	Thomas, Okla.
Borah	Gibson	Metcalf	Townsend
Brown	Glass	Minton	Trammell
Bulkley	Guffey	Moore	Truman
Bulow	Hale	Murphy	Tydings
Burke	Harrison	Murray	Vandenberg
Byrd	Hastings	Norbeck	Van Nuys
Byrnes	Hatch	Norris	Wagner
Capper	Hayden	Nye	Walsh
Caraway	Holt	O'Mahoney	Wheeler
Carey	Johnson	Overton	White
Chavez	Keyes	Pittman	

The PRESIDENT pro tempore. Eighty-seven Senators have answered to their names. A quorum is present.

Mr. McCARRAN. Mr. President, for several days, if I correctly interpret the present condition and activity of the Senate of the United States, we have been trying to legislate to build up and promote production in this country. We have been trying, first of all, to see to it that he who produces from the soil shall have guaranteed to him the cost of production. Then, again, industry in its various forms has been enlisted, so that those engaged in any line of industry in this country shall not be discouraged as they enter into engagements. Behind that, and in keeping with the present law, we have that which has sought to inject itself into this country, known by the term of "internationalism."

Mr. President, we are either going to be internationalists or we are going to be nationalists. If we are going to indulge in the great utopian theory of being internationalists, then indeed we may take our guidance from the past, because whenever we have sought to become internationalists we have lost. Will Rogers expressed it in homely terms when he said that we have never lost a battle and never won a conference.

Internationalism is merely something that we have cultivated within our own midst, but when we come to deal with foreign countries we find that nationalism is the thing which is uppermost. Witness the situations which have grown out of the reciprocal trade agreements.

The greatest reciprocal trade agreement, that which is most boasted of by the State Department, is that with Cuba. If I were to read to the Senate the results of the Cuban agreement, we should find America the loser from beginning to end.

Then there was the Brazilian trade agreement. I am not referring to them in order, but as they come to my mind. What was the result of the Brazilian trade agreement? First of all, Brazil, although we offered the trade agreement to her, has not yet accepted it by act of her congress. So

she was not very much won by it. But the Brazilian trade agreement would have struck down industry in 22 States of this Union. I say it would have struck down industry in 22 States of this Union, and I refer to them as the States of the West, and the East, and the South. In the manganese industry alone it would have stricken from the pay rolls of 22 States of the Union thousands upon thousands who would have had to go on the relief rolls.

Manganese comes from the West. Naturally, when a Senator who is from the West rises here, it is thought he is fighting for the West. But let the great New England States look into their production of manganese. Let Arkansas look into her production of manganese. Let Virginia look into her production of manganese. The great South is equally affected by this agreement.

The Golden West—California, Oregon, Idaho, Montana, Arizona, New Mexico—every one of those States will have to put more men and women on the relief rolls if the Brazilian trade agreement shall go into effect, and our State Department is urging that it shall go into effect.

Then what is to be done in the great States which produce matches, an industry in which some 25,000 or 30,000 human beings are today making their living and supporting their dependents? Senators who are listening to me today are interested in that very problem. Every match factory of this country will be closed down if the Russian trade agreement shall continue in effect, for, as I understand, it has already gone into effect.

Again let me refer to a matter about which we did not think when we voted for the act which is permitting this thing to be done. I am one who voted for it, and it is the one regrettable thing in my short career in the Senate. I voted for it, and I am sorry I did, but I voted for it because there were those out in the lobby who were telling me that there would first be hearings before these agreements would be entered into.

The correspondence in my office will show that I have asked time and again, "Why cannot we be advised when agreements as to products which affect the life of our respective States are negotiated? Can we not be advised so that we may bring the best information before the State Department?"

I was told that was not possible. I am not now quoting literally; I am giving the substance. I was advised it was not possible because it would bring a flood of opposition. Naturally it would. Would not the match-producing States oppose admitting Russian slave-made matches into this country to destroy the domestic industry? Would not the manganese-producing States oppose anything that would bring in manganese to close down the mines of this country?

Mr. President, I have but 15 minutes, and I must of necessity skim over the argument. We appropriated \$4,800,000,000 of the taxpayers' money to take those on relief off the relief rolls and put them to work. How can we carry out the spirit and policy of that great law, the greatest appropriation ever made by any nation in the history of the world, if, while we are trying to take people off relief at the same time we are turning others out of employment? And we are doing that every day and every hour so long as the reciprocal trade agreements go into existence as they now are proposed.

Mr. President, I shall now deal with another phase of the question.

Mr. SCHALL. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield for a question.

Mr. SCHALL. I did not know but that the Senator might like the information that in my State the farmers are having trouble in getting help to shock their grain, yet 1 out of 5 is on relief. Also, I wish to state what is apropos to this discussion, that the match deal with Russia has thrown out of employment about a thousand people in my State.

Mr. McCARRAN. I do not wish to be rude to the Senator from Minnesota, but my time is limited.

Mr. President, the organic law provides that before a treaty shall become effective it shall be passed upon and

ratified by the Senate of the United States. Let us deal with that phase of the question.

Into the reciprocal trade agreements as they have been promulgated the Secretary of State has read the provision of the most-favored-nation clause. Therefore, the Secretary of State has read into the reciprocal-trade agreements the very meaning that they are treaties. As a matter of fact, it did not require the action of the Secretary of State to convince me of that situation when it was handled as it has been. They are treaties between the respective countries, and being treaties, this body alone has the right to ratify them. So we set aside our constitutional oath-bound prerogative when we provided that the State Department should control this matter without one word of dictation or guidance from the Senate.

Assuming that I might be wrong in my theory, in my idea, which theory and idea have been supported by the Secretary of State, let us assume that this is a revenue matter. If it is a revenue matter, it belongs in the Congress of the United States, under the organic law, and, belonging in the Congress of the United States, should arise in the House of Representatives.

I defy anyone to get away from either one of those two dilemmas. It is either a treaty and belongs here—

The VICE PRESIDENT. The time of the Senator on the amendment has expired.

Mr. McCARRAN. I have 30 minutes on the bill. As a matter of parliamentary procedure, I ask the Senator from Arkansas, in keeping with the agreement, may I divide my 30 minutes? May I take 15 minutes now?

The VICE PRESIDENT. As the Chair understands the Senator's parliamentary inquiry, he cannot divide his time on the bill. He may divide his time on an amendment.

Mr. ROBINSON. Mr. President, I think the Chair, in answer to the inquiry addressed to me by the Senator from Nevada, has correctly interpreted the unanimous-consent agreement.

The VICE PRESIDENT. The agreement provides that a Senator shall speak only once on the bill and 15 minutes on any amendment.

Mr. VANDENBERG. Mr. President, I suggest to the Senator that he take his 30 minutes on the bill first.

Mr. McCARRAN. Very well. There is nothing more serious before the American people today than the amendment I have offered here, which must be considered by the Senate. I say there is nothing more serious because, tax ourselves as we will, tax every agriculturist, whether he be a rancher or a farmer, as we will, in the long run, if we open the gates to importations which destroy the very life of the farmer; why tax him any further? He is taxed to death now; he is gone.

Mr. President, we cannot afford to open the gates of this country to the products of Russia; and why can we not? Need I go into sophistry? I hope to avoid it. I want to discuss only facts. I might, if I saw fit to go into a sophistical argument, say that they did not deserve any consideration from us, but I am not going to touch upon that. I am going to refer to something which touches the heartstrings of industry of this country, that is, that labor, which has persisted through 50 years of struggle in this country in the effort to maintain a wage structure, cannot compete with the slave labor and the imprisoned labor of Russia. Neither can labor in America compete with the inhabitants of the steppes of Russia, who do not know that there exists another country outside of the little domain in which they live.

That is not all, Mr. President. If we continue with this policy which has been declared by the State Department, under the most-favored-nation clause, then the American laborer must compete with the Japanese laborer, who knows only the Mikado. He does not care any more for the outside world than a Hindu cares for skates. He knows that the Mikado exists, and the Mikado is god to him, and a handful of rice and a mat on which to lie are sufficient for him. Against such labor American labor must compete. American labor, which seeks to support a family and educate little boys and little girls to lead on the world, American labor which wants to know whether or not this Nation

is to continue its leadership in the sisterhood of nations, today pleads with the Senate to adopt this amendment, so that at least the sovereign States of this Union shall have a right to say whether or not a State Department, wedded to a policy of free trade, to which I will never lend myself, and to which I never intended to lend myself, shall tear down the wage structure of this country.

Labor is listening today, listening as it never listened before, because it knows what will happen to it when America shall be flooded with the products of slavery from Russia and the products of the rice eaters of Japan, who know only one god and one nation, and that is the Rising Sun of Japan. I admire them for their nationalism, I admire them for their ideas; but let not America embark upon international Utopianism until that hour of Utopia comes. The sun of Utopia has not yet arisen, and it will be centuries yet beyond before it will arise. Utopia is a beautiful thing. The Brotherhood of Man is a beautiful thing; it is a wonderful thing; it arises from the great heart of America; but America found that she could not bring it about. She sent one of the biggest hearts in the world over to Versailles to bring about the brotherhood of man, and he failed. Now it is proposed to tear down American life; to tear down the wage structure of this country so that there may be imported here under the mandate of one department—the Department of State—every product which will come in competition with the commodities produced by the toilers of America.

I wonder if, as Senators representing sovereign States, we can afford to do other than adopt this amendment? What does it provide? Nothing more than is provided by the organic law, which has come down for 147 years, and has been found basic to our success—that the reciprocal trade agreements shall be submitted to the Senate for adoption before they shall become the law of the land.

What is fairer? What is more frank? Are we to represent sovereign States or are we to resign our constitutional privileges and duties and say, "We delegate this authority to an appointee", with whose appointment all we had to do was to confirm—an appointee who may go out 2 years from now and walk away while you and I, representing the life of sovereign States must go on if we have any ideas in keeping with the things that we believe best for those sovereign States.

Mr. President, with all the seriousness that I ever possessed, with all the ideas I have for the uplift of my country, with all the motives inherent to me to maintain a fair wage scale in this country and not allow the wage structure to be torn down, I submit this amendment.

Mr. ROBINSON. Mr. President, it does not appear to me that this amendment, or the reciprocal-tariff act which it proposes to repeal, involves either the question of internationalism or free trade or the destruction of fair-wage scales in the United States.

It seems to me the argument submitted by the able Senator from Nevada [Mr. McCARRAN] discloses the misconception that is sometimes placed on the Reciprocal Trade Agreement Act. That statute was passed by the Congress after a prolonged discussion in the Senate, in which every phase of the subject touched upon by the Senator from Nevada was amplified. His amendment, in my opinion, is a mere revival of the arguments which were made and the assertions which were considered at the time the statute was enacted about a year ago. It is impractical, to say the least, to repeat that discussion while the Agricultural Adjustment Act is under consideration.

Mr. McCARRAN. Mr. President—

Mr. ROBINSON. I yield for a question.

Mr. McCARRAN. I give this to the able Senator from Arkansas that he may evolve the thought—

Mr. ROBINSON. I cannot yield for a speech. The Senator himself, when he had the floor, refused to yield for a speech.

Mr. McCARRAN. Is it not true that since the law was enacted there has come down from the Supreme Court of the United States the poultry decision, which has entirely

changed the views which were presented to the Senate at the time the bill was under discussion?

Mr. ROBINSON. No, Mr. President; I do not think the statement just made by the Senator from Nevada has very much relevancy to the subject which is now being considered, and I reassert that he is merely attempting to revive the old controversy which was so fiercely waged here a year ago. There is not anything in what has been done under the Reciprocal Tariff Act to justify the fear that the Government is going to be destroyed or that wage scales are going to be disrupted or that internationalism is to be promoted.

The object of the Reciprocal Tariff Act is to promote the foreign commerce of the United States. Under that act an agreement with Cuba was concluded, and the weight of the evidence seems to be that the result of the agreement has been gratifying. An agreement was signed early in the present year between the United States and Brazil. That agreement has not as yet been ratified. Hearings have been held on proposed agreements with 12 or more other countries, including Belgium, Haiti, Colombia, Costa Rica, Guatemala, Honduras, Nicaragua, San Salvador, Sweden, Spain, Switzerland, and the Netherlands. Negotiations concerning these agreements are in progress, some of them having been practically completed.

Hearings are in contemplation for proposed agreements with other countries, including Canada, Finland, and Italy. The Colombian agreement is practically completed. It awaits action by the Colombian Parliament. Preliminary conversations have been held with five or six other nations.

There has been a misunderstanding as to how tariff trade agreements are made. Much misinformation has been disseminated with regard to the manner in which reciprocal tariff agreements are negotiated. Some of it probably constitutes deliberate misrepresentation; some may be due to lack of complete knowledge of the subject.

In the first place, the Committee on Foreign Trade Agreements is composed of representatives not only of the Department of State but also of the Treasury, Agriculture, and Commerce Departments; the Tariff Commission, and the office of the special adviser to the President on foreign trade. In this committee all questions relating to agreements are fully discussed. When it is learned through the usual diplomatic channels that a foreign country wishes to enter into negotiations for a reciprocal-tariff agreement with the United States, formal notice is given by the Department of State. At the same time dates are set for the presentation of views by those interested in the commerce between the two countries to the committee for reciprocity information, which has been set up for that purpose. A final date is set for filing of briefs, and another for a public hearing, which is usually a week later than the limit for filing briefs.

Meanwhile a subcommittee, called the "country committee", is formed to make a thorough and expert study of the trade between the United States and the country concerned. On this subcommittee, as on the parent committee, are representatives of the different departments. This committee uses all available material and examines with utmost care all the briefs and testimony submitted to the committee for reciprocity information.

When the subject has been completed, which requires weeks, a report is made to the full committee. In the formulation of these reports the Department of Commerce suggests what concessions should be asked of the other country and the Tariff Commission suggests what concessions can be made by us without injury to domestic commerce. Thus not only is the fullest opportunity given to everyone to be heard but every aspect of the question is given most careful consideration by every department of the Government concerned.

While the United States is preparing its case the other country is doing the same for itself according to its own method. When both are ready, actual negotiations begin, and through these the final agreement is reached.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield for a question.

Mr. VANDENBERG. Can the Senator tell whether the process thus described was pursued in the case of the Russian treaty?

Mr. ROBINSON. The Russian treaty was not negotiated under the reciprocal-tariff act. It constitutes a mere exchange of notes and does not involve the interpretation or application of the reciprocal-tariff act.

Nothing could be less captious or summary than the process of making these agreements. Instead of being framed hastily in the dark, as some have suggested, they are the result of painstaking labors by experts with open minds and by representatives of various departments of the Government.

Mr. McCARRAN. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Arkansas yield to the Senator from Nevada?

Mr. ROBINSON. I yield for a question.

Mr. McCARRAN. Is it not true that whatever was granted or conceded to this country by Russia was made after passage of the identic notes to which the Senator has referred?

Mr. ROBINSON. I do not know what the Senator means by concessions being made "after passage of the identic notes." The Russian trade agreement merely constitutes an understanding that Russia, in the next 12 months, will purchase goods to the value of \$30,000,000 in the United States. This figure represents an increase of more than 100 percent over the value of American exports to Russia in 1934 and an increase of more than 150 percent over the average exports during the 3-year period 1932-34.

Mr. McCARRAN. Mr. President, will the Senator yield for a question?

Mr. ROBINSON. I cannot yield just now. I am making a statement in reply to the Senator's interrogation. He will please refrain for the present. I shall yield later.

On its part the Government of the United States extends to the Soviet Union the tariff concessions which have been granted under trade agreements with Belgium, Haiti, and Sweden, and has agreed to extend to the Soviet Union the benefits of tariff concessions made under trade agreements with other countries which may be proclaimed during the life of the present agreement. In other words, no special concession is made to the Soviet Union under this exchange of notes. The Soviet Union is merely granted the same consideration that is granted other States or nations.

I now yield to the Senator from Nevada for a question.

Mr. McCARRAN. Is the Senator from Arkansas able now to state to the Senate what we will receive in imports to our country and what the difference will be between the value of what we will export and what will be imported into our country?

Mr. ROBINSON. Mr. President, I cannot say in detail what may be imported into the United States from Russia. In the main it will consist of commodities which are not produced in large quantities in the United States. In the main it will not interfere with American industry substantially. I have that assurance and feel certain that it is true.

Mr. McCARRAN rose.

Mr. ROBINSON. Mr. President, the Senator from Nevada refused to yield when he was addressing the Senate, and I have repeatedly yielded to him. I wish now to state the reasons which prompt me to make a motion to lay on the table the amendment of the Senator from Nevada.

Mr. McCARRAN. Mr. President, will the Senator yield?

Mr. ROBINSON. Yes; I yield.

Mr. McCARRAN. I think the Senator probably is in error in his recollection. I did not refuse to yield.

Mr. ROBINSON. I have yielded to the Senator. What is it the Senator wishes to know?

Mr. McCARRAN. In reading the Senator's prepared statement—

Mr. ROBINSON. No; my address is not prepared.

Mr. McCARRAN. I thought the Senator was reading.

Mr. ROBINSON. I have read memoranda. Does the Senator think that detracts from the value of my statement?

Mr. McCARRAN. No criticism was intended excepting—

Mr. ROBINSON. If the Senator wishes to ask a question he will be good enough to do it and not to lecture me on how I should proceed in making an address to the Senate.

Mr. McCARRAN. I do not want to be lectured by the Senator from Arkansas, either.

Mr. ROBINSON. I decline to yield further to remarks by the Senator from Nevada.

The VICE PRESIDENT. The Senator from Arkansas declines to yield.

Mr. ROBINSON. If the Senator wishes to ask me a question he may do so.

Mr. McCARRAN. I shall ask it now.

Mr. ROBINSON. Very well.

Mr. McCARRAN. Does the Senator realize that by the Russian trade agreement we will close down every manganese-producing property in America, we will close down every match-producing industry in America, any by the most-favored-nation clause written in, we will likewise close down other industries in this country?

Mr. ROBINSON. No, Mr. President; I do not think the exchange of notes between Russia and the United States will result in the closing down of any industry. I am sure it will not materially affect the manganese industry, because in this country we produce only a very small percentage of the manganese which we are compelled to have. It is necessary for us to obtain manganese from some foreign country, and since the concession to Russia under the exchange of notes—

The VICE PRESIDENT. The Senator's time has expired.

Mr. ROBINSON. I move to lay on the table the amendment of the Senator from Nevada.

Mr. VANDENBERG. Mr. President, will not the Senator withhold his motion until I can discuss the amendment submitted by the Senator from Nevada? The motion of the Senator cuts off debate.

Mr. ROBINSON. I do not believe I can do that without withholding it until every other Senator has discussed it who might desire to do so, and, as I stated in the beginning, the object is to bring the subject to an issue. I think I must decline to withhold the motion.

The VICE PRESIDENT. The question is on the motion of the Senator from Arkansas [Mr. ROBINSON] to lay on the table the amendment offered by the Senator from Nevada [Mr. McCARRAN].

Mr. VANDENBERG. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. McNARY. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Carey	Johnson	Overton
Ashurst	Chavez	King	Pope
Austin	Connally	La Follette	Radcliffe
Bachman	Coolidge	Logan	Reynolds
Bailey	Costigan	Loneragan	Robinson
Bankhead	Davis	Long	Russell
Barbour	Dickinson	McAdoo	Schall
Barkley	Donahay	McCarran	Schwellenbach
Bilbo	Duffy	McGill	Shipstead
Black	Fletcher	McKellar	Smith
Bone	Frazier	McNary	Steiwer
Borah	George	Maloney	Townsend
Brown	Gerry	Metcalf	Trammell
Bulkley	Gibson	Minton	Truman
Bulow	Guffey	Moore	Tydings
Burke	Hale	Murray	Vandenberg
Byrd	Harrison	Norbeck	Van Nuys
Byrnes	Hastings	Norris	Wagner
Capper	Hatch	Nye	Walsh
Caraway	Holt	O'Mahoney	White

The VICE PRESIDENT. Eighty Senators have answered to their names. A quorum is present. The question is on the motion of the Senator from Arkansas [Mr. ROBINSON] to lay on the table the amendment offered by the Senator from Nevada [Mr. McCARRAN]. On that question the yeas and nays have been demanded and ordered. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. HASTINGS (when his name was called). On this question I have a pair with the Senator from Missouri [Mr. CLARK]. My understanding is that if he were present he would vote "yea." If I were at liberty to vote I should vote "nay." I withhold my vote.

The roll call was concluded.

Mr. AUSTIN. I announce the necessary absence of the Senator from New Hampshire [Mr. KEYES] and the Senator from Utah [Mr. THOMAS], who are paired on this question.

If present, the Senator from New Hampshire would vote "nay", and the Senator from Utah would vote "yea."

Mr. NYE (after having voted in the negative). I have a general pair with the senior Senator from Virginia [Mr. GLASS], who is unavoidably absent. Having voted, I am under compulsion to withdraw my vote. Were I at liberty to vote I should vote "nay", and were the Senator from Virginia present he would vote "yea."

Mr. ROBINSON. I desire to announce that the Senator from Missouri [Mr. CLARK], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Illinois [Mr. LEWIS], the Senator from Texas [Mr. SHEPPARD], and the Senator from Utah [Mr. THOMAS] are unavoidably detained from the Senate. If present and voting, these Senators would vote "yea."

I also wish to announce the unavoidable absence of the Senator from New York [Mr. COPELAND].

I wish further to announce that the Senator from Oklahoma [Mr. GORE], the Senator from Virginia [Mr. GLASS], the Senator from Indiana [Mr. MINTON], and the Senator from Missouri [Mr. TRUMAN] are detained in committee meetings. I am advised that if present and voting, these Senators would vote "yea."

I wish further to announce that the Senator from Nevada [Mr. PITTMAN], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Montana [Mr. WHEELER] are detained on departmental matters.

Mr. ASHURST. I desire to announce that my colleague [Mr. HAYDEN] is detained on important departmental matters.

Mr. HOLT. I wish to announce the necessary absence of my colleague [Mr. NEELY].

The result was announced—yeas 47, nays 30, as follows:

YEAS—47

Bachman	Caraway	Holt	Pope
Bailey	Chavez	King	Radcliffe
Bankhead	Connally	La Follette	Reynolds
Barkley	Coolidge	Logan	Robinson
Bilbo	Costigan	Loneragan	Russell
Black	Donahey	McAdoo	Schwellenbach
Bone	Duffy	McGill	Smith
Brown	Fletcher	McKellar	Tydings
Bulkeley	George	Moore	Van Nuys
Burke	Guffey	Murphy	Wagner
Byrd	Harrison	Norris	Walsh
Byrnes	Hatch	O'Mahoney	

NAYS—30

Adams	Davis	McCarran	Shipstead
Ashurst	Dickinson	McNary	Steiwer
Austin	Frazier	Maloney	Townsend
Barbour	Gerry	Metcalf	Trammell
Borah	Gibson	Murray	Vandenberg
Bulow	Hale	Norbeck	White
Capper	Johnson	Overton	
Carey	Long	Schall	

NOT VOTING—19

Clark	Gore	Minton	Thomas, Okla.
Copeland	Hastings	Neely	Thomas, Utah
Couzens	Hayden	Nye	Truman
Dieterich	Keyes	Pittman	Wheeler
Glass	Lewis	Sheppard	

So Mr. McCARRAN's amendment was laid on the table.

Mr. VANDENBERG. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed to insert a new section in the bill to read as follows:

Section 350 of the Tariff Act of 1930 (relating to reciprocal foreign trade agreements) is hereby repealed; and no foreign trade agreement heretofore entered into under such section 350 shall have any force or effect after the date of the enactment of this act.

Mr. VANDENBERG. Mr. President, I regret the necessity of embracing this method of getting an opportunity to express my views to the Senate respecting the proposition submitted by the Senator from Nevada [Mr. McCARRAN]. But apparently there is no other recourse, since the adoption of this cloture motion. Therefore, I address myself to the amendment as I have submitted it, which was the original form in which it was submitted by the Senator from Nevada. I insist I am entitled to be heard on a matter of this significance, although I can appreciate how the defenders of these so-called "tariff bargains" might be better content if they be not ventilated by debate.

The able Senator from Arkansas [Mr. ROBINSON] says that this is only a renewal of the same old quarrel and the same old argument regarding these tariff bargains and that the subject offers no new considerations. I think the Senator from Arkansas totally ignores the fact that there are at least two major reasons why it is not the same old contemplation and is not the same old argument.

The first reason is that the Supreme Court of the United States has stated in no uncertain terms, with very definite implication to the tariff-bargain law, if I may be permitted a layman's view to that end that this tariff authority which has been delegated to the President and his Secretary of State is without color of constitutional warrant. This is still an important consideration with some of us.

Secondly, since we had the last argument on this subject we have seen the President and his Department of State operate under this tariff-bargain act. We now know what these tariff bargains are like. When the law was in this forum in its making, time and time again we sought for information relative to the type and nature of the agreements which were to be made. We never were able to procure any remote, intimate, or definite information. It was all an optimistic prospectus, and nothing more.

Now, we know what happens under the law, and we are in a position today to pass upon this problem, first, in respect to its constitutional phase; second, in respect to its economic and practical phase, with a degree of information which was totally lacking in the initial consideration. This creates a wholly different problem, which the Senate, so long as it still believes in free speech, should not foreclose to honest and legitimate debate, and it will not be foreclosed so far as I am concerned.

Mr. President, I advert first to the constitutional phase of the matter, in spite of the ironical references of my friend the senior Senator from Nebraska [Mr. NORRIS] earlier in the day, when he discussed my interest in constitutional contemplations. I would not presume to present a constitutional argument based upon my own views, because I am not a lawyer. But when I can submit almost incontestable authority, I think I am entitled to challenge the conscience of the Senate to the constitutional content or lack of it in any of these amazing things which we are constantly asked to do.

So far as the A. A. A. amendments, and the processing tax and the beneficial payments and my earlier reference to their unconstitutional phase are concerned, my opinion was based upon the judgment rendered by the United States Circuit Court of Appeals at Boston, Mass., last week, and if that decision does not raise at least a constitutional implication which is of far greater authority than the opinion of any individual Senator on this floor, then I have less respect for the courts than I think I have.

How about this particular power, this power which has been delegated to the State Department and the Executive, to write tariff bargains, to legislate in respect to our revenue laws, and to bind our people in both of these aspects?

Mr. President, after the Supreme Court decision in the Schechter case I submitted this matter for specific opinion to three of the best lawyers in the United States, and I think that when they are named no Senator will impute to them less than sound and respectable judgment. I asked for the opinion of the Honorable James M. Beck, of Philadelphia, Pa.; I asked for the opinion of former United States Attorney General William D. Mitchell, of New York;

and I asked for the opinion of Judge Thomas D. Thacher, former Solicitor General of the United States, than whom probably no more respected Solicitor General ever dealt with constitutional questions in the Department of Justice.

The answer from all three, unanimous and without reservation and without equivocation, is that in the light and purview of the Supreme Court decision in the Schechter case and its related decisions there is no shade of constitutionality left in the delegation of this tariff power. If this be so, I should prefer that Congress run its own laundry instead of waiting for the Supreme Court to do it.

Mr. President, if Senators desire the details in respect to these opinions, I refer them to the CONGRESSIONAL RECORD of June 25, 1935, at page 10027, when I caused to be inserted in the RECORD in whole the opinion of Judge Thacher. Senators will not expect me to argue the constitutional technique of this contemplation. I merely bring my authorities and lay them at the bar of the Senate, and I ask for any authority comparable by way of defense of those arguments which these distinguished gentlemen present.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. VANDENBERG. I yield for a question. The Senator understands I am under limitation.

Mr. CONNALLY. Did the Senator from Michigan vote against the flexible tariff act of 1930?

Mr. VANDENBERG. The Senator from Michigan voted in favor of the flexible tariff act and against the reciprocal tariff, because the flexible tariff act included a specific rule of conduct. The tariff-bargain law included no specific rule. Most of the Senators—and I think the Senator from Texas included—voted against the original flexible law on the theory that it was unconstitutional, and then proceeded to vote for the tariff-bargain act, although it lacked any of the definite nature of restriction and jurisdiction and formula and rule of action which was contained in the flexible tariff act.

I refer the Senator from Texas [Mr. CONNALLY], who is an able lawyer, to Judge Thacher's opinion in the RECORD at the point which I have indicated. I do not desire to invade my own time or take the Senate's time to read Judge Thacher's opinion, but I do read two sentences so that there may be no question as to what conclusion it is that Judge Thacher has reached:

Upon the principles laid down in the oil and poultry cases the act—

Referring to the tariff-bargain act—

clearly appears to be an unconstitutional delegation of legislative power to the President.

I read again:

No such unfettered delegation of legislative powers appears in any of the tariff acts, and upon the principles repeatedly declared by the Supreme Court of the United States I am of the opinion that the statute is unconstitutional.

Mr. President, those who know Judge Thacher know that he does not lightly commit himself to so unequivocal a pronouncement as that which I have just read.

It is not enough, so far as the Senate's responsibility for constitutional legislation is concerned, for us to rely upon the difficulty of a citizen getting into court to find out about the constitutionality of some of these measures. I strongly suspect that those who so bravely contend for the constitutionality of the tariff-bargain act rely largely upon the exceeding difficulty of getting into court to find out about it.

That is a species, however, of cheating the citizen. Insofar as our responsibility goes it is something else. This is one phase of this problem which was not before the Senate in any such completed form when last we passed upon this measure. That is one phase of this problem which needs review, and which needs a new vote in order to determine whether or not the Senate wants to persist in this particular invasion of the constitutional power and authority.

If it be desired to pass from the constitutional phase—although that inevitably must be controlling to a man who realizes the import of his oath—and proceed to the economic phase, let us consider that for a moment.

I think I ought to say at this point that my economic views regarding these tariff bargains completely differ from the opinion of the great automobile industry in my own State of Michigan. The State Department has been exceedingly generous in its treatment and consideration of the automobile industry, and I am bound to make public acknowledgment of that fact. I appreciate it. I am not surprised that the automobile industry, therefore, finds in this tariff-bargain prospectus some things of apparent advantage to itself. But regretfully I must disagree with this great industry from my own Commonwealth in respect to the alleged advantage of these treaties, in respect to the alleged advantage of these bargains, and I think that before the end of the chapter is reached the automobile industry itself will agree that it has been misled by pure economic superficialities.

In the first place, foreign trade is not and cannot be the basis of our recovery, and there is no greater sophistry than to pretend that foreign trade is the basis of our hopes in this regard. Of course we want whatever export advantages we can get. Of course we want foreign trade in whatever degree it may be available. But so far as the fundamental recovery of the American people is concerned in this economic depression, the recovery depends primarily and fundamentally upon domestic prosperity recurrent in our own continental United States.

When we are at the peak of our prosperity we get 93 percent of that prosperity from our home market, and we get just 7 percent of it from the foreign market. In other words, the ratio runs about 13 to 1 in emphasis upon domestic trade. Senators asked for percentages this morning and Saturday when I was speaking upon another phase of this matter. There is the fundamental percentage covering the question of whether or not a recovery program built upon primary reliance on recoupment of foreign trade is calculated to succeed, if the reliance in any substantial degree jeopardizes domestic trade.

We bait our hook, Mr. President, with 93 percent of our economic prospectus and we go fishing for 7 percent; and the chance inevitably is, under the law of averages, that we will come home the loser without either fish or bait. I think it can be demonstrated that the State Department, in spite of its highly honorable and zealous anxieties and intentions, has usually come home with the worst of it whenever they have written one of these bargains.

If there is any doubt about the inadvisability of attempting to rely so largely upon the recapture of foreign trade as the basis for our recovery, I just want to remind the Senate of Mr. Paul Mallon's quotation of the President of the United States himself last June. The President is speaking to some textile representatives who had just called upon him, and I read as follows:

The President is said to have left them with the idea that foreign trade was a thing of the past. Whether rightly or wrongly, they got the view that the President believed the United States would eventually have to reconcile itself to the prospect of living largely within itself. Most foreign-trade experts have come to that view, although they do not dare say so openly.

Mr. President, most foreign-trade experts who have examined the international balance sheets prepared by the Honorable George N. Peek, who but recently was special foreign-trade adviser to President Roosevelt—most foreign-trade experts who have assessed and studied those international balance sheets have come inevitably to the conclusion that our great foreign trade—this five- or six-billion-dollar thing which is constantly held up now as the largest target toward which this tariff-bargain process is aimed—those foreign-trade experts have come to the conclusion that this swollen export trade was the result of one of two things—either it was the result of war, on the one hand, or it was the result of a process of foreign loans on the other hand—loans with which we gave to the Old World the money with which to buy our goods. We are not going back into process of fertilizing foreign trade either by war or by foreign loans. I believe that is an axiom.

The PRESIDENT pro tempore. The time of the Senator on the amendment has expired.

Mr. VANDENBERG. I am using my first 30 minutes speaking on the bill.

Mr. President, since that is the indisputable conclusion which must be drawn from these international balance sheets, I submit that it is perfect folly to plan the recovery of America on the basis of these external aspirations and situations.

The thing which primarily must be defended is the American's right to his own home market; and anything that defeats him in the control of his own home market is a thing which is militating against the permanent recovery of this land. These tariff bargains which are being written do militate against adequate control of his own home market by the American producer.

If we are going fishing for foreign trade, baiting our hooks with 93 percent of our market while fishing for but 7 percent, I want to submit that the tariff bargains thus far made by the State Department clearly demonstrate a thing which was argued upon this floor at the time the law was passed, namely, that we cannot hope to get any advantage to our own country so long as we try to create these tariff bargains under the most-favored-nation treaty theory of international relationship.

We have most-favored-nation relationships with 60 foreign countries or thereabouts. Every time we make a tariff bargain with one country, giving that one country some advantage in America in return for some alleged advantage that America gets in the other one country, every time we make one of these deals we immediately have to turn around and give to 59 other countries around the globe every advantage we contracted away to that one country, and give it for nothing.

What happens? The very same things that happened in connection with the Belgian tariff bargain. A tariff bargain was made with Belgium which involved, for example, parchment paper in Belgium, but the moment the parchment-paper favor was given to Belgium that moment the same parchment-paper favor had to be given to England and Finland, where the major menace to the American parchment-paper industry at present and potentially resides. We cannot hope to deal and bargain ourselves into any net advantage so long as the chances are 60 to 1 against us in this aspect, and we should realize that we are going to get the worst of it. The chances first are 13 to 1 against us on account of the greater value of our domestic markets. Then the chances are 60 to 1 against us on account of these most-favored-nation relationships. Thus the chances finally are something like 780 to 1 against us.

Mr. President, I said the situation is different today than it was when this program was last before the Senate because we have a few of these treaties now to examine. We did not have anything to look at when we passed this law. We could not get any information as to what kind of bargains were going to be made. We heard a lot about a Colombian treaty which was in the offing, but in spite of every effort that could be made nobody was permitted to see the so-called "Colombian treaty" until after the Congress had committed itself to this tariff-bargain philosophy.

Now we have had a few of these bargains and we can see what we get out of them. The first one is the Cuban bargain. What do we get out of the Cuban bargain? Let me state what we get out of the Cuban bargain. From September 1, 1934, when the tariff bargain became effective, to June 1, 1935, our exports to Cuba increased \$17,000,000. That is pointed to as a great achievement traceable to tariff-bargain writing between Cuba and the United States. It increased our exports to Cuba \$17,000,000.

While it was increasing our exports to Cuba \$17,000,000, how much was it increasing Cuba's exports to us? How much was it increasing our imports from Cuba? That figure is \$41,000,000. In other words, the net result of the first 9 months of the tariff-bargain relationship is that our balance of trade with Cuba is \$24,000,000 worse off than it was when the tariff bargain was made.

Mr. President, if that is a victory, it is one of the Pyrrhic victories the like of which the old commander once said, "Another such victory and we are undone."

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. VANDENBERG. I yield for a question only.

Mr. McKELLAR. What were the figures for the 9 months prior to the time it went into effect? What were our imports for the like period of time, and what were our exports to Cuba?

Mr. VANDENBERG. Our exports to Cuba were \$25,000,000 and are now \$42,000,000, speaking of the two relative 9 months' periods. Our imports were \$45,000,000 and are now \$86,000,000. The net result of the entire computation is that we are \$24,000,000 worse off than when we started in respect to our balance of trade.

Then we made a treaty with Brazil. The treaty with Brazil is not as yet effective because apparently Brazil still thinks that her home folks should have something to say about the fiscal legislation which shall control the trade and the taxation of its nation. Brazil requires that these trade agreements shall be returned to Brazil for approval before they become effective.

Nothing like that over here. The Senator from Arkansas read a pious formula under which our manufacturers or producers are notified of the expectation that a particular agreement is to be formulated, and that is all true; but there is never a point in the entire negotiations when any manufacturer or producer in the United States or any representative of an agricultural commodity in the United States ever knows what particular threat is to be aimed at him so that he may argue in rebuttal against it.

In Brazil it is different. Apparently they have more democracy there than we have here. The net result is that Brazil has not yet ratified this trade agreement, which is the second most important agreement of those which are recommended to us as the personification of this great and glorious principle.

Why not? That is only a matter of speculation. The State Department declines to say why the ratification at the other end of the line is suspended. But those who are familiar with the facts cannot escape the belief that since Brazil is chiefly interested in our coffee market, and since we have given Haiti the benefit of our coffee market under the Haitian agreement, therefore, under the most-favored-nation clause Brazil gets the coffee advantage and the great market of the United States, worth more than \$100,000,000 a year to her under the most-favored-nation treaty theory of things, without the necessity of signing any bargain, or giving any advantage whatever to us. That is a fine demonstration of the futility of trying to advance American foreign trade under the most-favored-nation treaty policy.

Mr. President, I suppose the Russian agreement, the most recent agreement, is rated as the next most important contribution to this trade-expansion philosophy which is promoted by the tariff-bargain treaty theory, even though the Russian agreement, as stated by the able Senator from Arkansas, does not fall within the tariff-bargain law literally. Of course, it could not fall within the tariff-bargain law literally, because if it did the State Department would have had to give some notice to the people of the United States that it contemplated doing this thing which it has subsequently done, for the reason that under the tariff-bargain law there is at least a poor, feeble protection by way of a promise of a theoretical right of hearing.

There were no hearings in the Russian matter. The first notification the American people had that its President and its State Department had admitted Soviet Russia to every advantage, every tariff benefit, contained in all of the other tariff bargains we have made with all the other powers—the first notice the American industrialist and the American agriculturist had was in the morning newspaper, and that was all the notice they had.

Mr. President, of course that bargain was not made under the tariff-bargain law, because, if it were, it would have violated the very fundamentals of it. If it was not made under the tariff-bargain law, under what law was it made?

Is it a treaty? If it is a treaty, it should come back into this forum to be ratified by two-thirds of the Senate of the United States—the precise formula demanded by the amendment submitted by the Senator from Nevada [Mr. McCARRAN], which the Senate has just cavalierly rejected by the recourse of cutting off debate.

What is the authority for making this agreement? Is it just a casual, conversational sort of a thing? Apparently, it is when we read its text. Russia does not bind herself to do anything specifically to our advantage. We do bind ourselves to do something everlastingly to the benefit of Russia. So there is not any Russian promise except that collateral, conversational statement by and to Ambassador Bullitt that this is expected to produce about \$30,000,000 worth of additional American trade. There is not any Russian commitment. Well, at least that is a good thing. At least that saves us from sophistry and hypocrisy, because the last time we undertook to promote our foreign trade by dealing with Soviet Russia we were told that recognition would produce \$500,000,000 a year of American-Russian trade; and it has not even produced 10 percent of it, much less the amount predicted. Yes; and the last time we made one of these bargains with Russia, we were promised that all subversive propaganda in the United States would cease and stop, and it has neither ceased nor stopped. If I were in the State Department of this country, contemplating another Russian agreement, the first thing I should want to know before I accepted any further Russian promises or gave any further Russian advantages under the Stars and Stripes would be, "What has happened to those previous agreements; and, by the way, what do you propose to do about the \$700,000,000 that you owe us?"

Mr. President, it seems to me that these contemplations, the knowledge we now have as to what the Executive and the State Department propose to do when they use this unconstitutional tariff bargain power, present a totally different proposition than it was when it was submitted to us in the first instance. I think the Senator from Nevada [Mr. McCARRAN] was wholly justified when he asked for a review by the Senate of the United States of the decision which it originally made in sheer ignorance of the ultimate possibilities and probabilities.

Under the circumstances, I should have been well satisfied to have rested the case on the amendment proposed by the able Senator from Nevada, who merely sought to require that these trade agreements shall come back to the Senate of the United States for ratification under the power and authority intended to be given to this body by the great fundamental charter of the Republic; but since that has been detoured by a parliamentary stratagem I have no alternative except to raise the issue anew in a more direct and fundamental form. In that spirit, and for that reason, I have submitted the amendment.

Mr. McCARRAN. Mr. President, as a substitute for the amendment of the Senator from Michigan, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment, in the nature of a substitute, offered by the Senator from Nevada will be stated.

The CHIEF CLERK. As a substitute for the amendment offered by Mr. VANDENBERG, it is proposed to insert at the end of the bill the following:

Sec. —. No foreign-trade agreement entered into after the date of enactment of this act under the provisions of section 350 of the Tariff Act of 1930 shall become effective until ratified by the Senate in the manner provided in the Constitution. Foreign-trade agreements arrived at during the recess of the Senate shall be effective only until the Senate rejects or ratifies such agreements, and all agreements arrived at under this statute shall be submitted to the Senate immediately on the convening of the Senate either in special or regular session.

Mr. McCARRAN. Mr. President, I desire to address myself to the substitute which I am offering for the amendment offered by the Senator from Michigan [Mr. VANDENBERG].

Whatever may be my feeling in this matter, perhaps it grows out of inexperience. It is rather rare, I take it, that legislative consideration is cut off; but, inasmuch as it has been cut off by a motion from my most able leader, I must go forward with that which is American—the right of the greatest deliberative body in the world to discuss the most important thing that ever came before that body, namely, its own national life.

You may table that if you wish, but the toilers of this country will not table it. They will keep it on the table at the breakfast and the luncheon and the supper hour. It will be there, and you will pray to God that it was not there. If we are going to tear down the wage structure of this country, let us tear it down after 96 men, representing 48 sovereign Commonwealths of this Nation, shall have had an opportunity to consider it. Let us not curtail their consideration any more than we have curtailed consideration on bees and other commodities.

This proposal involves the very life of this country. It means the upbuilding of this Nation. It means its continuation in the leadership of the sisterhood of nations.

What did the organic law say as regards the powers, the privileges, the rights, and the duties of the Senate of the United States? Did it say that we should discharge all, and lay them on the shoulders of a man whom popular passion led into a place of power? When I say "popular passion", I do not mean to retract that expression. Popular passion placed him there. Why should he take more of a burden than the organic law placed upon him? Why should we resign the duties that belong to us? Where is our oath of office?

We may talk about progressivism. We may say that we will go beyond the Constitution. There may be those who will say, "Let the Constitution stand aside; we shall put this bill through anyway." Mr. President, the day is dawning when the organic law of this country will be the uppermost thing, and any group that stands behind it will be the group that will take possession and control of the Government. Any group that relinquishes its obligation, as conferred by the organic law, will find itself back with Mr. Hoover and others who have been lost sight of.

Mr. HARRISON. Mr. President, will the Senator yield for a question?

Mr. McCARRAN. I yield for a question.

Mr. HARRISON. Did the Senator vote for or against the law he now seeks to repeal?

Mr. McCARRAN. I am sorry the Senator from Mississippi was not in the Chamber when I referred to that matter. I stated that I did vote for it, and I stated why I voted for it. I will state again a propaganda was going on around here that the reciprocal trade agreements would be submitted to the Senate, and that we would have an opportunity to understand them before they were officially consummated.

Mr. HARRISON. May I ask the Senator how he voted on the amendment to bring the matters back to the Senate for confirmation before they were ratified?

Mr. McCARRAN. I beg the Senator's pardon.

Mr. HARRISON. How did the Senator vote when the question was before the Senate, while this whole matter was being considered from every angle, and an amendment was offered providing that the reciprocal-trade agreements should be brought to the Senate before they should become operative? How did the Senator vote on that question?

Mr. McCARRAN. I cannot recall my vote, but, in keeping with the promises made to me, I hope that I voted for the return of the proposed treaties to the Senate. If I did not, then I made one more mistake. I have admitted one mistake; I may have to admit another one.

I have admitted one mistake, one action I regret, one vote I only wish I could recall, but that vote was cast as it was because I thought the State Department would be fair enough to the constituted authority to bring these reciprocal

trade agreements back here in order that we might consider them. But I find that fairness does not prevail even there.

As a matter of fact, my correspondence shows that they will not even tell me what commodities are to be considered in the reciprocal-trade agreements under consideration. As a matter of fact, we cannot get any concerted or intelligible reply from the State Department on this subject, if I am to judge from my own experience.

Mr. LONG. Mr. President, will the Senator yield?

Mr. McCARRAN. In just a moment. I take it as a matter of fact that the State Department does not want our views on the subject, and more than that, I take it that they do not want the views of the most intelligent man today on this subject in the Union, that is, Mr. Peek, of the Export-Import Bank, who has repeatedly criticized the whole situation.

They do not want such views. They would rather close down the mines of Nevada, when we are borrowing \$1,500,000 in a little district that will have to stretch its taxing system so that it may go on with the manganese industry in order that we may develop a great body of manganese. They would rather crush that whole industry, they would rather close the silica sand mines of southern Nevada and place every one of the people employed there on the relief rolls, than to say that the Senate of the United States should pass its judgment upon this subject.

I now yield to the Senator from Louisiana.

Mr. LONG. Mr. President, inasmuch as the Senator was interrogated by my friend the Senator from Mississippi, does the Senator recall that the Senator from Mississippi presented a bill here to repeal the flexible tariff act, that we Democrats voted for it, and that later on the Senator from Mississippi came back and voted for this other bill?

Mr. HARRISON rose.

Mr. McCARRAN. I yield to the Senator from Mississippi to make answer.

Mr. HARRISON. The Senator from Nevada will recall that he, as well as the Senator from Louisiana and the Senator from Mississippi and the members of the Democratic Party solidly—and I congratulate my friend from Louisiana—voted for a substitute to repeal the flexible provision of the law.

Mr. LONG. I just wanted to bring that out. The Senator from Nevada is now standing as the Senator from Mississippi and I once stood, and as the Senator from Mississippi is no longer standing. That is the situation.

Mr. HARRISON. Mr. President, will the Senator yield further?

Mr. McCARRAN. I yield.

Mr. HARRISON. I desire to say that the Senator from Louisiana, when we enacted this provision of the law which is now sought to be repealed, did not stand with us on this side.

Mr. LONG. Oh, no!

Mr. HARRISON. He voted the other way. The Senator refused to go along, but the Senator from Nevada did, and among the amendments offered at that time was one having to do with the protection of labor, providing that before anything should be done—

Mr. McCARRAN. Do not attribute that to me.

Mr. HARRISON. The Senator from Nevada even voted against that labor amendment.

Mr. McCARRAN. It was a labor amendment which would have destroyed the labor structure of this country.

Mr. HARRISON. It was offered by a Republican in order to destroy the proposed legislation. The Senator from Michigan on the other side talked for 3 days on this proposition.

Mr. McCARRAN. Mr. President, I refuse to yield further. I wanted to give the Senator from Mississippi an opportunity to reply to the Senator from Louisiana.

Mr. BARKLEY. Mr. President, will the Senator yield for a question?

Mr. McCARRAN. In just a moment, as soon as I reply to what is before me. Now that the Senator from Louisiana

has demonstrated what a magnificent acrobat the Senator from Mississippi is, I hope I may proceed.

Mr. HARRISON. May I say to the Senator that he was an acrobat at the same time, turning right with me.

Mr. McCARRAN. No; I never turned.

Mr. HARRISON. Oh, yes; the Senator voted exactly as I voted, because from a Democratic caucus we brought out a substitute to repeal the flexible provision, and the Senator stood here like a man, voting as a Democrat for that proposition.

Mr. McCARRAN. I beg the Senator's pardon; I never attended a Senate caucus.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. HARRISON. Will the Senator yield?

Mr. McCARRAN. In just a moment. The Senator from Mississippi is in error, or I was remiss. I did not attend a Democratic caucus in which this matter was brought up, or if I did, the record will show that I reserved the right to vote as I saw fit.

Mr. HARRISON. The Senator always has that right, but he carried out the spirit and here is the RECORD, if the Senator wishes to refresh his recollection.

Mr. McCARRAN. I carried out the spirit of what this administration said should be, but this administration does not carry out any spirit. It simply goes on from day to day, and tomorrow it will not be what it is today.

Mr. BARKLEY and Mr. HARRISON addressed the Chair.

The PRESIDENT pro tempore. Does the Senator yield, and if so, to whom?

Mr. McCARRAN. I yield to the Senator from Kentucky.

Mr. BARKLEY. I do not want to get too far away from the statement the Senator made a while ago, referring to some mine in Nevada. He did not tell us what sort of mine it is. What does it produce?

Mr. McCARRAN. The mines of Nevada and the mines of 22 other States of the Union produce manganese, and among those States is the State of the Senator from Kentucky.

Mr. BARKLEY. It produces so little that I never heard that it produced any.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield.

Mr. HASTINGS. I merely wanted to express the hope that Senators on the other side will not begin this late in the session to explain their many inconsistent positions. If they do, it is certain there will be no adjournment before Christmas.

Mr. McCARRAN. Mr. President, how much time have I remaining?

The PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. McCARRAN. That is scarcely worth while for an Irishman. As a rule, he has to have more time than that to get into action. But in leaving this proposal, I say that to my mind is worth while, because it is fair, because it is reasonable. I would not cut off the law as it now exists, but would provide that anything proposed under it should be brought back to the body which the organic law says should consider it. That is the substance of my substitute for the amendment offered by the Senator from Michigan.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Nevada [Mr. McCARRAN] in the nature of a substitute for the amendment of the Senator from Michigan [Mr. VANDENBERG].

Mr. LONG. Mr. President—

The PRESIDENT pro tempore. The Senator from Louisiana.

RECESS

Mr. ROBINSON. Mr. President, if it is agreeable to the Senator from Louisiana, I now move that the Senate take a recess until tomorrow morning at 10 o'clock.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate took a recess until tomorrow, Tuesday, July 23, 1935, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES

MONDAY, JULY 22, 1935

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Father in Heaven, how beautiful and wonderful are the works of Thy hands; how enriching and exalting to the contemplative soul. We thank Thee for every good thought, for every heroic spirit, and for every spiritual power with which we have been blest. We bear to the altar of prayer the Members who are ill and weary in work; let the accents of Thy presence comfort them. Bless them with Thy graciousness and sustain them with Thy fellowship. Be with any who feel the burden of life, who find the cares of the world heavy, and with any who are worried with their daily duties. As we travel life's common way be Thou our guide and inspiration. In the Redeemer's name. Amen.

The Journal of the proceedings of Thursday, July 18, 1935, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed a bill and joint resolution of the following titles, in which the concurrence of the House is requested:

S. 3269. An act to amend the act entitled "An act authorizing the Reconstruction Finance Corporation to make loans to nonprofit corporations for the repair of damages caused by floods or other catastrophes, and for other purposes", approved April 13, 1934; and

S. J. Res. 163. Joint resolution to authorize the acceptance of bids for Government contracts made subject to codes of fair competition.

TEXAS CENTENNIAL EXPOSITION

Mr. SANDERS of Texas. Mr. Speaker, I ask unanimous consent for the present consideration of House Joint Resolution 335, to permit articles imported from foreign countries for the purpose of exhibition at the Texas Centennial Exposition and celebrations to be admitted without payment of tariff, and for other purposes.

Mr. Speaker, I may say that this resolution is similar to one introduced in the case of the exposition at San Diego. It provides that in connection with the Texas centennial celebration of next year importations from foreign countries may be admitted free of duty but that if they are used in the United States then the duty shall be imposed. My good friend the gentleman from Massachusetts [Mr. MARTIN] is familiar with these resolutions.

Mr. MARTIN of Massachusetts. We have had similar resolutions many times in the past.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Clerk read the joint resolution, as follows:

Resolved, etc., That all articles which shall be imported from foreign countries for the purpose of exhibition at the Texas Centennial Exposition and celebrations to be held in Texas beginning in June 1936 or for use in constructing, installing, or maintaining foreign buildings or exhibits at the said exposition and celebrations, upon which articles there shall be a tariff or customs duty, shall be admitted without payment of such tariff, customs duty, fees, or charges under such regulations as the Secretary of the Treasury shall prescribe; but it shall be lawful at any time during or within 3 months after the close of the said exposition and celebrations, to sell within the area of the exposition and celebrations any articles provided for herein, subject to such regulations for the security of the revenue and for the collection of import duties as the Secretary of the Treasury shall prescribe: *Provided*, That all such articles, when withdrawn for consumption or use in the United States, shall be subject to the duties, if any, imposed upon such articles by the revenue laws in force at the date of their withdrawal; and on such articles, which shall have suffered diminution or deterioration from incidental handling or exposure, the duties, if payable, shall be assessed according to the appraised value at the time of withdrawal from entry hereunder for consumption or entry under the general tariff law: *Provided further*, That imported articles provided for herein shall not be subject to any marking requirements of the general tariff laws,

except when such articles are withdrawn for consumption or use in the United States, in which case they shall not be released from customs custody until properly marked, but no additional duty shall be assessed because such articles were not sufficiently marked when imported into the United States: *Provided further*, That at any time during or within 3 months after the close of the exposition, any article entered hereunder may be abandoned to the Government or destroyed under customs supervision, whereupon any duties on such article shall be remitted: *Provided further*, That articles, which have been admitted without payment of duty for exhibition under any tariff law and which have remained in continuous customs custody or under a customs exhibition bond, and imported articles in bonded warehouses under the general tariff law may be accorded the privilege of transfer to and entry for exhibition at the said exposition and celebrations under such regulations as the Secretary of the Treasury shall prescribe: *And provided further*, That the Commission of Control for Texas Centennial Celebrations and Texas Centennial Central Exposition shall be deemed, for customs purposes only, to be the sole consignee of all merchandise imported under the provisions of this act, and that the actual and necessary customs charges for labor, services, and other expenses in connection with the entry, examination, appraisement, release, or custody, together with the necessary charges for salaries of customs officers and employees in connection with the supervision, custody of, and accounting for, articles imported under the provisions of this act, shall be reimbursed by the Commission of Control for Texas Centennial Celebrations and the Texas Centennial Central Exposition to the Government of the United States under regulations to be prescribed by the Secretary of the Treasury, and that receipts from such reimbursements shall be deposited as refunds to the appropriation from which paid, in the manner provided for in section 524, Tariff Act of 1930.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALCOHOLIC BEVERAGE CONTROL

Mr. SABATH, from the Committee on Rules, submitted the following resolution (Rept. No. 1556), to accompany House Resolution 305, which was referred to the House Calendar and ordered printed:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 8870, a bill "To further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce, and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes"; that after general debate which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment, the committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

PERMISSION TO ADDRESS THE HOUSE

Mr. CELLER. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

Mrs. NORTON. Mr. Speaker, reserving the right to object, and I shall not object, I should like to serve notice that the District Committee has 14 bills to be considered today, and I sincerely hope the Membership of the House will not embarrass me by making it necessary for me to decline to yield for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CELLER. Mr. Speaker, I am sure Americans everywhere deplore and denounce the terrifying scenes that have occurred in Berlin during the past few days. I cannot let the occasion go by without voicing indignation at the insults to the people of my faith and those of the Catholic faith. The bullying, the hectoring, the bloody deeds and atrocities of which the Hitler hoodlums and the storm troopers are guilty cannot go by unnoticed. The deeds were committed with the connivance and encouragement of the German storm troopers and Government officials.

Germany wishes apparently to remain the pariah of nations.

Ferdinand Fried, of the Living Age, issued, in part, the following statement in connection with the anti-Jewish rioting:

IN THE SENATE OF THE UNITED STATES

MAY 13 (calendar day, JULY 22), 1935

Ordered to be printed

AMENDMENT

Proposed by Mr. McCARRAN to Mr. VANDENBERG's amendment to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, viz: In lieu of the matter contained in Mr. VANDENBERG's amendment, insert the following:

1 SEC. . No foreign-trade agreement entered into after
2 the date of enactment of this Act under the provisions of
3 section 350 of the Tariff Act of 1930 shall become effective
4 until ratified by the Senate in the manner provided in the
5 Constitution. Foreign-trade agreements arrived at during
6 the recess of the Senate shall be effective only until the
7 Senate rejects or ratifies such agreement and all agree-
8 ments arrived at under this statute shall be submitted to the
9 Senate immediately on the convening of the Senate either
10 in special or regular session.

country like Cuba, the effect of a substantial increase in purchasing power was almost instantaneous. The various indices of economic activity, such as carloadings, bank clearings, factory production, and electrical-power consumption, all have moved upward. It might, of course, be argued that this expansion in economic activity could have taken place without benefiting the Cuban people as a whole. The foresight of both the Cuban governmental authorities and private business enterprises has prevented the concentration in a few hands of the benefits of the agreement. The Government by decree has established minimum wage standards that represent very substantial increases over the wages of the previous years. Employers are required to post in public places lists of their employees and the amounts payable to each, and the rural guards and factory inspectors have been instructed to see that these wages are paid. A Government decree also requires increased compensation to sugar planters who customarily are paid in kind. Not only has the business community responded to these decrees but, in many cases, wages higher than the minima prescribed by law are being paid.

It is, therefore, no surprise that the statistics indicate both a vast decrease in unemployment and an increase in the total amount of wages paid. But the statistics, at best cold and forbidding, fail to convey what the opportunity for work at remunerative prices has meant to the Cuban field laborer, to the cane cutter, the team driver, the cigarmaker, or to the man who works at a factory bench. In human terms, it means food for children who have suffered for years from malnutrition; clothing, instead of empty sugar and flour sacks; and a tight roof that sheds the tropical rains; in terms of morale, it means optimism and hope instead of the blackest despair, and self-respect without which no person can call his life his own. Although much remains to be done by future Cuban Governments before every Cuban enjoys the fullest measure of economic security, a start, and a good one, has been made.

So much for the economic side. With the rapid return of economic rehabilitation there have likewise come the encouraging signs of political rehabilitation. I have on previous occasions publicly presented in the greatest detail the whole course of the political phase of our policy toward Cuba as well as the reasons therefor. I merely ask you, therefore, tonight to contrast the situation existing in Cuba today and the situation which obtained two and a quarter years ago.

Cuba today is governed by a provisional government which came into power at the instance of and with the cooperation of the overwhelming majority of the political groups and parties existing a year and a half ago. The President, Col. Carlos Mendieta, a veteran of the Cuban war of independence, and a man whose honesty, humanity, patriotism, and devotion to the best interests of the Cuban people have never been questioned by any reputable authority, has announced that under no conditions and under no circumstances will he be a candidate for the constitutional presidency at the coming elections, and that his sole objective is to lead his country back to constitutional normality. By agreement between his Government and the legally constituted political parties the date for national elections at which a constitutional government will be elected by the Cuban people has been fixed for next December 15. The constitution of 1901, adopted at the time of Cuban independence has been reestablished, with such modifications as conditions have made necessary, including a provision giving the Cuban women the right to vote for their government. The Crowder electoral law, in which the Cuban people have time and again manifested their confidence and which was emasculated by the Machado government, has once more been promulgated with the inclusion of certain amendments to it formulated by Dr. Howard Lee McBain of Columbia University after revision of these amendments by a Cuban commission appointed by the Cuban Government.

The electoral period is now commencing, the Cuban political parties are reorganizing, any new parties are afforded ample opportunity to go to the polls under the law, and the Government has pledged itself that the Cuban people will have the free and untrammelled right at the elections next December of selecting that government desired by the majority of the voters.

It is, of course, inevitable after a period of such deep suffering as that undergone by the Cuban people during these past years that there should have been a reaction of social and political disturbances. Martial law which was promulgated last March by the Cuban Government to cope with such disturbances has, however, now been lifted, and civil government is in force.

Finally, by a new treaty signed in May 1934 between the United States and Cuba, the Platt amendment, by which the United States was granted the contractual right of intervention in Cuba, has been abolished, and our relationship with Cuba stands on exactly the same footing as our relationship with any other sovereign independent nation of the world. It is only distinguished by that peculiarly close and understanding friendship between the Cuban and the American peoples which had its genesis in our joint participation in the War with Spain, which survived the strain of the depression years, and which I trust will always continue to our mutual advantage.

As you all know, our relationship with the Republic of Nicaragua has appropriately ceased to have that special significance which it acquired during the many years' presence of our marines in that Republic. The American occupation in Haiti terminated in August 1934, and there is now not a single American marine in Haiti. It is our earnest hope that conditions may make it possible in the not distant future to relinquish those further rights and obliga-

tions acquired by the United States through the treaty of 1915 with Haiti so that there also our relationship may be solely that of two close, equal, and independent friends bound together only by a traditional friendship and commercial and economic ties.

During more than a year negotiations have been in progress between delegates of the Republic of Panama and this Government looking toward an amendment of the existing treaty of 1903 between the two countries in order that our relationship with the Republic of Panama may be placed upon a surer foundation than that which now exists.

For many years past our Panamanian friends have maintained that the treaty of 1903, negotiated, as it was, at the outset of the independence of the Republic when conditions in the Republic were completely distinct from those which now exist, contains provisions which are no longer necessary, which have placed an undue burden upon their people, and which have created in the world at large a general misconception as to the independence and sovereignty of the Republic; and, furthermore, that some of the administrative regulations built up by our own authorities as an outgrowth of the treaty have resulted in material injustice and have stifled and thwarted that commercial development which the Panamanian people were led to believe would grow rapidly with the construction of the Canal because of the trade opportunities which should result from shipping passing through the Canal from all corners of the globe.

We Americans cannot escape the fact that the security of the Canal is of vital importance in our own self-defense. We are also justly proud of the admirable efficiency with which the Canal has been operated during all of these years since its construction, to the benefit not only of the commerce of the United States and of our neighbors on this continent but to the advantage of the commerce of the world at large as well. We cannot, of course, consider—and we will not consider—weakening in any way our right to defend and protect the Canal; nor can we agree to any steps which would in any way hamper or impair the efficiency of our management thereof.

The purpose of our negotiations, however, in this case, as in the other cases I have cited, is to abolish the inequities and injustices which may exist in our relations with Panama, to remove all grounds for just complaint or misunderstanding on the part of the citizens of that Republic, and to do away with that cumbersome, unwieldy mass of red tape and administrative regulation which has grown up with the progress of the years and which serves no useful purpose either in our own interest or in that of Panama. That is what I meant when I expressed the belief that these pending negotiations would result in the creation of a surer foundation for our relationship with Panama.

Our own security in the Canal Zone inevitably involves the security of the Republic of Panama, and any danger to the Republic as clearly implies a danger to the Canal. If, by agreement between the two countries, while fully maintaining and assuring our common rights and interests, we can give Panama both a new deal and a square deal, we shall have done our part toward establishing relations between the two peoples on the sound basis of mutual respect and friendship.

There is, in my opinion, no more satisfactory insurance for the Canal and for the security of our interests in the Canal Zone than the loyal friendship of the Panamanian people, and the appreciation on their part that this Government has in their interest been willing to relinquish all of those rights and privileges accorded us in the 1903 treaty not essential to our untrammelled right to protect and operate the Canal, but which have proved prejudicial to the economic interests of the people of Panama or which have seemed derogatory to their dignity as a sovereign and independent nation.

While negotiations have not yet been concluded, I am glad to say that they have progressed consistently in a spirit which is surely destined to attain the objectives which both the Government of Panama and the Government of the United States have in mind. It is, of course, impossible for me while negotiations are as yet not concluded to enter into any detail concerning them. I feel, however, that I may not be premature in expressing the belief that they will terminate in a satisfactory understanding which will lay the foundation for a new and better cooperation between our two countries.

No matter how radical a change any policy may be—and I believe the policy of the "good neighbor" as voiced by President Roosevelt, especially in its application to our relations with the American republics, is a radical departure from that previously followed by this Government—considerable time is often required to realize the desired objectives. I believe, however, that there is already evidenced today throughout the length and breadth of this continent a firm belief in the sincerity of the desire of your Government to abide by all that which the policy of the "good neighbor" should imply. In our effort to remove the barriers which have grown up between us and the other republics of this hemisphere we have already achieved results which 2 years ago seemed very remote indeed. You cannot in 2 years eradicate the resentments and the suspicions which have grown up during many generations, any more than you can in that short time eliminate all of the obstacles and the barriers to healthy trade between the American republics, for the creation of which we ourselves have been in great measure responsible. I can only assure you that your Government will spare no effort in carrying out the policy it has laid down. The American people must determine for themselves whether or not that policy is the policy which has proved and which will prove to their own best interest.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

The VICE PRESIDENT. The question is on the amendment in the nature of a substitute offered by the Senator from Nevada [Mr. McCARRAN] to the amendment offered by the Senator from Michigan [Mr. VANDENBERG].

THE LAST SUPPER

Mr. LONG. Mr. President and Members of the Senate: Those here who are broad-minded enough to envision the whole American country and the entire human family, who nevertheless feel persuaded or compelled to vote for the pending bill will, on mature reflection, I am satisfied, be very sore at heart.

I think it is well within the knowledge of every Member of the Senate that this country has not enough food products upon which the people as a whole can survive. There is not enough material raised upon the farm today adequately to clothe the members of the human family who reside within the confines of these 48 States.

This statement is based on figures which are not disputable. These are accepted facts published by the same Department of Agriculture which asks for the passage of the pending bill to restrict the production of agricultural commodities. In other words, we have found an abundance and we have found starvation in that abundance, and we have undertaken to correct the condition by destroying the abundance or restricting what might be sufficient to care for the human family.

This policy has grown to such a degree that those of us who undertake to oppose it are almost from necessity compelled to try to get the people under that faulty shelter. We undertake to secure distribution, but the learned and scholarly men of the Senate have directed their results to the side pocket. They have apparently been unable to get anything done or to carry themselves along on the course which might mean distribution in the country of our abundance. So the feast of the Lord, to which all have been invited, has been made impossible for the many, for the table is emptied or partly emptied, so there will be no food left upon the table except for those able to pay the price. And as the number able to pay for the food to sustain life is reduced, this proposed law would curtail the food the earth produces to the amount those who can buy can consume.

What has become of this command of the prophet:

Ho, everyone that thirsteth, come ye to the waters, and he that hath no money; come ye, buy and eat; yea, come, buy wine and milk without money and without price.

Lazarus lies at the gate of the rich man crying for the crumbs that fall from the table. Do we undertake to correct that? Yes! But not by feeding Lazarus. We provide there shall be no crumbs.

The significant and outstanding episode of the Last Supper of Jesus Christ, to my mind, is this from the words of the Savior:

The Son of Man goeth as is written: but woe unto that man by whom the Son of Man is betrayed! It had been good for that man if he had not been born.

How wide is the application of "that man by whom the Son of Man is betrayed"? That it may be understood, I read the words of the Savior which immediately preceded the Last Supper:

Then shall they also answer Him, saying, Lord, when saw we Thee hungered, or athirst, or a stranger, or naked, or sick, or in prison, and did not minister unto Thee? Then shall He answer them, saying, Verily, I say unto you, inasmuch as ye did it not to one of the least of these, my children, ye did it not to me.

Humanity, therefore, confronts us in the person of our Savior; mankind is the Lord. In the life of a being placed on this earth in the image of God, there is the Son of Man. Deny that person food to eat, and you have starved the Lord; take from that person, however low or ragged he may be, the shelter which protects life and gives comfort, and

you have turned the Lord into darkness. Our Savior is with us now. "Jesus, the same yesterday, today, and forever." He has told us where he may be found and how he may be served, when and how he is denied or abandoned. It is all in the duty which one performs or fails to perform to the creatures of God on earth.

He who has committed a man, woman, or child to misery or want has betrayed the Father. "It would have been good for that man had he not been born."

Palaces abound in our land that once was fair. The milk and honey has flowed here in all the abundance promised by the Almighty. In the midst of the Lord's splendor humanity began to find its most severe discomfort; the cry of the starving was loudest, the nakedness was greatest. People struggled; they cried; many of them have fallen.

God was betrayed! "Inasmuch as ye did it not to one of the least of these, ye did it not to me."

Who stands before the bar most accused for this crime? The Government of the United States. The rulers in money and affairs use our organized society to glorify their greed. The shelter erected for the weak has become the fort of the mighty. From that position of vantage they hurl their decrees at the downtrodden.

The world yet visions aghast the plight of Judas at that Passover. We read into the lines of the Scripture the downcast and convicted Judas as the Savior's eyes pierced into his soul. We echo the words from Judas: "Is it I?", answered by the Lord: "Thou hast said."

But the accusing eyes of the Savior looked and still look further, then as now, into the hearts of men, the betrayers of Christ. Whosoever asks, "Is it I?" hears the answer: "As ye did it not to one of the least of these."

The creatures of God on earth, men, women, and children, cry in their woe. The eyes of the multimillionaire and the billionaire and of the kings and rulers reflect the stare and reecho the words of Judas: "Is it I?", while the misery of the millions answers, "Thou hast said." The few have all; the many have nothing. Starvation persists in the land that can have too much for all.

America! Christian nation! What?

We read of the starving, of the naked, and of the homeless—the misery of the beggar which makes the rich greater. The money changer is not driven from the temple. No! He is here. He drives the Lord from his own shelter. "The least of these!"

Can we longer claim our existence as a nation in the name of Christ our Savior? What mockery are our public prayers! How idle, how cruel the gesture! How ignorant our cries at the Judas who betrayed the Savior 2,000 years ago! That Judas has hanged himself in repentance. But our scions of wealth and power, our overlords who have betrayed the Savior and turned Him away in destitution, hang the victim rather than to emulate the one virtue of Judas, to hang themselves in repentance.

Mr. VANDENBERG. Mr. President, I desire to supplement what I said last evening with one further exhibit and contemplation. It is always argued fundamentally that we must not interrupt the process of these so-called "tariff bargains" unless thereby we foreclose America's opportunity to recapture export trade. I wish to demonstrate that there are two obvious fallacies imbedded in any such erroneous philosophy.

The first fallacy is the constantly reiterated dogmatic statement that the only way we can have exports is by offsetting imports. Of course, there comes a point in international trade where one must buy in order to sell. But I think it can be demonstrated beyond peradventure that we are not exclusively tied to any such course in seeking substantial portions of foreign trade.

In the first place, everybody knows there is such a thing as triangular trade. Triangular trade cannot be identified in dollars and cents, but every foreign-trade expert concedes that there is a substantial element of so-called "triangular trade" which helps balance international commerce between one country and another.

But, secondly, and of far greater importance, are the figures found in the reports made by Mr. George N. Peek, who, I remind the Senate, once was officially the special foreign-trade adviser to President Roosevelt. The important things are the figures found in his letter to the President of May 23, 1934. Unfortunately, Mr. Peek's report has not had the attention it deserves, either at the White House or in the Congress or over the country.

Mr. Peek struck an international balance sheet for the four periods into which foreign trade divides itself between 1896 and 1933. The first period, the pre-war period from 1896 to 1914, is the last thoroughly normal period because thereafter foreign trade was affected upon the one hand by the stimulus of war orders or upon the other hand by the stimulus of our loans to our foreign customers. Therefore, this first period upon which Mr. Peek reported to the President—this first period from 1896 to 1914—is a typical period from which we can gain our instructive information.

I turn to that balance sheet, and I point out to the Senate that one great item serving to balance our international trade and to pay for our exports abroad for this period is an item of \$6,080,000,000 for this period, covering the amounts spent abroad by American tourists and the amounts sent abroad by our immigrants. From the same balance sheet, covering the same period, I point out that we paid the external world a total of \$5,271,000,000 during the same period for services rendered to us by the world, such as shipping and freight services, together with our interest in dividend payments on foreigners' investments in the United States. In other words, here are two items totaling in excess of \$11,000,000,000 which permit \$11,000,000,000 of exports without any imports to offset them. It was more than one-third of the total amount of our exports.

We shall find, if we turn to Mr. Peek's fourth period, which is the period from 1930 to 1933, that precisely the same relationships exist. True, in this final period the total world trade has decreased, and therefore the other items involved have decreased; but even for this depression period from 1930 to 1933, I call attention to the fact that the two items to which I have previously adverted totaled in excess of \$5,000,000,000 for the period; in other words, \$5,000,000,000 of American export trade did not need to be offset by import trade. This was more than half of our exports.

In addition to that, Mr. President, and, thirdly, bearing upon this particular fallacy, I point out the fact that the external world is investing in American securities at the approximate rate of \$1,000,000,000 a year—again a great fundamental item which can be covered by exports, and paid for without compensating imports.

In other words, there are these great trade elements in the international channels of commerce which can fructify our foreign trade, which can stimulate and pay for our exports in a very substantial degree, without the necessity of direct compensation by relative imports.

Mr. President, there is another fallacy. I desire to speak of the other fallacy. That is the fallacy that the only way in which we can encourage this foreign trade, after we have concluded—if we do so conclude—that we wish to try to foster it artificially, is by tariff bargains under this unconstitutional reciprocal tariff law.

That is constantly stressed as one of the reasons why Congress should hesitate to repeal or to interfere in any way with the tariff-bargain law. I repeat, it is a fallacy, and I think that fallacy can be demonstrated; and the best demonstration I know is the fact, first, that our foreign trade had begun to recuperate and substantially increase in all parts of the world before anybody had ever heard of the tariff-bargain law. In other words, in the final analysis, our foreign trade is at the mercy of the status of the reservoir of world trade out of which we must accumulate our share; and when that reservoir began to refill, our share of it began to increase without any of these artificial activities on the part of the Department of State or the President of the United States.

Again, and bearing directly upon proof of the fallacy, I point out that during the 5 months ending last May—and

this is in the heart of the period when tariff bargains were supposed to be our chief, if not our only, reliance for increased export trade—our foreign trade did increase with Canada, Mexico, all Central America, all of the West Indies, Bermuda, Colombia, Venezuela, Argentina, Brazil, Chile, Peru, Egypt, Austria, Czechoslovakia, Norway, Sweden, Poland, Russia, Japan, Italy, Portugal, Greece, Iran, Turkey, India, Australia, and so forth. It increased with all of them during this period, and we have not a scintilla of a tariff bargain with a single one of these countries. On the contrary, two of the countries with which our foreign trade decreased during this 5-month period were Haiti and Belgium, with which we do have a tariff bargain.

In other words, Mr. President, I insist that the facts—if we are willing to confront the realities in respect of foreign trade—clearly indicate on the one hand that we are not dependent upon these tariff bargains to increase our export trade; and, secondly, that if we do rely upon tariff bargains we are relying upon a broken reed, because they do not produce net increased export trade. If we wish to increase export trade by special artificial activity on the part of the Department of State we had better lend a sympathetic ear to the recommendations of Mr. George N. Peek, once special foreign-trade adviser to the President of the United States, when he asserts that the only way we can do it is through direct bilateral specific tariff bargains, one country to another, in which commodities are traded across the table. I will add that if we are finally coming to a dependence upon the export debenture or the equalization fee or some kindred method of finally caring for the farm surplus of this country—and I think that is the reliance to which we ultimately must come—we never can do it so long as we have a tariff-bargain law upon the books operating under the most-favored-nation treaty clause. We shall have to do it by direct barter, precisely as Mr. Peek has indicated.

So, Mr. President, the supplemental thing I am saying this morning, in addition to my observations of last evening, is that no Senator needs to think he has to cling to an unconstitutional tariff-bargain law in order to fertilize and encourage the foreign trade of the United States. No such reliance is necessary. No such reliance will be successful. There are other and more practical ways of increasing the foreign trade of this country.

Therefore, so far as the contemplation of encouraged foreign trade is concerned—a thing which we all desire if we can get it without paying too high a price for getting it—we are wholly free agents to acknowledge the unconstitutionality of this tariff-bargain law, and proceed to wipe it from the statute books in our own time, instead of waiting for the Supreme Court to do it for us.

Mr. BARBOUR. Mr. President, in the light of the very complete and convincing addresses and discussion, for which we have to thank the distinguished and able Senator from Michigan [Mr. VANDENBERG], I am reluctant to take up any time myself in respect to this matter of the so-called "reciprocal-trade agreements", which is now before us. On the other hand, I am not willing to sit quietly by without at least raising my voice in vehement and earnest protest against this character of undertaking, these reciprocal tariff treaties.

As a matter of fact, as Senators know, I have heretofore said about all I can say on the subject. I refer to my address when the law originally was enacted; but I am compelled at least very briefly to point out—and I shall not even attempt to consume the 15 minutes which I am allowed under the unanimous-consent agreement to speak on this amendment—the fact that there are one or two points which as yet have not, I believe, been raised.

First of all, let me stress that I concur in all the general philosophy which has been so ably and completely covered by my distinguished friend and colleague the Senator from Michigan [Mr. VANDENBERG]. But I must add my own protest, Mr. President; for I object, and I object strenuously, to a situation which makes it necessary for my constituents to come to me, as they have been forced to do repeatedly, asking me if I can find out whether or not their names are going to be on the next list of those who are to be taken to the guil-

lotine, but I can never find out; knowing at the same time, as I do and as they do, that any foreign country which contemplates any negotiations of this character can go to the State Department with whatever its proposition is. In other words, the other country, and those connected with it knowing all about the whole proposition, start with that advantage to work out some character of trade or bargain with us, while we, the Americans, whatever our interest may be, are kept in complete darkness until the whole proposition has been considered and concluded, and then we are afforded the very empty gesture of what may be fairly characterized as simply a seat at our own funeral, and thus are given the opportunity of being politely told, in fact—for that is all it really is—what is to be done, whether we like it or not.

To me, that is wholly, completely, and absolutely un-American. I am convinced, too, it is wholly, completely, and absolutely unconstitutional.

Further than that, it seems to me that if we should contemplate any reductions in any tariff—and I am one of those who have no such contemplation, and believe in a protective tariff that is protective, and recognize, moreover, that never before was the protective tariff more necessary than today, when we realize that the administration is adding artificially through one means or another, to the cost of our commodities on raw materials by processing taxes and otherwise—changes, if any, in the tariff should be made by legal acts of the Congress and out in the open—changes which can be by the same legal process altered if need be.

I have no objection to the fair method of procedure, though I certainly should be against the reduction in tariffs themselves. Moreover, if the Congress of the United States shall decide to reduce all tariffs or certain rates, or completely do away with protection in some instances, and do it here in the Congress of the United States as it should be done, I shall be the first to admit that I have been mistaken if it is shown that any of the protection we now have is unjustified or detrimental to our well-being as a nation. By the same token, if such reductions prove not to be justified or wise, we can very easily correct the situation by enacting still another act putting these tariff rates back again. Now, however, we find ourselves in this unhappy and helpless position: We enter a secret but binding contract with a certain nation or a number of nations which it is going to be simply impossible for us to unwind or get out of without having the concurrence and consent of the other parties to the contracts. I myself cannot conceive of a more stupid and back-handed or more dangerous and futile, yes, silly way of getting into the tariff field of activity than in doing these things in this manner, which puts a strait-jacket on this country once a treaty has been concluded.

The third point I wish to make is that it seems to me that, in many instances, without any of the difficulty we are experiencing or courting, the same results, as a matter of fact, can be accomplished by simply demanding of any particular foreign country or countries which enjoy certain profitable and important trade with us that they in turn must purchase from us designated amount of some commodity which we feel they should buy from us. I do not like mentioning any particular country by name because I think that to do so is perhaps neither wise nor even courteous, but simply as an example, let us take France. France, as we all know, enjoys a very big and profitable business with the United States in, for example, wines, perfumes, cosmetics, and a number of other such products of that fair land, all of which, however, compete directly with like commodities produced in the United States. Why not, therefore, go to France and say, in effect: "You cannot enjoy this business indefinitely in the future unless increasingly you buy more for example, of our cotton, or of our wheat, or of our steel products." What is there unfair about that; especially as such a procedure would be perfectly open and aboveboard? Certainly there could be no complaint about that for it is a perfectly fair and sensible transaction.

We all know, too, that all these foreign countries owe us huge sums of money which they simply refuse to pay. Why

should we continue to fool ourselves and jeopardize our own interests in a way which, as the distinguished Senator from Michigan has so well described, brings us nothing but disadvantage and sacrifice?

I know intimately of certain situations in respect to cotton mills in the South which, we will say, make twine. The twine is sold, we will say, for other purposes, the twine thus becoming the raw material for still other mills. Now, owing to the processing tax which was put on cotton, owing also in turn to the decrease in hours of labor which was put into effect, and the increase in pay—and nobody is complaining about these adjustments by themselves—the net result is that the product in which this twine was used no longer can be sold because in this particular case of Japanese competition. Yet, when these concerns go to the Tariff Commission and ask for an investigation to the end that an attempt be made to get sufficient protection so that they can stay in business, nothing whatever is ever done about it. The excuse is that they cannot do anything of that sort at this time because of these secret trade arrangements which the State Department is undertaking or might wish to undertake. The American laborer and mill owner alike is helpless even though his livelihood may be traded away and traded away behind his back.

I conclude, Mr. President, by merely saying, as I said originally when the proposed act itself came before us, that I feel that this sort of business is the most unjustified, the most unnecessary, and the most un-American undertaking, probably, for which even this administration is accountable, and, incidentally, that is certainly saying a good deal.

Mr. McCARRAN. Mr. President, I ask unanimous consent to have inserted in the RECORD a letter over the signature of E. H. Snyder, general manager of the Combined Metals Reduction Co., of Stockton, Utah, bearing on the subject of the Brazilian agreement, and the possibility of the production of manganese, which production will be affected by the reciprocal trade agreements.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMBINED METALS REDUCTION CO.,
Stockton, Utah, May 5, 1935.

HON. PAT McCARRAN,
Senate Office Building,
Washington, D. C.

DEAR SENATOR: I am enclosing a copy of my letter of this date to Assistant Secretary of State Francis B. Sayre, relating to manganese.

I sincerely hope you can get action on your bill to take tariff-juggling powers away from the State Department.

With kind regards, I remain,

Yours very truly,

E. H. SNYDER.

MAY 5, 1935.

HON. FRANCIS B. SAYRE,
Assistant Secretary of State,
Washington, D. C.

DEAR SIR: We are very much concerned by the recent action taken by the State Department in connection with that part of the trade agreement made with Brazil, which results in a reduction of 50 percent in the tariff on manganese.

The engineers associated with the mining companies operating in Lincoln County, Nev., estimate the manganese-ore reserves of the Pioche and Comet districts of Lincoln County to be in excess of 35,000,000 tons, with a manganese content ranging from 10 percent to 20 percent (average estimated at 12 percent).

With the exception of a comparatively small tonnage of ore that has been shipped to the Columbia Steel Co., at Ironton, Utah, no manganese ore from Lincoln County has been marketed since the cessation of the World War.

During the past 10 years the companies owning these manganese deposits have spent large sums in drilling and development of the ore bodies and in the development of suitable metallurgical processes for the recovery of the manganese content of these ores.

Plans have been made to treat the ores by hydrometallurgical methods for the recovery of the manganese in a precipitate containing 60 to 70 percent manganese, and the converting of this precipitate to ferromanganese in an electric furnace. The hydrometallurgical plant is to be situated at Pioche, Nev., and the ferromanganese plant at Boulder Dam.

The capacity of the first unit of the proposed plant is estimated at 180,000 tons of crude ore per year, equivalent to 24,000 tons of ferromanganese per year.

We estimate direct employment equivalent to 500 man-shifts per day would be required to mine the ore and recover the manganese therefrom in the form of ferromanganese.

Based on Vandegriff's survey in Utah, a man employed in the mining and metallurgical industries in our section will support a total population of approximately 15 people (including workmen's families and the service population). On this basis the employment of 500 men in producing ferromanganese in Nevada would support an additional population of 7,500 people.

The reduction made in the tariff on manganese, amounting to approximately 10 percent of the gross value of ferromanganese, f. o. b. Atlantic seaboard, not only delays the financing of our plants at this time but may make the enterprise impracticable.

As several thousand miles separate the miner in Nevada from the State Department, we realize that at times our interests are given no consideration, due to lack of information at Washington. We believe that the action taken on manganese is a case of this kind. We realize that the large amount of work to be done by the United States Bureau of Mines, with limited funds, has caused them to pass lightly over the economic importance of low-grade manganese ores in our section.

The development of improved metallurgical processes for the treatment of low-grade ores of lead, zinc, and copper during the past 30 years has resulted in the production of most of our present supply of base metals from raw materials that were formerly considered of no value.

We are of the opinion that metallurgy for recovering manganese from low-grade ores is now developed to the stage at which its application over a period of 10 years would make possible the production of a substantial portion of the Nation's manganese requirements from the mines of the intermountain States, providing the administration had not seen fit to smother the industry.

As I have spent 25 years in mining, and have a fair idea of the time required to establish a profitable mining and metallurgical enterprise, I take with a grain of salt statements to the effect that our manganese deposits should be saved to be used during war periods. My opinion is that if the manganese industry in the United States is not protected sufficiently so that it can exist on a peace-time basis, it cannot be "scrambled" into existence in short enough time to be of material help in meeting a war emergency.

I have no information as to what benefits will accrue to this country from the trade that involved "throwing in" the manganese industry. I respectfully request, however, that the next time the tariff ax is used that you endeavor to chip "trading material" from some of the industries that are now obtaining prices from 10 to 30 percent above 1929 boom prices for their products and spare those raw-material industries that have no control over the selling price of their products. As a suggestion I might state drill steel, in ton lots, sold at 11 cents per pound in our section during 1929. The present price is 14 cents.

Yours very truly,

E. H. SNYDER, *Manager.*

Mr. McCARRAN. Mr. President, I also ask unanimous consent to have inserted in the RECORD a letter from Mr. John H. Cole, of the Domestic Manganese & Development Co., of Butte, Mont., showing the possibilities of production of manganese in this country if not affected by reciprocal trade agreements.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DOMESTIC MANGANESE & DEVELOPMENT CO.,
Butte, Mont., February 19, 1934.

Mr. J. CARSON ADKERSON,
President American Manganese Producers Association,
National Press Building, Washington, D. C.

DEAR SIR: Is it possible for you at the present time to give me any idea as to the future possibilities for a market for our manganese ore?

You are aware of the fact that in 1927 the Domestic Manganese & Development Co., of Butte, Mont., built a nodulizing plant at a cost of \$325,000. The Chicago, Milwaukee, St. Paul & Pacific Railroad spent \$110,000 building a trestle and tracks into our plant. This made a total investment of \$435,000.

Through our new process of beneficiation, which is the first installation of its kind in the country, we are able to recover from the formerly worthless low-grade manganese ores of Montana the highest grade ore known in the world's market.

We are prepared and have been since 1928 to produce and ship 72,000 tons per year of nodulized manganese ore, running 58 percent metallic manganese. We are further prepared, in 90 days time, to double the capacity of this plant so as to produce approximately 150,000 tons of this grade ore per year. This ore has fewer impurities than any other known ore in the world.

Even though we have been equipped and ready to sell 72,000 tons per year, we have been able to market a total of only 50,000 tons during the past 6-year period, and for this we were forced to sell at 8 cents a unit under the price being paid by American steel companies for foreign ores. You understand we were penalized in the neighborhood of \$5 per ton for having an American ore superior in analysis and physical character to any other known ore. This is an unjust and heavy penalty for being an American citizen.

During the past 6 years we have paid the railroads over a million dollars in freight on our nodulized and crude ore.

I would appreciate your early advice on this for the reason that we must have some hopes of a future market to warrant the further maintenance of our plant.

Yours very truly,

DOMESTIC MANGANESE & DEVELOPMENT CO.,
JOHN H. COLE.

Mr. McCARRAN. Mr. President, in order that I may be guided by the Chair as to the parliamentary status I desire to state my idea of the situation. I think I have now a limitation of 15 minutes on either the Vandenberg amendment or my proposed substitute for the Vandenberg amendment.

The PRESIDENT pro tempore. The Chair is informed by the clerk that the Senator has left 1 minute on his substitute for the Vandenberg amendment. The Senator from Nevada will have 15 minutes on the Vandenberg amendment.

Mr. McCARRAN. Mr. President, I desire within a very few minutes, and as soon as it comes to hand from the Secretary's office, to offer a corrected amendment in lieu of that which I offered yesterday as a substitute for the Vandenberg amendment, and in its corrected form I propose to bring back again to the Senate the thought and the theory which were embraced in the amendment offered by the senior Senator from California [Mr. JOHNSON] during the Seventy-third Congress; that is, that the Senate shall have a right to have on file the proposed reciprocal trade agreements, and shall have a right to act on them under certain conditions.

Mr. President, I now send the corrected amendment to the desk, to take the place of the substitute which I offered yesterday for the Vandenberg amendment.

The PRESIDENT pro tempore. The Senator has a right to substitute the corrected amendment for the one he has heretofore offered.

Mr. VANDENBERG. Mr. President, will the Senator yield? Mr. McCARRAN. I yield.

Mr. VANDENBERG. In view of the parliamentary situation, I should like to make a statement. There is nothing inimical to my proposal in the substitute offered by the Senator from Nevada, and, so far as I am concerned, I hope that all who agree with our mutual point of view will support the substitute. In other words, there is no quarrel between the substitute and my amendment.

The PRESIDENT pro tempore. The Chair may state to the Senator from Nevada that there is apparently a mistaken idea entertained as to the parliamentary situation. The amendment now pending is the amendment of the Senator from Nevada in the nature of a substitute for that of the Senator from Michigan. The amendment of the Senator from Michigan, therefore, is not pending, so the time of the Senator from Nevada has expired, and he will not be entitled to speak until his substitute shall have been disposed of.

Mr. McCARRAN. Very well. I think the ruling is correct.

Mr. NORRIS. Mr. President, as the Senator from Michigan so well stated, there is really no controversy between the substitute and the amendment itself. The real object attained by the two proposals, whether it is the object sought or not, is to give Senators an opportunity to debate two questions instead of one. It does not make any difference whether we have before us the substitute or the original amendment, it means the same thing; but, the substitute being offered, Senators can talk twice instead of once; they have one more amendment to discuss, so the desired result is accomplished.

I shall not enter upon a discussion of the merits of the pending amendment; it has nothing to do with the bill now pending in the Senate; but I wish to call the attention of the Senate to the parliamentary situation into which we are gradually drifting, and what I think it is going to mean.

We have been discussing the pending bill for 2 weeks. I concede that most of the debate has been legitimate and proper; but now comes an attempt to bring in something extraneous, an attempt to offer amendments which have nothing to do with the bill. If we shall continue this kind of parliamentary procedure, it will, in my judgment, result in the presentation in the Senate of a cloture rule, which I should not like to see adopted, and I think most Senators would not want to see such a rule adopted. We are going to be driven to it by the very necessity of the case.

Without regard to the merits of the pending motion, why should it be presented as an amendment to the pending bill? It starts a controversy on the tariff, and God Himself does not know where we will end or when we will get through if we start to write a tariff bill on the pending bill. There will be no end to it.

The controversy over the pending amendment on its merits is a great one. I am not criticizing Senators for taking either side of it. I do not agree with much of the argument that has been made for the amendment; but this is not a time to debate that question.

The amendment seeks to repeal a statute. It is said that the statute is an unconstitutional one. When I introduced a joint resolution proposing to the Constitution an amendment whose object was to permit the Supreme Court to decide on the constitutionality of an act of Congress within 6 months, I was hooted at, I was condemned, I was ridiculed, because it was said it was an attack on that sacred tribunal. Now Senators are anxious to repeal something because they say it will take too long to get it into the Supreme Court and have them declare it to be unconstitutional.

The Senator from Michigan [Mr. VANDENBERG], in keeping with his reputation as a great constitutional lawyer, has declared to us that the statute he seeks to have repealed is unconstitutional. He says there is no doubt about it. He wishes the Senate to say so after a 15-minute debate on another bill which has nothing to do with that question. If the Senate is going to follow that kind of procedure and is going to open up and consider the entire tariff law, it will be here for 5 years without an adjournment.

Just think of the situation for a moment. Whether Senators are for this bill or whether they are against it, it seems to me common courtesy demands that we reach an issue and decide the question. If Senators do not favor the pending bill, let them vote against it; if they favor it, let them vote for it; but let us not emasculate it by writing a tariff bill into it.

I have before me the banking bill, which consists of only 197 pages. Why not add that bill, piece by piece and section by section, as an amendment to the pending bill? What is the matter with putting the bonus bill into the pending bill? What is the matter with redefining murder as it appears in the statute and putting that definition into the pending bill? We have laws relating to the jurisdiction of our courts which we could discuss for months. Why not put provisions affecting them, section by section, into this farmers' bill with the end in view, or the end be accomplished, whether it be in view or not, of finally killing the bill and saying to the farmers for whose benefit this bill is intended, "You shall not have it. We will discuss it forever and forever and forever." In the meantime throughout the country the Senate will add to its present reputation of being a body which discusses forever and never reaches a conclusion.

Those who pride themselves on the fact that this body is a place where questions can be legitimately discussed without coercion being put upon its Members are going to be compelled, in order that business may be transacted, to adopt cloture, to limit discussion, to provide for the previous question, perhaps, and so on, and thus end for all time the boast that this body is a place where unlimited discussion may be indulged. We are going to be compelled to go to such lengths or to fail entirely in all our legislative activities.

I should dislike to see such a thing happen; but toward it it seems to me we are drifting. The presentation of this amendment providing for the repeal of a law which is not before us, which is not involved in the pending bill, is perhaps the first step toward bringing about the result I have indicated, a result which will be brought about if we shall continue on the course we are now pursuing.

Yesterday I voted to lay on the table the amendment of the Senator from Nevada. I disliked to do that. His amendment presented a question which had two good sides to it, but it did not have anything to do with the pending bill. I think we were justified in laying it on the table. Then comes the Senator from Michigan with the same motion, couched in a little different language, offered as an amend-

ment; and then comes the Senator from Nevada and offers the amendment, with a little different language for the third time, as a substitute, and we debate the substitute; and when we debate the substitute—it does not make any difference whether it is agreed to or not—we have another 15 minutes for each Senator on the substitute. Then perhaps another substitute will be offered. Perhaps Senators may find that they have not crossed a "t" or dotted an "i" in this one, and then the question of whether to cross the "t" or dot the "i" may be debated further, until we become ridiculous. We are debating a question the importance of which I am ready to admit but which does not have anything to do with this bill.

I should like to see a great many changes in a great many statutes. I think now would be the time to offer amendments providing that such and such a statute shall be changed or such and such a remedy shall be provided, and all I should have to say would be, "The statute is unconstitutional, but it may take 7 or 8 years to secure a decision by the Supreme Court; therefore let us decide the question now and repeal it."

Mr. President, we debated this bill for a couple of weeks the first time it was before us, and then recommitted it to the committee. The committee considered it for 2 weeks and then brought it back into the Senate. Now we have again debated it for 2 weeks. It seems to me, after all this consideration, we ought to pass on it; we ought to vote it up or down, and let the farmers go down or up, instead of resorting to methods which I think in the end will mean the defeat of the legislation.

It seems to me Senators ought to realize that while they have an actual right to oppose this legislation, and they may honorably oppose it, they ought not to do so by subterfuge. If this amendment shall be agreed to, and if we are going to amend a part of the law relating to the tariff, it follows logically that it is proper to take up every schedule in the tariff bill in which any Senator feels there ought to be a change. Thus the way would be open for thousands of amendments, every one of which has two sides to it, and can be debated almost without limit. If the debate on an item is not enough, under our rules we can offer a substitute and debate it twice, and if that is not enough, we can move to strike out a word and debate the question the third time; but I think this body would then become ridiculous in the end in the eyes of the people of the United States.

Mr. STEIWER. Mr. President, may I ask whether the perfected substitute offered by the Senator from Nevada [Mr. McCARRAN] has been stated?

The PRESIDENT pro tempore. It has not.

Mr. STEIWER. May it be stated at this time?

The PRESIDENT pro tempore. The clerk will state it.

The LEGISLATIVE CLERK. The amendment in the nature of a substitute submitted by Mr. McCARRAN for the amendment of Mr. VANDENBERG is as follows:

No foreign-trade agreement entered into after the enactment of this act under section 350 of the Tariff Act of 1930 shall become effective until submitted to the Senate by the President and approved by the Senate by two-thirds vote. The vote on such agreement shall be taken within 20 days after the President submits the agreement to the Senate, or, if the Senate is not in session, within 20 days after the convening of the next session of the Senate. In the event that the Senate shall fail to act within such period of 20 days, then said agreement shall be in full force and effect upon the expiration of said 20-day period.

Mr. STEIWER. Mr. President, the Senator from Nebraska [Mr. NORRIS], who is always practical, made a number of practical arguments concerning the amendments now pending and against the adoption of the proposals submitted by the Senator from Michigan [Mr. VANDENBERG] and the Senator from Nevada [Mr. McCARRAN]. In the course of his remarks he asked, in effect, why we should add an amendment which deals essentially with the tariff law to a bill dealing with agricultural relief. I suggest, in answer to that question, that I think of at least two reasons why we ought to consider these tariff proposals at this time. One is that they relate to raising revenue. Therefore, they must originate in the House of Representatives or they must be added by amendment in the Senate to another revenue bill which had originated in the House of Representatives. The pend-

ing farm bill is itself a tax bill. It affords an opportunity for action by the Senate.

Mr. NORRIS. Mr. President, will the Senator yield for a question?

Mr. STEIWER. I yield.

Mr. NORRIS. Is the Senator satisfied with the tariff rates on all farm products? Would he change any of them if he had a chance?

Mr. STEIWER. Oh, yes; I would. I would increase the rates which fail to give the home market to the American farmer.

Mr. NORRIS. This is the place to do it, is it not, according to the Senator's argument?

Mr. STEIWER. No.

Mr. NORRIS. They are in the tariff law. Why not offer an amendment raising the tariff on wheat, say?

Mr. STEIWER. No, Mr. President; this is not the time to take up those detailed propositions. I agree with the Senator that it would take an interminable period to do so. Moreover, there are facilities provided in the tariff act and powers given the President to deal with most of the question of rates on commodities.

Mr. NORRIS. But the Senator must remember that we never can put them on a bill unless it originates in the House. That is his argument in favor of this amendment.

Mr. STEIWER. That is true. I stated that as one of my arguments; the President can adjust rates, but he has no power to require ratification of the treaties nor to repeal the law.

Now let me proceed to the second argument. If we set up a program for agriculture and at the same time permit the Secretary of State and the gentlemen who operate with him in the making of foreign trade treaties to carry on a series of subtractions and to destroy the advantages afforded American agricultural products, the whole effort of the Congress with respect to farm relief will be set at naught. Therefore we owe it to ourselves and we owe it especially to American agriculture to see to it that the pending legislation carries appropriate restrictions and limitations, so that its good purposes may not be destroyed by the Department of State, with the free trade and international trade complex which is regarded in that Department over and above all other proposals for recovery.

The Senator from Nebraska has called my attention to the fact that there are tariff duties which might well be dealt with if we are not satisfied with the existing tariff law, and he says that we ought to consider such tariff rates, item by item, if we are to follow out my philosophy. I want to disclaim any idea of detaining the Senate by a discussion of that question. The Senator from Nebraska knows full well that I have not been guilty of wasting time in connection with this bill. Probably I have spoken as little with respect to the bill as has any Member of this body. I have been content that its various features should be defended by those in whose charge it has been committed by reference to the Committee on Agriculture and Forestry.

Mr. President, yesterday we considered and adopted an amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE] which related to tariff matters just as truly and as surely as does the amendment which is now before this body. That was an important amendment. The difference between it and the pending proposal is that it gave to the President and to the executive branch of the Government, additional power whereas both amendments now pending would result in taking away from the executive branch certain of the powers which they now possess or else in placing limitations upon the exercise of those powers.

The tariff amendment of yesterday, which gave to the executive agencies additional powers, was approved by the majority of this body and my good friend the Senator from Nebraska voted in the affirmative in order that such additional powers might be created.

Mr. NORRIS. Mr. President, will the Senator yield there?

Mr. STEIWER. I yield gladly.

Mr. NORRIS. The Senator must concede, I think, that the amendment he is speaking of was an amendment affect-

ing a provision already in the bill. The pending amendment goes clearly outside the bill—

Mr. STEIWER. That is true.

Mr. NORRIS. And the original amendment would entirely repeal a statute.

Mr. STEIWER. That is textually true, but it is rather disappointing to me to note this distinction made by the Senator from Nebraska. My regard for his ability is such that I expected him to rise to greater heights than that. All these amendments relate to the substance of the bill, and in a real sense to the objectives of the legislation. The only difference is the amendment of yesterday related also to its textual form, while the amendment today does not relate to its textual form. The distinguished Senator relies upon a very narrow distinction drawn in an effort to justify a difference in position between yesterday and today.

I wish now to say a word about the constitutional situation. I am glad to assure Senators that I shall not engage in a legalistic discussion of the various constitutional questions involved in the trade-agreements act or in the reciprocal trade agreements. During the time the legislation providing for reciprocal tariff agreements was before the Senate it was argued by a number of Senators—with a good deal of earnestness, and, I think, with convincing force—that the legislation was unconstitutional. It was stated here yesterday by the Senator from Michigan that the legislation was unconstitutional because it constitutes a delegation of the legislative powers of the Congress to the executive branch of the Government. That might be made a little more specific. It is, in my opinion, unconstitutional in two different respects; first, in that it delegates certain of the taxing powers of the Congress to the executive branch of the Government; and, second, that it delegates certain of the treaty-making powers of the Senate to the executive branch of the Government.

Let me suggest to those Senators who are the friends of the reciprocal trade-agreement act, and who want it maintained upon the statute books, that agreement to the substitute amendment offered by the Senator from Nevada [Mr. McCARRAN] would remove one of the constitutional objections because it requires ratification of the treaties. The other, it is true, would still remain, because the State Department would still be engaged in the process of making and changing the taxes of our country; but, so far as ratification by the Senate is concerned, that objection would be removed by the adoption of the pending amendment.

I have been rather amazed, Mr. President, and I am now amazed that, after all this time, no adequate defense has ever been made in behalf of the constitutionality of the trade-agreements act. As I recall during all the time it was before the Senate of the United States only two, or possibly three, Senators attempted to make any sort of an argument in behalf of its constitutionality, and, in the face of the rather extended argument against it and the widespread belief throughout the country that it constituted a delegation of the treaty-making power of the Senate and of the tax powers of the Congress, but very little effort was made to justify the legislation.

I was quite certain then, and am now, that the chief reliance of those who have been urging the reciprocal trade-agreement legislation upon the country is not that it is essentially constitutional but rather that it is difficult to have the constitutional question raised in any court of the country. It is quite conceivable, as I view the matter, that the constitutionality of this law may never be brought to the court of last resort. But, be that as it may, the objections against its constitutionality, which, as I have stated, have been most inadequately answered, stand out as plain as the noonday sun. It is obvious, upon the very face of this legislation, that it clothes the President and certain other executive officers of our country with power to amend revenue legislation and to negotiate treaties, and to do so without any reference to Congress upon either phase of the power which is being employed. There is no act condemned by the courts because of unconstitutional delegation of legislative power which more clearly lacks a standard for executive

action than does this trade-agreements act. Such standard is not only inadequate; it is utterly lacking.

I said only two or three Senators made a defense of the constitutionality of the legislation. Permit me very briefly to call attention to the character of that defense. I will leave it to Senators, even Senators of the Democratic faith, who have been the sponsors and supporters of this legislation, to say whether or not the defense is a fair, adequate defense worthy of this body.

I shall not reveal, Mr. President, the name of the Senator from whom I am about to quote. I have no desire to criticize him or his presentation of the subject here, but let me read from what he said. I now quote:

Now, gentlemen of the opposition—

I may digress here to say that the opposition he had in mind was the opposition to the legislation on the part of those Republicans and Democrats in this body who were not in favor of surrendering the taxing power to the office of the Secretary of State and to have it controlled and exercised by the Second or Third Assistant Secretary or by the chairman of some committee or by clerks or economists or others, known and unknown, who are presently carrying out the processes under which our tariff laws are being changed. Let me again commence the quotation:

Now, gentlemen of the opposition, ever croaking "unconstitutional", where have you been able to point to one decision of a court that has held any one act of legislation of this administration invalid?

And he said also:

Where has one of these gentlemen—and I allude to eminent gentlemen who are reputed by the papers to come from the House of Representatives—ever presented a cause before a court contending that a law was unconstitutional and had it sustained according to his opinion?

And still later in this rather remarkable defense of the constitutionality of the legislation then pending before the Senate, the reciprocal trade treaty legislation, the same Senator made this statement:

Mr. President, I desire to conclude these observations by saying that since the Supreme Court of the United States, both in the case from Minnesota and in the case from New York, lately held these extreme measures enforced upon us by necessity to be constitutional, I now ask you, Senators, and I ask you upon the honor of the souls within you, this question:

And then—

The PRESIDENT pro tempore. The time of the Senator from Oregon on the amendment has expired.

Mr. STEIWER. I will proceed on the bill. Then he asks a question phrased in this way; and I again quote:

You have denounced these measures here and there as invalid. You have called them unconstitutional. You have time and time again warned your land that the Supreme Court would declare them unconstitutional. You struck every hope from the bosom of men; you smote every confidence from the prayers of a mother; you smothered every desire and dream of a future from all American mankind, as they looked forward to some relief. At what time since then has one of you had the courage of the manhood that is within you, to tell the country you were mistaken in the charge you made; that the courts have declared these very laws which you prophesied would be held invalid, to be wholly valid, completely constitutional, and that the courts are enforcing them by the provisions of the Constitution of the United States?

Of course, Senators, the two decisions referred to are the Minnesota moratorium case and the New York milk case. One of those cases grew out of legislation by the legislature of a State and the other concerned a New York milk ordinance. Neither referred to any act of the Congress of the United States, nor did either have any relation to the jurisdiction of this body or to the power or authority of the Government of the United States to enter into the great field of experimental enterprises in which we have been engaged for the last 2 years.

Why, then, was it necessary to resort to the Minnesota case and the New York case to find authority, and why was it necessary by referring to these cases to try to make the claim that they sustain the constitutionality of the whole field of new-deal legislation; and why, Mr. President, was it necessary to do as the Senator did, to add a further observation, which I will now read:

Not one of you has done so. You are willing to mislead the land. You either knew the laws were valid when you charged them with being invalid or you did not. And now that you find you were mistaken, was there not honor or statesmanship in your sufficient again to revive some confidence in the hearts of your countrymen and again to invite them to vest confidence in the courts of which heretofore you have boasted your very great worship? Now, when the hour is with you when you could have invited your countrymen to observe how the courts have sustained the contentions of the President of the United States or the administration, silence is all that comes from you—the exhibition of want of honor on the one hand or deliberate cowardice on the other. Gentlemen, you may take your choice.

So, Mr. President, we find defense made in behalf of the constitutionality of this act upon the spurious claim that the courts had already sustained two important new-deal laws and had failed to denounce any of the new-deal legislation upon the ground of unconstitutionality. Our good friend spoke too soon. He talked too much. He was not partly mistaken—he was utterly mistaken. He spoke before the Supreme Court had actually considered one single item in the new-deal legislation save only one provision in the Economy Act of March 20, 1933, and that probably had not been called to his attention. I am referring to the provision which dealt with term insurance abrogation, and which was considered and condemned in Lynch against United States.

Subsequent to that time we all know what has happened. We know that the justification urged, namely, that because no court had condemned any part of this legislation, no court would do so—we know that assumption is entirely without warrant, that there is no theory left upon which legislation of this kind can be defended except upon its merits, and no Senator has risen to do that seriously in this body, and I prophesy that none will. I imply neither want of honor nor cowardice. The legislation is simply indefensible.

Mr. President, what are the advantages of the agreement and proposal of the Senator from Nevada [Mr. McCARRAN]? What is the practical advantage of agreeing to his proposal? I am not now referring to the repeal amendment offered by my friend from Michigan [Mr. VANDENBERG]. I, of course, should vote for that because I was one of those who voted against the reciprocity trade legislation in the first place and I should be perfectly happy at the first opportunity to vote for its repeal. But what are the practical advantages of this other proposal? To me they seem very great.

The Senator from Nevada has not offered to repeal the law as suggested by the Senator from Nebraska [Mr. NORRIS]. His proposal was merely to require ratification by the Senate before the various trade treaties should become effective. His proposal is in keeping with the traditions of our country, with the age-old experience of our Nation and with the plain import and meaning of the Constitution of the United States. His proposal does not require any friend of the reciprocal trade-agreements law to reverse his position. It does not require any Senator to vote for the repeal of that law. It merely does a thing which ought to have been done in the first instance. It requires the writing into the law by amendment at this time of language requiring ratification of those treaties by the Senate.

There are advantages in that procedure. It would enable the Senate to explore into the processes by which each one of the treaties have been negotiated and entered into. It would put the State Department upon its guard. The State Department would then know that whatever might be done by its representatives, the treaties would be examined by appropriate committees of this body and would be debated here in open forum and in public debate. It would know that the subterranean passages through which those treaties are too often negotiated would have the light of day let into them. It would know that the American people would have access to those passages which are accessible to foreigners, but not to Americans, and that the secret methods would be brought to an end unless the result of such methods were so good that the Senate would ratify the treaty in spite of the subterranean processes by which it had been entered into.

Senators know that no representatives of industry in this country can get to the body which negotiates and makes

these treaties. Senators know they are stopped at the committee called the "reciprocity committee." Representatives of American industry are permitted to file their briefs, are permitted to make their arguments, but beyond that the American cannot go; whereas the foreigner carrying on his negotiations not only knows his own mind, but through such negotiations learns the minds of the representatives of our Government, and therefore has a decided advantage; not an advantage over our governmental representatives but an advantage over the people engaged in industry in this country, an advantage which has already resulted in inequalities in these treaties which I shall not find time to discuss today—advantages resulting in improvident action so far as American interests are concerned; advantages which will rise to plague us in the future; advantages relating to the application of the favored-nation clauses, resulting in an incongruous situation like that of the Haitian treaty, which makes a concession with respect to the duty on coffee with the result that it is possible for Brazil to withhold her final approval of the treaty with her because Brazil already has that which she wants, and there is no reason why Brazil should now ratify a treaty made which would give to our nationals some advantage in the trade relationship with that nation.

Improvident action of this kind I am most certain would be forestalled if the Senate had the opportunity to look into these treaties in advance and ratify them only if they are in favor of American interests, and not on the ground that they are merely the expression of an internationalist philosophy, a vagrant dream of trade advantage in the minds of these gentlemen in the State Department.

Mr. President, I do not feel like extending the debate. I agree thoroughly with what the Senator from Nebraska [Mr. NORRIS] said a little while ago, that we ought to conclude our consideration of this bill at the earliest practicable time.

I know, moreover, that the debate is futile, that those who foisted this reciprocity tariff legislation upon our country are not in position to give it up at this time. I do not say so in rancor or ill will, but I say it in the most amiable way and with full appreciation, I believe, of the situation of those who have been the sponsors and defenders of the legislation.

The fact of the matter is that in the last campaign in 1932 the Democratic leaders made one of the great issues upon the tariff. They went back and forth across the land condemning the Smoot-Hawley bill. They held it up as the cause of the depression. They claimed it was a monstrous injustice to our people, a hideous thing against which they would strike. They led the people to believe that if they were put in power in this country, they would promptly set about to relieve the American people of the octopus fastened upon them in the name of a Republican tariff as set forth in the Smoot-Hawley bill.

From March 4, 1933, until this time is more than 2 years, and in that period not an effort has been made, not even a gesture has been made, in the direction of repeal of the Smoot-Hawley bill. With but few exceptions no rates have been changed. We are living under the same tariff structure now under which we were living in the Hoover administration. The only contention that could be made in behalf of this administration in justification for the course it has taken is that Congress has passed the reciprocal trade-agreement bill, and that the Secretary of State by slow and gradual processes will have opportunity, one item at a time, finally to change and alter the situation against which our friends complained. Because they have that little consolation, because they have that meager hope that the American people will accept the trade treaty bill as a fulfillment of the promise which they made to the people, they cannot afford to give it up.

So I say to my Republican friends now that it is futile to argue for repeal of that law at this time. It will remain futile to argue for repeal of that law until the American people, incensed by these unfair trade arrangements in which they find they have been sold down the river and their interests sacrificed in behalf of internationalism, rise up and

assert themselves in behalf of their rights as Americans in order that our people may labor and produce, uninterrupted and uninjured by foreign competition.

When that day comes there will be repeal of this law, and no longer will it be necessary to stand here or before the committees of the State Department appealing for justice and right for the American people, because then we will take back into the Congress the power which constitutionally belongs to the Congress, and all America will know as we proceed just exactly what kind of treatment our people shall receive.

Mr. WALSH. Mr. President, I am in accord with the powerful views expressed by the Senator from Nebraska [Mr. NORRIS]. It seems to me his argument is unanswerable, and I say this as one who is not in sympathy with the pending bill and as one who does not intend to support it, because it is unsound economically. I say it also as one disposed to consider sympathetically the spirit behind the pending amendment.

I have very serious doubts as to the success of the trade-making agreements upon the part of the executive department. I very reluctantly voted to extend this power to the executive department. I finally voted for the proposal because of its 3-year limitation. If I had an opportunity to vote on the matter now, I should not vote as I did then. This is another proof that it is always a mistake to get away from the fundamental underlying principles of the Constitution. I should go farther, possibly, than the Senator from Nevada [Mr. McCARRAN] in the direction of removing the entire power from the executive department, but I am not yet convinced that the present experiment is a failure.

I was led to support the legislation because of the well-known abuses and evils, particularly the logrolling abuse, associated with dealing with the tariff through the Congress. I think new evils have developed. I think we are forced now to rely too much upon the particular political philosophy or tariff views of one individual or two individuals and diplomatic intriguing, and that the result is that certain of these agreements are bound to be unsatisfactory. Many complaints have come to me from various industries in my own State and throughout the country as to the method of operation in making these agreements and as to the results of the agreements.

Mr. STEIWER. Mr. President, will the Senator yield?

Mr. WALSH. Yes; I yield.

Mr. STEIWER. I appreciate that there are evils under any system, and thoroughly agree with the Senator that there were evils under the old system as well as the new. Does not the Senator from Massachusetts feel, however, that it is better to make tariffs by our traditional processes, after open hearings, with permanent records, with open debates before the country, and with all the operations covered by the services of the press, than to have similar functions performed by committees in private, and the processes carried on in secret, with no responsibility save for the ultimate result? Does not the Senator agree that there is an advantage in publicity?

Mr. WALSH. I am in accord with the Senator's views, except that I would go one step further. I would provide for the President to have the power to veto separate items in a tariff bill. I think that would be a check upon the logrolling methods which we know have been adopted in framing tariff legislation; but, of course, there is no question about the fact that I am in accord with the Senator about the fundamental principle that the legislative body alone ought to exercise the power of taxation.

I rose, however, for the purpose of calling attention to the fact that, notwithstanding I have some sympathy with the principle behind the pending amendment and am opposed to this bill, and might perhaps be actuated to attach to it as many objectionable amendments as possible, I feel that the argument of the Senator from Nebraska [Mr. NORRIS] is unanswerable. The amendment does not belong on this bill. A bill dealing with the tariff ought to be introduced in the next

session of the Congress, and extensive hearings ought to be held to find out whether or not the power which we have delegated to the executive department is a success. It is a problem with which, in the first instance, the Finance Committee ought to deal, and I am sure it would deal with it if a measure were presented to it and an effort made to have hearings and to have the subject legislated upon.

This is not the time, in the middle of the summer, to discuss tariff questions. It is no place, when we are all tired out, to inject a problem of this magnitude and of this importance. We ought to be getting ready to go home, and speedily dispose of the pending business of this session.

Mr. President, I repeat, notwithstanding the fact that I am opposed to this bill and intend to vote against it, and notwithstanding the fact that I think there is a question here with which Congress ought to deal—the entire question of whether or not the exercise of this power by the Executive Department is a success—we ought not to do it now. I voted yesterday, therefore, to lay upon the table the amendment of the Senator from Nevada, and I shall do so now, because I am convinced that this is not the time to act on this question. We have not the time to do it. This is not the way to make laws. This problem does not belong to the farm measure which is before us. We ought to dispose of this bill, take up the other bills, end this session of the Congress as soon as possible, and not prolong it by innumerable amendments covering every question but the one under immediate debate.

Mr. McNARY. Mr. President, do I understand that the Senator from Massachusetts has made the motion which he said he might make?

Mr. WALSH. I will make the motion. I move that the amendment of the Senator from Nevada [Mr. McCARRAN] be laid upon the table.

The PRESIDENT pro tempore. The Senator from Massachusetts moves that the amendment offered by the Senator from Nevada [Mr. McCARRAN], in the nature of a substitute for the amendment of the Senator from Michigan [Mr. VANDENBERG], be laid on the table.

Mr. VANDENBERG. On that I call for the yeas and nays.

Mr. ROBINSON and Mr. McNARY suggested the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	La Follette	Reynolds
Ashurst	Costigan	Logan	Robinson
Austin	Davis	Loneragan	Russell
Bachman	Dickinson	McCarran	Schall
Bailey	Donahay	McGill	Schwollenbach
Bankhead	Duffy	McKellar	Shipstead
Barbour	Fletcher	McNary	Smith
Barkley	Frazier	Maloney	Steiner
Black	George	Metcalf	Thomas, Okla.
Bone	Gerry	Minton	Townsend
Borah	Gibson	Moore	Trammell
Brown	Glass	Murphy	Truman
Bulkley	Guffey	Murray	Tydings
Bulow	Hale	Neely	Vandenberg
Burke	Harrison	Norbeck	Wagner
Byrnes	Hastings	Norris	Walsh
Capper	Hatch	Nye	Wheeler
Caraway	Hayden	O'Mahoney	White
Carey	Holt	Pittman	
Chavez	Johnson	Pope	
Connally	King	Radcliffe	

The PRESIDENT pro tempore. Eighty-one Senators have answered to their names. A quorum is present.

The question is on the motion of the Senator from Massachusetts [Mr. WALSH] to lay on the table the amendment offered by the Senator from Nevada [Mr. McCARRAN] in the nature of a substitute for the amendment of the Senator from Michigan [Mr. VANDENBERG].

Mr. McNARY. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. HASTINGS (when his name was called). On this question I have a pair with the senior Senator from Missouri

[Mr. CLARK]. I understand that if he were present, he would vote "yea." Were I permitted to vote, I should vote "nay."

Mr. TOWNSEND (when his name was called). On this vote I have a pair with the junior Senator from Virginia [Mr. BYRD]. I understand that if he were present and voting he would vote "yea." If I were permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. DICKINSON (after having voted in the negative). On this vote I have a pair with the junior Senator from Mississippi [Mr. BILBO], who is necessarily absent. It is my understanding that if he were present he would vote "yea." If I were permitted to vote, I should vote "nay." I withdraw my vote.

Mr. AUSTIN. I wish to announce the pair of the Senator from New Hampshire [Mr. KEYES] with the Senator from Utah [Mr. THOMAS]. If the Senator from New Hampshire were present he would vote "nay." I understand that if the Senator from Utah were present he would vote "yea."

Mr. NEELY. I wish to announce that the junior Senator from Virginia [Mr. BYRD] is absent because of illness in his family.

I desire further to announce that the Senator from Missouri [Mr. CLARK], the Senator from New York [Mr. COPELAND], the senior Senator from Illinois [Mr. LEWIS], the junior Senator from Illinois [Mr. DIETERICH], the Senator from Texas [Mr. SHEPPARD], the Senator from Utah [Mr. THOMAS], the Senator from Oklahoma [Mr. GORE], the senior Senator from Louisiana [Mr. LONG], the Senator from California [Mr. McADOO], the Senator from Rhode Island [Mr. GERRY], the junior Senator from Louisiana [Mr. OVERTON], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Indiana [Mr. VAN NUYS], and the Senator from Mississippi [Mr. BILBO] are necessarily detained.

I am advised that if present and voting the Senator from Rhode Island [Mr. GERRY] would vote "nay."

Mr. HAYDEN. I wish to announce that my colleague, the senior Senator from Arizona [Mr. ASHURST], is necessarily detained from the Senate.

The result was announced—yeas 51, nays 24, as follows:

YEAS—51

Bachman	Connally	King	Pittman
Bailey	Coolidge	La Follette	Pope
Bankhead	Costigan	Logan	Radcliffe
Barkley	Donahay	Loneragan	Robinson
Black	Duffy	McGill	Russell
Bone	Fletcher	McKellar	Schwollenbach
Brown	George	Minton	Smith
Bulkley	Glass	Moore	Trammell
Bulow	Guffey	Murphy	Truman
Burke	Harrison	Neely	Wagner
Byrnes	Hatch	Norbeck	Walsh
Caraway	Hayden	Norris	Wheeler
Chavez	Holt	O'Mahoney	

NAYS—24

Adams	Davis	McCarran	Shipstead
Austin	Frazier	McNary	Steiner
Barbour	Gibson	Metcalf	Thomas, Okla.
Borah	Hale	Murray	Tydings
Capper	Johnson	Nye	Vandenberg
Carey	Maloney	Schall	White

NOT VOTING—21

Ashurst	Dickinson	Lewis	Thomas, Utah
Bilbo	Dieterich	Long	Townsend
Byrd	Gerry	McAdoo	Van Nuys
Clark	Gore	Overtone	
Copeland	Hastings	Reynolds	
Couzens	Keyes	Sheppard	

So Mr. WALSH's motion to lay on the table Mr. McCARRAN's amendment in the nature of a substitute for Mr. VANDENBERG's amendment was agreed to.

Mr. ROBINSON. Mr. President, I move to lay on the table the amendment offered by the Senator from Michigan [Mr. VANDENBERG].

The motion was agreed to.

Mr. CAREY. Mr. President, I send an amendment to the desk, which I desire to offer.

The PRESIDENT pro tempore. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed to insert at the proper place a new section, to read as follows:

After the date of the enactment of this act no foreign-trade agreement shall be entered into under the provisions of title III of the Tariff Act of 1930 with respect to any agricultural commodity or manufactured product thereof as to which any program is in effect under the Agricultural Adjustment Act, as amended.

Mr. ROBINSON. Mr. President—

The PRESIDENT pro tempore. The Senator from Arkansas.

Mr. CAREY. Mr. President—

The PRESIDENT pro tempore. The Chair will state to the Senator from Arkansas that the Senator from Wyoming has not yielded the floor.

Mr. ROBINSON. Mr. President, the Senator does not retain the floor when he offers an amendment.

The PRESIDENT pro tempore. The Senator from Wyoming was still standing.

Mr. ROBINSON. Very well.

Mr. CAREY. Mr. President, I shall not take any great length of time in discussing this amendment, but I think the amendment rightfully belongs on the pending bill. This Government is levying processing taxes under the Agricultural Adjustment Act to increase the prices of agricultural products, which taxes the American people are paying yet. At the same time there are coming into this country from foreign nations agricultural products similar, in many instances, to those on which processing taxes are now being levied.

Mr. HARRISON. Mr. President, will the Senator yield for a question?

Mr. CAREY. I yield.

Mr. HARRISON. What does the Senator mean by providing in his amendment that "no foreign trade agreement shall be entered into under the provisions of title III of the Tariff Act of 1930"? That is what the amendment provides, and I just wanted to have the Senator's explanation of it.

Mr. STEIWER rose.

Mr. HARRISON. I did not ask the Senator from Oregon. I refuse to yield to the Senator from Oregon.

Mr. STEIWER. The Senator from Mississippi has not the floor.

Mr. CAREY. I yield to the Senator from Oregon.

Mr. HARRISON. I decline to yield.

Mr. STEIWER. The Senator has not the floor. The Senator from Wyoming has yielded to me to answer the Senator concerning something as to which the Senator is already advised. The reciprocal-trade agreements are couched in terms as amendments to the Tariff Act of 1930.

Mr. HARRISON. Did the Senator write this amendment?

Mr. STEIWER. Oh, no.

Mr. HARRISON. Why does the Senator explain the amendment that was offered by the Senator from Wyoming?

Mr. CAREY. Mr. President, the amendment was drafted by the legislative counsel of the Senate, and the purpose of the amendment is to make it impossible to enter into reciprocal trade agreements covering agricultural products which are basic agricultural products as provided under the Agricultural Adjustment Act.

Mr. HARRISON. I was just wondering whether the Senator had in mind the Reciprocal Trade Agreement Act of 1934, or whether he was going back to 1930. I thought he might want to go back to the old Fordney-McCumber law.

Mr. BARKLEY. Mr. President, will the Senator from Wyoming yield?

Mr. CAREY. I presume this amendment was properly drawn by the legislative counsel to carry out the purpose I had in mind.

Mr. BARKLEY. Will the Senator yield for a question?

Mr. CAREY. I yield.

Mr. BARKLEY. If the Senator's amendment should be adopted, then the President could enter into no trade agreements with any country by which he could facilitate the exportation of more cotton, of which we have a great surplus, or more tobacco, of which we have a great surplus, or

more of any other agricultural product of which we have a great surplus, or of any industrial product of which we have a great surplus. If the Senator's amendment should be agreed to, none of those things could be brought about. Does the Senator know whether that would be true?

Mr. CAREY. I shall be very glad to change the amendment if there is any question about it.

Mr. BARKLEY. I am not suggesting any change, but I desire to find out the effect of the Senator's amendment.

Mr. CAREY. As I stated, if there is any question as to the right to enter into trade agreements to increase the export market for agricultural products, I shall be willing to change the wording of the amendment.

Mr. BARKLEY. In other words, the Senator from Wyoming would be willing to have the President enter into an agreement which would enable us to export more of our own products, but he would not be willing that we should, in return for that privilege, accept anything in return to this country.

Mr. CAREY. I should not wish products to come into this country on which we are paying processing taxes, nor should I wish to have a program entered into which would bring into this country products of which we were endeavoring to reduce production.

Mr. McNARY. Mr. President, if I may reply to the Senator from Kentucky, let me say that the amendment which was offered a few moments ago by the Senator from Nevada [Mr. McCARRAN] affected all agricultural commodities. The pending amendment is limited to those named as basic commodities in the Agricultural Adjustment Act, which was passed in 1933.

Mr. BARKLEY. I realize that, but—

Mr. McNARY. With respect to such commodities, this amendment would not permit reciprocal tariff agreements; but it would permit commerce to flow, as it always has, in the currents of trade into foreign countries or into States of this country. The amendment would simply prevent the President entering into treaties or agreements affecting the basic commodities named in the organic law.

Mr. BARKLEY. Which would mean that the President could not enter into any trade agreement which would facilitate the exportation of the unsalable surpluses we now have on our hands of cotton, tobacco, and many other basic commodities.

Mr. McNARY. No agreement of that kind has been entered into by the President of the United States.

Mr. BARKLEY. There have been only five reciprocal agreements thus far consummated, and there are 13 or 15 or 20 negotiations in progress with respect to others, which may include some of the surpluses on hand in this country, and as to which the Senator's amendment would tie the President's hands so that he could not enter into any agreement providing for the exportation of those surpluses.

Mr. McNARY. The amendment would simply prevent ruinous competition with countries which have a lower standard of living, and protect the American farmer. That is the purpose of the amendment, and it is limited to the products named in the original act.

Mr. DICKINSON. Mr. President, will the Senator yield?

Mr. CAREY. I will yield in just a moment.

I should like to say that I understand there is at the present time an agreement pending with Canada whereby the tariff on cattle will be reduced. Live cattle are coming into this country at a rate which, if continued, will amount to more than 2,000,000 head a year, and canned beef is also coming in. If my amendment is adopted it will protect cattle as well as other agricultural commodities.

Mr. ROBINSON. Mr. President, has the Senator concluded?

Mr. CAREY. I yield for a question.

Mr. ROBINSON. I asked if the Senator had concluded, and I could not hear his answer.

Mr. CAREY. No; I have not concluded.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. CAREY. I yield to my colleague for a question.

Mr. O'MAHONEY. Did I understand my colleague to say that there is pending a trade agreement with Canada which would result in lowering the tariff on beef imports from Canada?

Mr. CAREY. I said I understood that such an agreement is pending.

Mr. O'MAHONEY. I am very glad to be able to say to the Senator that as yet no negotiations whatever have been undertaken with Canada looking toward entering into a trade agreement. The State Department informed me only yesterday that it is now concerned only in the study of the various commodities, and no steps whatever have been taken toward lowering the tariff upon cattle or, for that matter, any other products. I thought the Senator would be glad to know that.

Mr. CAREY. In reply to my colleague, I should like to say to him that if he can find out anything about pending tariff agreements he is the only person I know who can.

Mr. BORAH. Mr. President, it has been published that such an agreement was in contemplation. The Senator from Wyoming undoubtedly knows that.

Mr. O'MAHONEY. That is true.

Mr. BORAH. The difficulty is that those who are concerned do not know when the crucial hour has arrived.

Mr. O'MAHONEY. That is quite true; I grant that.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. CAREY. I yield.

Mr. BARKLEY. Confirming what the Senator from Wyoming [Mr. O'MAHONEY] has just stated, my information is that while perhaps correspondence or informal talks have been indulged in, and while informal studies are being made, more or less tentative, looking toward a possible trade agreement with Canada—which, as the Senator knows, is our greatest customer—they have not either formally or informally proceeded far enough to contemplate even a discussion as to what articles will be the basis of any such agreement, or any tariff rate on anything which comes into this country from Canada or goes from this country into Canada.

Mr. CAREY. Then, I ask the Senator why should hearings be held? I personally appeared before a board of the Tariff Commission and protested against the tariff being reduced on cattle coming from Canada.

Mr. BARKLEY. I suppose the Tariff Commission may at all times hold hearings with respect to any possible action.

Mr. CAREY. They advised me of a hearing.

Mr. BARKLEY. I am talking about actual agreements between Canada and the Department.

Mr. CAREY. They advised me that they were holding the hearings at the request of the State Department, but at the same time they advised me that they had nothing to do with determining the terms of the treaty.

Mr. BARKLEY. Any information gathered by the Tariff Commission is available to the State Department. They may investigate, either informally or by public hearings, any question upon which the State Department may desire information. The point, however, is that there has been no negotiation between this country and Canada which has developed even what articles will be the basis of any possible agreement or any rate on either side.

Mr. STEIWER. Mr. President, will the Senator yield to me?

Mr. CAREY. I yield for a question.

Mr. STEIWER. I should like to make one observation, if I may.

I think the fact is that the State Department has given notice, as it normally does with respect to all other such treaty negotiations. Pursuant to that notice, hearings have been held. To my personal knowledge, representatives of the lumber industry in the South and the West came here and made oral arguments, not before the Tariff Commission but before the Committee on Reciprocity Information, all preparatory to the negotiation of the treaty. Now we are advised by the junior Senator from Wyoming [Mr. O'MA-

HONEY] that those negotiations have not as yet commenced, and for that we are very, very grateful, because it postpones the fatal day just that long.

Mr. DICKINSON. Mr. President, will the Senator yield?

Mr. CAREY. I yield.

Mr. DICKINSON. As I understand, the purpose of the amendment is to exclude agricultural commodities and the products thereof from the provisions of the act which we have been attempting here to repeal.

Mr. CAREY. That is the purpose of the amendment.

Mr. DICKINSON. That is my understanding. In that way there would be no further negotiations touching agricultural products with a Nation such as Canada, and Congress would, as it has heretofore done, regulate the tariff schedules to suit the industries of the country.

Mr. CAREY. That is the purpose.

Mr. DICKINSON. Mr. President, I desire to take a few minutes' time on this amendment.

It is my understanding that there are some twenty-odd countries which are the producers of agricultural products in competition with the United States; that most of them are seeking some type of trade agreements with the United States; that we have a market for their products, but they have no market for our products. Therefore, their very purpose in entering into trade agreements is to try to get into our market for agricultural products.

It seems to me we are in a position to lose, and never in a position to gain, by these trade agreements.

Mr. ROBINSON. Mr. President, will the Senator yield for a question?

Mr. DICKINSON. I yield.

Mr. ROBINSON. Does not the Senator know that in every trade agreement which has been concluded there have been incorporated provisions which authorize quantitative restrictions on articles or commodities which are subject to control of production, market supply, or price regulation?

Mr. DICKINSON. I do not understand the question.

Mr. ROBINSON. Does not the Senator know that in every trade agreement which has been entered into under the reciprocal tariff act this subject has been better safeguarded than can be done under the amendment of the Senator from Wyoming [Mr. CAREY]?

Mr. DICKINSON. No; I was not advised with reference to that. I hope it is true.

This morning the Senator from Nebraska [Mr. NORRIS] suggested, and also the Senator from Massachusetts [Mr. WALSH] that this is not the time for a discussion of this subject. It seems to me it is the time for a discussion of the subject, and I will tell the Senate why.

Every phase of farm relief which has been proposed here for the past 15 years to my knowledge has been based upon some form of protection by way of tariff regulation and statutory provisions. We have never sought to open our markets to the competition of the world so far as exchange of agricultural products is concerned. It seems to me that the reason this subject is a proper subject for discussion at this time, is that, so far as agricultural imports are concerned, the increase which is shown in practically every phase of agricultural imports is in contradiction of the interests of agricultural producers in this country who are accepting an allotment rental fee for not producing as much as they heretofore produced.

In other words, on one hand, we find that there is an effort to reduce production in this country, and, on the other hand, we find that under the policies being carried out an increase is shown in the imports of agricultural commodities in practically every phase during several years past. That is the reason why I think this is a proper subject for consideration in connection with this bill.

The junior Senator from Oregon [Mr. STEIWER] said there was only one way by which this question could be brought to the attention of the country, and that was by an aroused public opinion. I think there is another way by which it can be brought to the attention of the country and that is through a decision by the Supreme Court.

It seems to me that we are gradually drifting to a point where we are depending upon the Supreme Court to determine the policy of the country as to how far we may go in the matter of the adjustment of our economic policies under the Federal Constitution. The Reciprocal Trade Agreement Act provides in section 350 (a):

SEC. 350. (a) For the purpose of expanding foreign markets for the products of the United States (as a means of assisting in the present emergency in restoring the American standard of living, in overcoming domestic unemployment and the present economic depression, in increasing the purchasing power of the American public, and in establishing and maintaining a better relationship among various branches of American agriculture, industry, mining, and commerce) by regulating the admission of foreign goods into the United States in accordance with the characteristics and needs of various branches of American production so that foreign markets will be made available to those branches of American production which require and are capable of developing such outlets by affording corresponding market opportunities for foreign products in the United States, the President, whenever he finds as a fact that any existing duties or other import restrictions of the United States or any foreign country are unduly burdening and restricting the foreign trade of the United States and that the purpose above declared will be promoted by the means hereinafter specified, is authorized from time to time—

(1) To enter into foreign trade agreements with foreign governments or instrumentalities thereof.

There is a direct delegation of power without any formula prescribed as to how the power shall be exercised. It is a direct delegation of legislative power which has heretofore been enjoyed by Congress. In the Thacher letter, referred to by the Senator from Michigan yesterday, we find this statement:

Under the provisions of section 350 (a) the President's authority, through the exercise of his tariff-bargaining power with all the nations of the world, to revise duties and restrictions upon imports within the 50-percent limit prescribed by the statute appears to be absolutely unfettered and uncontrolled by any standard considered and adopted by Congress in the exercise of its power to prescribe the legislative policy which must guide executive action.

In other words, Mr. Thacher contends that that is a direct delegation of legislative power without any rule or yardstick fixed whereby the action of the department may be guided.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. DICKINSON. I yield to the Senator from Kentucky.

Mr. BARKLEY. Does not Mr. Thacher's letter refer to the fact that the act itself provides that the President could not transfer an article from the dutiable to the free list or from the free list to the dutiable list and that he could not change existing rates more than 50 percent in either direction?

Mr. DICKINSON. That is not a yardstick whereby he might adjust the tariff duty at all; that has nothing to do with it.

Mr. BARKLEY. It was more of a yardstick, I will say to the Senator, in my opinion, than was contained in the act of 1890, which authorized the President, without even any yardstick, to issue embargoes and such restrictions as he thought were necessary whenever any other country by any restrictions, tariff, or other regulation of its own imposed an unreasonable burden upon American commerce; and that delegation of legislative power by the Congress was sustained by the Supreme Court of the United States.

Mr. DICKINSON. In reply to the Senator from Kentucky, let me quote from the CONGRESSIONAL RECORD of May 13, 1929, at page 1211, from the remarks of Hon. Cordell Hull, then a Member of Congress from the State of Tennessee. I quote from the bottom of the page:

Mr. Chairman, the proposed revision provides in effect that the valuation by appraisers shall be final except by appeal to the Secretary of the Treasury. This astonishing proposal strips bare the jurisdiction of the Customs Court and its authority to adjudicate unquestioned and hitherto unchallenged rights of the citizens. This is bureaucracy run mad. The very suggestion that the most valuable property rights of the citizen can be disposed of or dealt with as a finality by the Treasury Department without the slightest recourse to the courts of the country is wholly impossible to understand.

The proposed enlargement and broad expansion of the provisions and functions of the flexible tariff clause is astonishing, is undoubtedly unconstitutional, and is violative of the functions of the American Congress. Not since the Commons wrenched from an English King the power and authority to control taxation has there been a transfer of the taxing power back to the head of a government on a basis so broad and unlimited as is proposed

in the pending bill. As has been said on a former occasion "this is too much power for a bad man to have, or for a good man to want." We have recently witnessed the astounding spectacle of Congress in session engaged in the work of enacting tariff legislation, while the President, assuming equal and coordinate authority, has undertaken to anticipate Congress by legislating himself while the session of the legislative body is in progress. This proposal embraces another revolutionary policy, which is, to abandon the law and the Republican doctrine to the effect that all tariffs should be measured by the difference between production costs here and abroad, by adding a number of alternative so-called methods to ascertain what is termed conditions of competition between this and other countries. It is proposed thus to give the President and his Tariff Commission, which, by the way, is virtually taken away from Congress, authority to use what in practical effect will be any sort of basis on which to fix tariff rates.

Further, from the CONGRESSIONAL RECORD of May 19, 1932, I again quote from the remarks made by Mr. Hull, who was then a Member of the Senate, as follows:

I am unalterably opposed to section 315 of the Tariff Act and demand its speedy repeal. I strongly condemn the proposed course of the Republican Party, which contemplates the enlargement and retention of this provision with such additional authority to the President as would practically vest in him the supreme taxing power of the Nation, contrary to the plainest and most fundamental provisions of the Constitution—a vast and uncontrolled power larger than had been surrendered by one great coordinate department of government to another since the British House of Commons wrenched the taxing power from an autocratic king.

That was the position of Secretary of State Hull, under whose jurisdiction reciprocal trade agreements are now being negotiated. It seems to me that in the delegation of power we have flown in the face of the decision of the Supreme Court in the Schechter case. Let me quote from the decision in the Schechter case, as found on page 6 of Senate Document No. 65:

The Congress is not permitted to abdicate or to transfer to others the essential legislative functions with which it is thus vested. We have repeatedly recognized the necessity of adapting legislation to complex conditions involving a host of details with which the National Legislature cannot deal directly. We pointed out in the Panama Company case that the Constitution has never been regarded as denying to Congress the necessary resources of flexibility and practicality, which will enable it to perform its function in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the legislature is to apply. But we said that the constant recognition of the necessity and validity of such provisions, and the wide range of administrative authority which has been developed by means of them, cannot be allowed to obscure the limitations of the authority to delegate, if our constitutional system is to be maintained.

So much for the delegation of power in the reciprocal trade agreement. Now let us consider the amendments now pending before this body. On page 2 of the bill, line 24, we find the following:

Whenever the Secretary of Agriculture has reason to believe—

I have always thought that a man who believes in pursuing a certain course can find a reason for exercising the authority, and his action depends upon his disposition to do what he wants to do. Therefore, if he wants to do a certain thing, he will find reason for believing that it should be done.

Whenever the Secretary of Agriculture has reason to believe—

What?—

(a) The current average farm price for any basic agricultural commodity—

Very well; what is the current average farm price? Who has the right to fix it under the law? What definition will the courts give to that phrase? How many elements would you, Mr. President, take into consideration in determining the current average farm price? What additional elements would I take into consideration? All of these things are absolutely flexible, and none of them have any definition in the law. Yet that is one of the facts that the Secretary of Agriculture must find before he may determine whether or not he ought to provide for the payment of rental allotments to take land out of cultivation.

What else must be found? He must find the fair exchange value of the basic agricultural commodities for

other commodities. What other commodities? And who is going to fix the value of the other commodities? Where is there any standard for fixing values under our Government so that a yardstick may be provided?

Now let us go back to the Schechter case again and see what it says:

The PRESIDENT pro tempore. The Senator's time on the amendment has expired.

Mr. DICKINSON. I will take my time on the bill.

On page 7 of the decision I find this statement:

What is meant by "fair competition" as the term is used in the act? Does it refer to a category established in the law, and is the authority to make codes limited accordingly? Or is it used as convenient designation for whatever set of laws the formulators of a code for a particular trade or industry may propose and the President may approve?

So the pending bill does not define "fair competition"; it does not define "average farm prices"; it does not define "fair exchange value."

Yet I find the proponents of the A. A. A. are now going over the country and asserting that they are certain they have amended the act so there will be no question about its constitutionality. There seems to be a concession that the original act will be held to be unconstitutional. There is no question about the finding of the circuit court of appeals in Boston to which I referred only a few days ago.

But I also find there is a danger, which is admitted by all those interested, because of the fact that this bill as brought here provided that the Government, which wants to be fair to its citizens, should bar its citizens from bringing suits against the Government for the collection of an unlawful or unconstitutional tax.

I find now, according to the Treasury statement of July 15, that the Agricultural Adjustment Administration has credited to it to date \$1,716,880,281. How is that turned over? I turn to item 2 and I find that it includes:

Three hundred and fifty million dollars specifically appropriated from the General Treasury under the acts of May 12, 1933, May 25, 1934, and June 19, 1934.

One billion three hundred and fifty-seven million eight hundred and eighty-five thousand dollars advanced by the Secretary of the Treasury under authority of section 12 (b) of the Agricultural Adjustment Act, which must be returned to the Treasury from the proceeds of the processing tax collected on farm products.

What is the processing tax? The processing tax is nothing more nor less than a consumer's sales tax on food products and clothing necessities. That is all it is. We are collecting now a sales tax of approximately \$600,000,000 a year in that way.

I find there has been a decrease in the amount of such taxes collected. For the period from July 1 to July 15, there has been collected only \$19,282,884.12 this year as against \$35,460,973.59 in the same period last year. What does that mean? It means as the processing tax goes on and the prices are raised to the consumer, there is less processing and less consumption.

I know it will be said, "Do you not believe in high prices?" Yes, I believe in high prices, but I also believe that prices can be too high. Dr. T. W. Schultz, State economist, of Ames, Iowa, said that "income is a product of both production and price". In other words, the millionaires of the country have not been made by making a small amount of any product and selling it at a high profit. The millionaires have been made by having a product that was in great demand and having a small profit on every unit, and in that way increasing the unit sale. Henry Ford is the best example I can cite.

How is the money to which I have just referred transferred? The \$1,357,000,000 was transferred under section (b) of the act which provides:

In addition to the foregoing the proceeds derived from all taxes imposed under this title are hereby appropriated to be available to the Secretary of Agriculture for expansion of markets and removal of surplus—

And so forth. Then it authorizes the Secretary of the Treasury to make advances as he sees fit, unlimited, for such

amounts as he may think are necessary in order to carry out the provisions of the act. It is under that provision of the act that there has been advanced from the Treasury of the United States \$1,357,000,000 in order to carry on this program.

Therefore the money has come out of the Treasury, and only \$893,000,000 has been paid back. There is a balance on hand of \$705,785,000. The result is that if suits shall be filed, if the administration has gone too fast under the law, if it has run a risk that it should not have run, if by delaying the appeals of the various cases to the Supreme Court the Government has been under obligation to pay back to those who have paid an unconstitutional tax—and there shall have to be a refund of the amount paid in—then I can see how we will be involved in this processing-tax matter and its adjustment for a number of years yet to come.

I noticed also a further suggestion only the other day coming from Nashville, Tenn. I quote a United Press dispatch as follows:

If the Supreme Court of the United States finds the A. A. A. and the T. V. A. unconstitutional millions of former members of the American Farm Bureau Federation are ready to fight for necessary constitutional amendments to put them through, Donald Kirkpatrick, Chicago, Ill., general counsel for the Federation, said here Saturday. "However", he said, "new changes in the A. A. A. should provide strength in the act to survive a court test."

In other words, are we now approaching a time when we are going to have proposed an amendment to the Constitution giving to the centralized bureaucracy which is now being developed in this country the right to determine the size and take actual direction of the business interests of the country for the individual?

I note in a statement made by Secretary Wallace that he said:

In other words, is economic self-government in these United States constitutional? Is it going to be possible for the great key economic decisions to be made by all who will be affected by such decisions, or must those decisions be left in the hands of the few at the top?

I am thoroughly convinced that the people in the State of Iowa are still willing and content to try to work out their economic existence under the provisions of the Constitution, and if a constitutional amendment shall be proposed they will take it up in due time and give it the consideration which it ought to be given, and determine whether or not under the Constitution they believe they should have additional rights of which they are now deprived.

In the speech of Secretary Wallace at Seattle I find this further statement:

Now that the Nation is approaching maturity, we face the necessity of discovering that principle of unity which provides most fully and justly the basis for an enduring relationship of the several regions and groups to the Federal Union. It must be a unity which will allow abundant room for diversity within it, and which will permit simultaneous centralization and decentralization—

Of course, I do not know how things can be centralized and decentralized at the same time. It may be possible—

centralization of certain powers to permit a national approach to national problems, decentralization of certain administrative functions to permit a rebirth of democracy in every township in the land.

The theory that the A. A. A. is a cooperative endeavor may be true in a certain way; but when we come to figure out how the benefits are to be paid, what is cooperative about it? When we attempt to buy pork chops, and we are asked 45 cents a pound for them when we think we can pay only 30 cents, what cooperation is there between the customer and the butcher? We either pay his price or we do not get the pork chops. In other words, there is no cooperation so far as the financing of this problem is concerned.

I desire to refer to just one more problem, and that is as to whether or not the processing tax is the farmer's tariff. Here I shall quote from Mr. Frank P. Litschert, who is an authority on those matters. In an article published in the present month he says:

Some of the staunch defenders of the A. A. A. processing taxes * * * declare that, like the processing tax, the protec-

tive tariff curtails the supply and at the same time raises the cost to the consumer.

Anyone who will take the trouble to study the comparison himself for a moment will not have much trouble in seeing the unsoundness of it. The protective tariff is not designed to curtail the supply of a product but only to cut down that part of the supply which comes to us from foreign lands, where it has been made by poorly paid workers, and to protect American jobs and the American standard of living for our own people by increasing the American supply.

That is the underlying feature of the protective-tariff policy of the United States.

The protective tariff encourages home industry.

It does not make for scarcity. It does not ask men to produce less and ask a higher price for their product.

When foreign matches, for example, are kept out of the country, the tendency is not to curtail American production or the match supply, as is the case of the A. A. A. with farm products, but to make more matches at home and at the same time more jobs for American workmen. The same is true of every other industry which is created in America by barring out a flood of cheaply made foreign goods. On the other hand, the processing tax is raised directly to cut down American production. And its effect on foreign production is exactly the opposite of that of the protective tariff. By reducing crops at home it encourages production in foreign countries. In fact, many foreign agriculturists have received so much encouragement that they are planning to raise enough to displace us in the foreign markets and send us supplies over our tariff wall, if the processing tax and other brakes on American production make it possible, as seems likely.

In other words, the protective tariff never reduced supply in the United States. It always encouraged production. Here, we are attempting to reduce production. I am just as anxious as anyone that the farmer shall receive high prices. On the other hand, if we adopt the policy of scarcity, in the end the industry will keep sagging down with less produced, less processed, less consumed.

There is no prosperity for any factory which adopts that policy. Those in charge of the most profitable factory in the United States today may say, "We are going to produce 50 percent less, but we are going to make 50 percent more profit on each unit." What will happen? The factory will soon go out of business.

That is what I am fearful of. When we see pork chops go too high—and I like to see high prices for pork—there may come a time when pork will disappear from the American table; and, remember, even in the State of Iowa, we have five people consuming pork to every one who is producing it.

I now wish to refer to a speech made by Gen. Hugh S. Johnson before the Central Mercantile Association, at New York City, on June 10 of this year. It has reference to the question of constitutionality, and whether or not Congress has been faithful to its trust in properly discussing these various measures.

To date the new-deal legislation before the Supreme Court has a batting average of four reversals and one apology. The apology was in the gold case; and yet we were passing legislation through the Senate, and if any Senator rose to question the constitutionality of any measure which was suggested, he was given but little attention. Why? There was a great demand for a new deal, apparently whether constitutional or not, and its advocates did not take into account the fact that we still have three departments of our Government. Congress may surrender to the Executive, but the Supreme Court has not yet surrendered.

Mr. LONG. Mr. President, will the Senator allow me to ask him just one question on that line?

Mr. DICKINSON. Yes.

Mr. LONG. Is it not a fact that while the Supreme Court did not surrender, the decision of the Supreme Court went a little bit further? Notwithstanding the fact that Congress was trying to quit, it undertook to convince Congress that probably there should be a Congress remaining, even though it had decided that there was no further use for it.

Mr. DICKINSON. I think that is correct. The Supreme Court said that we could not delegate our legislative function.

From page 24 of this speech by General Johnson I quote the following:

At the time N. R. A. was drafted I never heard anybody seriously contest its constitutionality as an emergency measure.

Its constitutionality was questioned. It was questioned on the floor of the Senate. It was questioned on the floor of the House. Nobody paid any attention to those who questioned it. We were told that we must do what was done.

Let me quote further:

We could not foresee what the Court might say, but we could see very clearly what the Court had said about the war legislation, and we kept the new legislation very far within those limits.

Just there, I wonder who is a convert to the theory that in peace times we ought to be permitted to pass war legislation!

Let me quote further:

There was no hint that it—the N. R. A.—would be blown to atoms by one judicial breath between dawn and dark of a single day.

Such a spectacle makes our system of government a laughing-stock for the world.

No; in my judgment, that decision makes the "new dealers" the laughing-stock of the world. Our Government is still here in all three of its branches. It has not surrendered its position; it is not going to surrender its position; and the fact that the Supreme Court has kept us within proper constitutional bounds is one of the wholesome developments of the past 6 months.

Therefore, I think we may justly consider whether or not we should continue a system that is contravening the very effect of any agricultural development we may have by means of reciprocal trade agreements whereby we are permitting imports in excessive amounts to come into this country. The authority has already been delegated. There is no necessity for a continuation of this policy, except that we have in key positions men who do not believe in the protective-tariff system, who believe there ought to be a reduction all along the line, who believe we ought to have international trade agreements whereby we shall sacrifice some of our domestic trade. For that reason I wished to call the attention of the Senate to some of the things I have suggested with reference to this amendment.

I should like to see this amendment adopted. I should like to see the reciprocal tariff law held unconstitutional. I should like to see the matter taken to the Supreme Court at the earliest possible date.

I ask unanimous consent that there may be printed in the Record at this point a statement by various authorities on the transfer of legislative power to the President.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The statement referred to is as follows:

DENUNCIATION OF TRANSFERENCE OF LEGISLATIVE POWER TO THE PRESIDENT, UTTERED BY DEMOCRATIC LEADERS DURING THE DEBATE UPON THE FLEXIBLE PROVISIONS OF THE HAWLEY-SMOOT TARIFF BILL AND FOLLOWING ITS ENACTMENT

TRANSFERENCE OF LEGISLATIVE POWER TO THE PRESIDENT

The accompanying excerpts were taken from speeches delivered in Congress and over the radio upon the subject of the flexible provisions of the Hawley-Smoot Tariff Law, insofar as those provisions delegate certain legislative functions to the President of the United States.

With two exceptions, the excerpts are from speeches of outstanding Democratic leaders, nearly all of whom are present Members of the United States Senate.

These excerpts contain charges that the transference or delegation of legislative powers of Congress to the President of the United States:

1. Violates the United States Constitution.
2. Usurps the power of the legislative branch of the Government.
3. Destroys the system of checks and balances between the legislative and executive branches of the Government.
4. Violates centuries of practice, precedent, and tradition of the Anglo-Saxon peoples.
5. Destroys the very cornerstone of the foundation of representative government.
6. Takes the power to levy taxes from the people and places it in the hands of one man. The power to tax is the power to destroy, and by centralizing the taxing power in one man, the very liberties of the American people are menaced.
7. While the President of the United States is President of all the people, nevertheless he is also a party leader, and delegating legislative powers of taxation and control of tariffs places in his hands limitless power to favor or subsidize or enrich a certain industry.

or group of industries, or a section of the country, at the expense of other industries or other sections of the country. By the same token it places in his grasp the power to punish or even destroy an industry or group of industries.

8. It sets up machinery in the hands of the party leader whereby political funds to run his party may be collected or favors distributed in return for support of his party. This machinery, easily susceptible to corrupting influences, is given the cloak of regularity and legality by reason of the power vested in the Chief Executive, who is also the party leader. Such powers used in such a manner could easily perpetuate a party in power or could, against the wishes of the majority of his own party, perpetuate an individual at the head of his party and as the Chief Executive of the Nation.

9. It sets up political dictatorship, vested with limitless and autocratic power to override the legislative branch of the Government, to refuse that branch the right of review of Executive action, and back of that deny the American people any voice in the conduct of their Government or in the formulation and execution of its policies.

10. It creates an economic despot, holding the prosperity, and, indeed, the very existence, of industry and commerce within his own hands.

No arraignment of the transfer of legislative authority to the Chief Executive found in these excerpts is more severe than the two excerpts from the speeches of Senators Hull and Swanson, both of whom are now in the Cabinet.

JOINT STATEMENT ISSUED BY DEMOCRATIC MEMBERS OF SENATE FINANCE COMMITTEE ATTACKING PRINCIPLE OF PERMITTING PRESIDENT TO PASS UPON TARIFF RATES

September 29, 1929, the eight Democratic members of the Senate Finance Committee issued a public statement in which they attacked the principle of permitting the President to pass upon tariff rates as being unconstitutional and a menace to the democratic form of government. The statement follows:

A question of far-reaching consequence transcending considerations of party prompts us to issue a public statement in relation to the so-called "flexible" provisions of the tariff bill now pending before the Senate.

The question involved is one that in our opinion strikes at the very roots of constitutional government. It concerns the preservation unimpaired or the abandonment of the power of levying taxes by that branch of the Government which the forefathers agreed should alone be charged with that duty and responsibility.

Whatever argument could be advanced during the war and immediately following for delegation to a degree of the taxing power to the Executive unquestionably no longer exists. To incorporate now in the law any recognition of a right of the Executive to impose taxes without the concurrence of the legislative branch is without justification.

Authority in the Executive to make the laws that govern the course of commerce through taxation is especially objectionable. It is an entering wedge toward the destruction of a basic principle of representative government, for which the independence of the country was attained and which was secured permanently in the Constitution.

There is no issue here as to the integrity of any Executive who has had or may have extended to him the exercise of this power. The issue is one of taxation by one official, be he President or monarch, in contrast to taxation by the representatives of the people elected, intrusted exclusively with the power to seize the property of the citizen through taxation. If proof were needed that the danger which the forefathers foresaw is inherent in this issue, a mere casual inquiry into the methods employed, selfish influences used, sinister schemes and contrivances brought to bear, one need but examine the record.

The principle is: Are taxation laws and their application to be made virtually in secret, whatever may be said about a limiting rule, or are they to be enacted by the responsible representatives of the people in the Congress, where public debate is held and a public record made of each official's conduct?

The arbitrary exercise of the taxing power, all the more dangerous if disguised and not obvious, in its basic character is tyranny. Resistance to the impairment of this popular right has largely occasioned many of the wars and revolutions of the past.

An issue of this importance should not be associated with the opinions or necessities of those interests, States, or sections that directly profit by some rate schedule in the body of the tariff act. With respect to the principle here at stake, any trading or log-rolling is especially unjustifiable and indefensible. Neither should we be unduly influenced by the attempt to divert attention from this momentous issue by condemnation of and emphasis upon the dilatory and unsatisfactory results of congressional procedure.

No one seeks to prevent or in any way to interfere with the investigations and reports of the Tariff Commission in connection with emergency tariff legislation. The point is: We emphatically insist that final action and responsibility based on Tariff Commission reports shall be taken by the Congress.

For the purpose of preventing apprehended congressional delay, an amendment has been made providing for the submission of the reports to the Congress by the President, and, furthermore, an amendment will be presented strictly limiting action by the Congress to matters germane to the particular subject matter or rates recommended by the President after investigation by the Tariff Commission.

We do not hesitate to say that if this extraordinary and what we believe to be unconstitutional authority passes now from the Congress, it is questionable if there will ever again be a tariff bill originated and enacted by the Congress.

It is our solemn judgment that hereafter all taxation, through the tariff, and regulation of commerce thereby, will be made by the Executive. It is the inherent tendency of this tariff-changing device and the apparently conscious purpose of its proponents to use it to keep the tariff out of Congress, where it is such an embarrassing business, as everybody knows, to the party that profits politically by it. So, also, it will be of distinct advantage to the interests that are the direct beneficiaries of the tariff.

In an age where there has been a steady tendency to rob the individual citizen of his power and influence in his Government through bureaucracy, we deem it our duty to vigorously protest any further encroachments in this direction, and especially with respect to taxation.

In the hope of arousing the people, regardless of party, to take a broad, a public view of this important public question, we make this appeal.

FURNIFOLD M. SIMMONS, of North Carolina; PAT HARRISON, of Mississippi; WILLIAM H. KING, of Utah; WALTER F. GEORGE, of Georgia; DAVID I. WALSH, of Massachusetts; ALLEN W. BARKLEY, of Kentucky; ELMER THOMAS, of Oklahoma; TOM CONNALLY, of Texas.

SENATOR BRATTON

Senator Bratton, September 27, 1929 (CONGRESSIONAL RECORD, vol. 71, pt. 4, p. 4037) said:

"The victory of the Anglo-Saxon race in the struggle not to be taxed except through their duly-elected representatives is one that we cherish. It is one that we hold dear. It is one for which a tremendous price was gloriously paid. Now we are asked to delegate to the executive department, for an indefinite period in the future, the power to tax through action of appointees not elected by the people and not responsible to the electorate of the country, who function in a chamber where the light of publicity is excluded."

SENATOR BORAH (REPUBLICAN) OF IDAHO

Senator BORAH, September 26, 1929 (CONGRESSIONAL RECORD, vol. 71, pt. 4, pp. 3973 and 3974) said:

"Mr. President, secondly, what power is it to which this delegation of power will relate? It is the power of taxation, it is the power of raising revenue, a power which has fundamentally, basically, peculiarly belonged to the legislative function in Anglo-Saxon history from its beginning. It is the most ancient of all legislative prerogatives. It comes down from the first meetings of the great council of the realm. There has been one power from which the Anglo-Saxon people have never been willing to divorce themselves, even under the most exacting conditions, or the most determined dominancy of great kings. Yet, if we accept the argument as presented, we are transferring to the commission and to the President the power to say what duties shall be, and determine what taxes, if any, shall be levied, and what law shall obtain.

"Mr. President, suppose we passed a bill here saying that every man should pay an income tax according to his ability to pay, and then appointed a commission to determine the facts, and authorized the President to determine the amount of the tax. If this provision here is sound, in my judgment that would be a power which we would be entitled to delegate, and a power which the President could exercise.

"There is no subject over which government assumes to exercise authority of more concern to the Government and citizen alike than the subject of taxation. When the citizen faces the Government in the matter of taxes he is practically helpless, save when he chooses to appeal to the sovereign right of revolution. The tax which the Government exacts he must pay. To pay it may imperil or ruin his business; it may take the roof from over his family; it may impoverish his children and deny them the advantages of education; but the will of the Government is supreme and remorseless. Taxation has a thrilling history. It is the bravest and also the sorriest chapter in the history of the English-speaking race. It is the story of liberty, of free and independent citizenship, a story, in short, of free institutions. This the fathers understood quite as well as we understand it.

"And this the fathers heeded far better than we seem disposed to do. How carefully, how persistently they undertook to place the power of raising revenue, of imposing taxes where it was least likely to be abused and where those who must pay the taxes could most immediately and wisely interpose political check in case of its abuse—political check, that the revolutionary spirit often invoked in the past might not be invoked again. The House of Representatives are elected every 2 years—the House alone can originate bills for raising revenue. The Congress alone may impose taxes. The principle of government underlying taxation they thoroughly understood. But when you think of the burden of government in these days, the crushing weight of expenditures increasing year by year, one must conclude that the power to impose taxes is even more vital than when the Constitution was framed; it is the power of life and death over the citizen, it is the power to destroy. We are accustomed, when speaking of the history of taxes, to refer to the kings who have lost their heads or their crowns in attempting to impose taxes without the consent of the people. But I am interested in a more homely and a more common tragedy—that of millions of men, women, and children who daily make sacrifices that they may meet the burdens of government. I want to keep the power to levy taxes close to those who pay the taxes and do the voting.

"The fathers provided that the House should originate measures of revenue, and they placed the power there. In the name of

God, let us keep it there! It is not the question of an hour. It is not the question of a day. It is a question of years—I trust for centuries—and whether we are going to preserve this Government as it ought to be preserved and make it the obedient instrument of the people.

"If Congress instinctively senses its inability to discharge the duties imposed upon it by the Constitution, if the Congress would evade or shirk the trust reposed in it by the people, let it at least summon the courage to propose openly, through an amendment to the Constitution, these fundamental changes, this redistribution of power. If Congress hungers for political subservency, if it covets the ignominious role of a display without power, of debate without authority, will we not as a parting act of courage and self-respect propose that the fundamental law be changed? Are we not willing to give the people a chance to say whether they wish the taxing power to be reposed in one man? We should not seek, through subtlety, through trickery, what we dare not propose openly before those who sent us here. I do not know of a more shameful betrayal of a public trust than that of surrendering the power with which we are temporarily intrusted, than that of evading the obligation which for a brief season we have been willing to assume.

"An ex-President of the United States said a few days ago that the President of the United States enjoys greater power than any living sovereign. Woodrow Wilson once said to me, or said in my presence, that he shuddered when he thought of the power which he possessed as a President. He is Commander in Chief of the Army and Navy. He is in charge of the foreign affairs of our Government. He has practically the war-making power, because he may so conduct foreign affairs that the declaration of war by the Congress is a formality. He has the veto power, the pardoning power. He has the appointing power of all the officers in the Federal Government. The Supreme Court of the United States has now decided that he has the dismissing power. No Senator who has served very long in this body will underestimate the influence of that power. No Senator who has witnessed the subtle influence of the appointing power upon legislation will underestimate that power of the President.

"Truly, as has been said, the President enjoys more power than any living sovereign. Shall we delegate now the most exceptional power, the most delicate power, the most precious power of the people, also to the President of the United States? Not this President. Let us dismiss that idea. Individuals and persons have nothing to do with this debate. But shall we turn over to the Executive, with all his tremendous powers, the additional power which enables him to levy duties as a practical proposition which the people of the United States are to pay? Mussolini was put to the inconvenience of seizing power, but we as a Congress are going like a bastinadoed elephant, bowing at the feet of the President, and surrendering to him the power which the people repose in us.

"Something is happening here, my friends, which the fathers of the Constitution never dreamed of. In studying and discussing the question of the division of power, the legislative, the executive, and the judicial, they surveyed the whole field of experience and the entire realm of thought as to what might happen. Hamilton and Madison were deeply interested in the subject. Madison said that the accumulation of all power, legislative, executive, and judicial, in the same hands may be pronounced as the very definition of tyranny. He further said in the same discussion that power is of an encroaching nature and ought to be restrained from passing the limits assigned to it. It was a subject in which they felt profoundly, and they undertook to survey the conditions under which that power might be frittered away from one department to the other. But they never dreamed, nowhere discussed, and nowhere contemplated that the Congress of the United States would voluntarily surrender its power. It never entered their minds that the people would elect a Congress which from time to time and from year to year would voluntarily surrender its power—as one Member of the other body said, to get rid of the details, to get rid of our troubles, leave us a debating society.

"If we transfer to the Executive the power we here propose to transfer, when and where shall we halt in our mad and reckless generosity? If we set the pace, what Congress may we hope will have the integrity of purpose, the courage, and the patriotism to stay the craven surrender of power now going on and to put an end to this chronic renunciation of the obligations given to and imposed upon us by the Constitution? Precedents established by timid and indifferent men will be cited by sincere and conscientious legislators upon the assumption that they were honestly established. If we are justified either by the Constitution or expediency in giving the Executive this authority to deal with customs revenue, is there any convincing argument to be adduced against granting equal authority over income taxes and all other taxes? Why should we surrender the powers which so clearly belong to the lawmaking department? What a shirking, apologetic admission upon the part of Congress that it is unworthy of the trust. What a shameful confession upon our part that representative government is a failure. No more unworthy public servant slimes his way through the corridors of the Government than the public servant who evades or barter away solemnly imposed obligations. There is something to be said for the public servant who weighs well his public duty and fails. There is something to be said for the man who dishonors his place of honor but leaves it all intact for a competent and faithful successor. But there is no plea to be made for the man who goes out and seeks

from the people these places of honor and trust, of obligations and powers, and then surrenders them over to another. This is an act for which there is no defense to be found.

"The argument is made that this transfer of power is born of necessity, that the construction of the Constitution permitting this transfer arises out of the inherent necessity of the situation. This doctrine of necessity has even found its way into the decisions of the courts. Necessity, as has often been said, knows no law, regards no constitution. When I hear men appeal to necessity in justification of their acts I am bound to conclude that they thus admit they cannot find any justification for their course within the terms of the Constitution. If the Constitution, or any reasonable rule of construction, would authorize this delegation of power, there would be no occasion to invoke the doctrine of necessity. That is an argument that is made solely and alone in the absence of constitutional authority. This word 'necessity' has an ancient and unsavory reputation. It is closely associated with arbitrary government. It smacks of personal power. It has always been the plea of the lawless. It has no place in constitutional government. There may be reasonable and just grounds for changing and rewriting the Constitution. If so, let that appeal be made to those alone who are authorized to change it. But so long as the Constitution stands the plea of necessity can never be heard without disregarding every principle upon which our form of government rests.

"Mr. President, there have been two books lately written, which are very interesting books, and I think very great books. One was written by Lloyd Paul Stryker, a lawyer of New York, which is entitled 'The Life of Andrew Johnson.' The other was written by that brilliant young writer, Claude G. Bowers, and is entitled 'The Tragic Era.' Both books cover practically the same period in American history, the most regrettable and unfortunate period in our entire history; that is, the reconstruction period. The Constitution was tested even beyond the test of civil war. Acting under passions born of the recent struggle, guided by a spirit of revenge rather than a spirit of justice, strong men searched the Constitution for power, for authority to do those things which the wise framers of that instrument never intended should be done. The authority could not be found. Baffled and discouraged in their search for authority to justify their acts and deeds and wholly unable to find it, they raised the old cry of necessity. The necessity of the situation. Under this plea they proceeded to put this Constitution to the severest strain yet recorded in our history.

"The student of that period rises from his survey of those events with a deep-seated distrust of all constitutional plans and all constitutional arguments which must be supported and propped by the plea of necessity. Once the plea is admitted, where is the limitation of power? Once the plea is accepted, and who will be bound by the authority thus invoked? Once the plea is admitted, and there is no constitution except the will and purpose of those who happen to be in power at that particular period.

"But if those acting under the fierce feeling of internecine strife are not to be pardoned—and, in my judgment, they are not—what will be said of those who raise the plea, the fierce, demoralizing plea, in times of peace, in times which admit of reflection and considered judgment? Let us conserve and preserve the principles of the Constitution faithfully and religiously until the people remake the Constitution. There is no excuse to be given for any other course. Such excuses as may be conjured up do credit neither to our integrity of mind nor our sincerity of purpose.

"Necessity has no proper place in our vocabulary when we are exercising the constitutional powers of this Government. We must either find the authority in the Constitution or we must halt and go back to the people and ask the people if they themselves want to delegate that power. Upon no other principle can a republican government long endure."

SENATOR WAGNER, OF NEW YORK

Senator WAGNER, of New York (for 7 years justice of the New York Supreme Court) on October 1, 1929 (CONGRESSIONAL RECORD, vol. 71, pt. 4, pp. 4093-94) said:

"Mr. President, one of the most disquieting facts about this controversy is the frequency with which the advocates of this transfer of legislative power to the Executive have pointed to precedents. Precedents do not make a thing right. They may only prove that we have been wrong before. At the present time we are on the crest of the wave of Presidential encroachment upon legislative territory. What at first seemed like a harmless delegation of inconsequential power has, through accretion and addition, so multiplied the power and authority of one individual of this Government that the system of a functional balance between the three great divisions of Government is well nigh upset.

"The time is ripe to reject the question, Have we done it before? and instead, to inquire, Have we not gone far enough, indeed too far, in the direction of centralization? This year the campaign of those who are impatient with the methods of our representative democracy had planned to write into the law 'competitive conditions' as the standard of comparisons which was to guide the President in writing the tariff laws. That campaign was successful in the House. It was for a time successful in the Finance Committee. Let us hope that it will not be successful in this body.

"The next campaign has already been planned. An attempt will soon be made to remove the 50-percent limitation which now somewhat curbs the lawmaker in the White House. His authority

is further to be extended to transfer commodities from the free list to the dutiable list and from the dutiable list to the free list.

"Mr. President, where does all this lead? Why enact any tariff rates at all? Why not leave the whole matter in the hands of the President? Why not extend this congressional labor-saving device to other branches of legislation? Let us enact a general income-tax law stating that the ability of the citizen to pay shall measure his tax liability. The President can then proceed to fix the details of rates and exemptions. If the flexible tariff is constitutional so is the flexible income tax. If the one is sound policy, so is the other. If the American people will tolerate the first they will tolerate any and every invasion by the Executive into the sphere reserved by the fathers of the Constitution for the representatives of the people of the United States. I need hardly say that I make no personal references whatever when I speak of 'the President.' It is the office alone that I intend.

"For a century and a half the order of legislation has been deemed settled in the manner provided in the Constitution. Is all this to be changed with respect to tariff legislation? The President may be of the opinion that one rate or all rates in the bill are too high or too low, but he need not indicate that fact to the Congress. He is under no obligation to act promptly within the constitutional period of 10 days. He may give the bill his formal approval, preserving in his own mind his objections and his intentions. Thereafter, at such time as may suit his convenience, the President is at liberty to veto any and all of the provisions of the bill. Congress does not secure the opportunity to repass it over his veto. The President himself not only strikes from the law the measure written by Congress but writes the new law which is to take its place, to be enforced by the executive department, and to be given validity by every court in the Nation.

"Where are the checks? Where are the balances that the separation of powers was intended to provide for our Government? There must be no mistake about this: There are neither checks nor balances, there is no separation of powers where a single individual can determine that he does not like a provision of law, strike it out, write a new one in its place, enforce the new law, and continue beyond the reach of the legislature or the courts. No amount of befuddlement can obscure the fact that that is exactly what the flexible provision of the tariff accomplishes.

"Consider, Mr. President, the extent of the power which by this provision is handed to one person. Consider the vastness of the discretion which it vests in him, and compare it with the loudly trumpeted declaration that he is but carrying out the law as laid down by Congress.

"By this provision there is vested in the President the discretion to determine which industry is to be investigated and conduct the investigation; to determine the facts; to determine the law; to determine the nature of the necessary remedy; to lay the duty and collect it; to remain in every case the final arbiter, beyond the reach of review for action or nonaction.

"Many a protective tariff duty establishes for a commodity a geographical boundary in the United States beyond which the imported article cannot go. Under this provision, who determines where that line shall be drawn? The President.

"In every investigation it has been found that there were high-cost producers, inefficient producers, producers who used antiquated methods, producers who continued to function within limited areas only because of the protection of the freight rate as against their competitors. Who determines whether in the comparison of costs between the domestic and the imported articles these high-cost producers shall be included or excluded, and thus inefficiency perpetuated or discouraged? Who decides on this policy of national economy? The President.

"There have been in every tariff act commodities from which Congress deliberately withheld the full measure of duty based on relative cost differences for the benefit of the consumers. Under the flexible provision the President may impose the duty which has been deliberately withheld by Congress and flout the will of the legislators.

"Let us not forget that this incomparable power to enrich or impoverish, to build an industry or cut it down, to remake the economic geography of our country—all this power is placed in the hands of a man who is not only President but the head of a political party.

"The issue is not between an inflexible and a flexible tariff; the true line of division is between an executive tariff and a congressional tariff.

"What is the nature of the power which the President demands shall be his? It has been eloquently described by the distinguished Senator from Idaho as the remorseless power of taxation. It is that, Mr. President, but it is also more than that. In the exercise of the ordinary power of taxation we take from the citizen a portion of his wealth for the use of the Government. By the tariff the Government not only takes from all citizens but by the selfsame act bestows what it has taken upon a few of them. Our ordinary tax laws are general in terms. They apply to all persons, to all corporations, to all industries alike. The tariff can be made to operate for or against a single State, for or against a single industry, for the weal or woe of a single individual. Who will dare give offense to a President possessed of a power which can be so accurately aimed at the object of displeasure? Who will fail to curry favor with an individual who has it in his power to confer the riches of Monte Cristo upon his favorites?

"President Butler, of Columbia University, in a brilliant address recently pointed out how in the past generation the center of gravity of human interest has been shifting—from politics to economics; from considerations that had to do with forms of government, with the establishment and protection of individual liberty, to considerations that have to do with the production, distribution, and consumption of wealth."

"So it has been in the history of executive authority. The despot of 4 centuries ago had the life and liberty of a subject in his private keeping. The great struggles against the tyrannies of that day were directed against the insecurity of life and the deprivation of liberty. The Bastille was one of the last remaining symbols of that ancient order and the French revolutionists destroyed it.

"In our Constitution we erected a legal wall of protection around life and liberty and placed them beyond the reach of the Executive and deposited them instead, through the jury, into the safe keeping of the people themselves.

"That chapter is largely finished. The new struggle, the new resistance, is against the concentration of economic power in the hands of executive authority. Heretofore, we have made generous grants of economic power—by that I mean wealth-making and wealth-denying power—to the President or his agencies. We conferred it in the merchant-marine act. We bestowed it upon him through the Federal Farm Board Act. None of these, however, measures up in rank, in significance, in its all-pervasiveness to the authority which is written into the words of section 336 of this bill.

"The new danger line in twentieth-century government is drawn across the economic field. Are we going to hold that line or are we going to renounce the victory of a thousand years of fighting to break up the concentration of political power and permit the concentration of economic power in the custody of a single individual?"

SECRETARY OF THE NAVY, CLAUDE SWANSON, OF VIRGINIA

Senator Swanson, of Virginia, October 2, 1929 (CONGRESSIONAL RECORD, vol. 71, pt. 4, pp. 4132-4134), said:

"Mr. President, I do not expect to add much to the splendid addresses which have been delivered upon this all-important question. The debate has gone to the fundamentals of government, and in character measures up to the debates which have occurred in the palmiest days of this Republic or in any legislative body of the world where the rights of the people were being fought for in opposition to Executive or arbitrary power. The speeches we have heard in opposition to the flexible provision of the tariff bill have been worthy of Burke, worthy of Chatham, worthy of Mirabeau, and worthy of the fathers of this Government, who sounded the clarion note for popular rights. The arguments which have been advanced in behalf of the flexible provision of the tariff bill, placing in the hands of the President the right to give favors and the right to impose taxes upon the people, embody exactly the same excuses which have been made from time immemorial in behalf of arbitrary and one-man power. They have added nothing to all of the excuses which have heretofore been made for the bestowal of such power.

"Mr. President, I am opposed to sending the information obtained by the Tariff Commission to the President; I favor sending it to Congress, and I shall give my reasons for my position. First, I am opposed on historical grounds, by tradition, and because of what history and its proven truths tell mankind, to conferring such power on the President. How was America settled? What were the conditions under which this Nation was founded? The world was dominated by executives and despots. The Cortes of Spain had been abolished when America was settled, and the will of the King of Spain was the law of three-fifths of the world. The great States-General of France had been abolished; it was not called together again until it met on the eve of the French Revolution. James I had prorogued Parliament and his will was the law of England. The English Parliament did not assemble for 7 years, and during that time James I was the ruler whose dominant will controlled England. With that situation in the world, America was settled by people who believed they had a right to control their own destiny, the right to control the imposition of their own taxes, the right to control their private affairs. For all the world, Mr. President, liberty, popular rights, had but one refuge, and that was in the woods of America. Here we have protected liberty, until now, when it is sought to make an abject surrender of the popular rights of the people which our forefathers would not have thought possible in the great Republic which they founded. This is the issue and it cannot be evaded.

"What does it mean when the President is given the power to impose customs duties or tariff taxes on 120,000,000 people? First, that taxes are imposed on the American people by the Executive, and, second, that there is bestowed on the Executive without limit and without stint the power practically of granting monopolies and conferring favors upon anyone according to his own will.

"What was the great curse of monarchy? It was the power on the part of the king to grant monopolies to a few to trade in England or in France or in Spain, as the case might be. One of the greatest curses of government until America was settled was the power given to monarchs to show favoritism, to bestow favors upon their particular friends and adherents, to make men rich or poor as the will of the monarch might dictate. In England privileges were given to favorites which resulted in monopolies in the woolen trade, the sugar trade, the cotton industry, and similar favors were bestowed in France and Spain. Court favorites were made rich by the monarchs who had it in their power to bestow such favors,

That was one of the abuses denounced in our Declaration of Independence; it was one of the main grievances which resulted in the wresting of the Magna Carta from King John, for the King could bestow favors to the enrichment of his favorites.

"The founders of the Government, fearful of the taxing power, provided that the people could not be taxed except by Congress and that all tax measures must originate in the House of Representatives. They were so concerned about the taxing power that they provided that the House of Representatives should be elected every 2 years, which is one of the shortest election periods in the history of constitutional government. Yet it is proposed to give to the President the power to impose taxes, to increase tariff rates 50 percent or decrease them 50 percent. When he is given that power, what does it mean? It means that power thus given to him, in the absence of his consent, can only be withdrawn from him by a vote—two-thirds of a majority of the House and of the Senate. If this flexible provision shall be embodied in the law and it is desired subsequently to repeal it or to change it, and the consent of the President cannot be obtained, it can only be repealed or changed by a two-thirds vote. This statement cannot be denied. It means that we confer on the President for all time the power to increase taxes unless two-thirds of Congress shall take that power away from him, for it would take two-thirds to override his veto. So it appears that when Senators vote for the flexible provision they vote to deprive a majority of Congress of the right to handle this matter; they vote to leave it entirely to the President to continue to exercise this power unless he consents to the withdrawal of the power or unless two-thirds of the House and the Senate withdraw it from him. I say that that strikes at the fundamental principle of majority government and is ruinous to our institutions.

"Mr. President, under the power granted to the President by the flexible provision, how is it to be exercised? No publicity surrounds the proceedings of the Tariff Commission. The President is not required to act publicly. So the hearings and the proceedings in connection with the operation of the flexible provisions are of a star-chamber character. The President can hear a case openly, or he can hear it secretly. Six members of the Commission and one other man, the President, without publicity, without the case being presented, can absolutely control the industries, the enterprises, the foreign trade and commerce, and the industrial growth and development of 120,000,000 people, secretly and by means of star-chamber proceedings.

"One of the great fights made in England against Charles I and James I was that the rights of England were bartered and sold in star-chamber proceedings, secretly, without publicity, and without knowledge on the part of the people. Yet it is proposed to place our industries, the taxing power, and our entire prosperity in such a position that we cannot compel publicity, but star-chamber and secret proceedings may determine their fate. In Congress, it must be done publicly. The votes are public, the debate is public, there is a public record, and the American people know from their representatives who has been true and who has failed.

"Who is willing to have the interests of his State controlled, determined, and decided by the star-chamber proceedings of a commission and a President who is not compelled to have publicity?"

"I think this is a fundamental question of popular rights and popular liberty. If parliamentary government cannot be sustained in the United States, it is a failure; and yet we are asked practically to abolish parliamentary government, to do it in an unconstitutional way, and to create in America by indirection powers of a President superior to Congress and superior to the people, and a power that we can never withdraw from him without his consent except by having a two-thirds vote in the House and the Senate.

"Mr. President, I think this is a serious question. This is the time when we must make a stand for popular rights, for popular liberty, for the right of the people to govern themselves through their parliaments, which is the very principle upon which the American Government and American institutions have been founded.

"I am not for creating in America a Mussolini. I am not for creating in America a despot. I am not for creating in America a President with more constitutional powers than any monarch ever possessed, and then supplementing that with power to give riches, monopoly to his favorites by the flexible provision of a tariff bill.

"Mr. President, we cannot shirk the issue. It cannot be shirked. Right here today, when the roll is called, Senators will answer whether they are for popular government, whether they are for the rights of the people, whether they are for constitutional government, whether they intend to let our Constitution continue as it was founded, with the power of taxation by Congress and not by an Executive.

"I for one have been proud of the eloquent voices that have been raised, the ability that has been displayed, in keeping America true to her traditions, in keeping her true to the institutions as the leader and the champion the world over of popular rights and the liberties of the people, and the right of the people to control their own destiny, and make their will law, and not turning it over to the Executive."

SENATOR JOHNSON (REPUBLICAN), OF CALIFORNIA

Senator JOHNSON, of California, October 2, 1929 (CONGRESSIONAL RECORD, vol. 71, pt. 4, p. 4123), said:

"Mr. President, I seldom quote newspapers, I seldom read here editorials from newspapers. I seldom desire to say anything in criticism of the press, although I might, perhaps in a natural ebullition of desire to respond, say much; but I read yesterday an editorial in the New York World. It is written in good taste. It is written in judicial mood. I think the latter part of its views are quite apropos. I dare read it here now:

"The Democratic members of the Senate Finance Committee have taken hold of the right end of an exceedingly important public issue when they appeal for support against tariff flexibility by Presidential decision. There can be no doubt whatever that a tariff rate is a tax, and it will be difficult to dispute their argument that taxation is the business of the legislature and not of the Executive. The proposal to have the President use the flexible provision is in fact a proposal to let the President legislate by decree. This is certainly contrary to the spirit of the Constitution, even though on narrow technical grounds the validity of the present law has been sustained. In any case, it is clearly an unwarranted confusion of powers.

"The methods of Congress are cumbersome. They have gross and obvious defects."

"I want to concede that statement to be true. I recognize the cumbersome methods of the Congress and the obvious defects that we have. But, sir, with all those defects and with all our cumbersome methods, at any rate we stand here in the light of day presenting our cause and arguing our questions. Under any other system the result is determined in secrecy and in darkness and behind closed doors. Under any other system, however, we may make it, there is the intrigue and the hauling and the pulling and the influences wielded that we never hear of and which finally shows itself in ultimate determination. So the choice, after all, under the amendment which is presented is, where will we go? Will we rid ourselves of something that we think is an arduous duty and in that fashion send it forth to this body, that is extrajudicial in character and that in secrecy performs its work, or shall we do that task here? That is the question in the last analysis that is presented.

"The World editorial proceeds:

"But their defects are bound up with the working of popular government, and impatience with these defects is the usual beginning of a desire for a dictatorship. * * * For if the President can revise the tariff more efficiently than Congress, it may be * * * that he could make better laws on almost any other subject. It would nevertheless be undesirable to give him the power to make laws on any subject.

"There is no more reason why the President should supplant Congress in order to revise the tariff than that he should supplant it in order to revise any other law. Self-government is self-government."

"Self-government is self-government.' That is what we are here for. * * * Self-government is self-government. Abandon it in the one instance and it will be taken from us in the next. Onerous as it may be and difficult, nevertheless it is what we have in America and is what we desire. The editorial concludes:

"Self-government is self-government, and in this country, however irksome it may be at times, it has been worth the price."

"It is worth the price to stand upon this floor and argue a case such as this upon sound principles and from a desire for the preservation of that which our people hold dear and which in the very nature of things can be entrusted to us for only a brief period in the future. Soon, my friends, you and I will pass from the scene of activity. I believe that this body is organized in such a fashion that its Members change in practically a decade. Soon, sir, we will be gone. The immutable principles of this Government, if there are any immutable principles, will go on and on and on. You may not think it and you may believe that in response to those who insist that you shall vote in a certain way that it is not at stake, but let me plead with you that one of those immutable principles is at issue today in this Chamber. Here is an immutable principle of whether we retain this Government in its present form or whether we surrender unto the executive branch the most powerful prerogative that belongs to the people. That we surrender it in a small degree and in a little way is of no consequence, because when we surrender it in a small way and in a small degree we leave open the ability subsequently to have the way widened, and we will find we have surrendered it in many other ways as well. Here is a contest today for one of the immutable principles of the American people. It is for us to resist the pressure that is put upon us. We must have the strength and the courage to stand here for a principle that must be maintained if American liberty is to live in this Nation.

"That is the contest today, Mr. President. It transcends in importance any rates upon any commodities or any tariff levied for any industry. It transcends in importance any individual's future, political or otherwise. It transcends in importance any man's word or any man's command, no matter who he is or whence he comes. Today, sir, we stand at the parting of the ways, so far as the Congress is concerned, and we solemnly insist that this policy established in the Nation, in the days gone by, the policy that enables the people themselves to govern, be not impaired or destroyed. You must not take that power from the people's representatives and apportion it in either small degrees or large to any other department of the Government."

REPRESENTATIVE GREENWOOD, INDIANA

Representative GREENWOOD, Democrat, of Indiana, on May 3, 1930 (CONGRESSIONAL RECORD, vol. 72, pt. 8, pp. 8313, 8316), said:

"Mr. Speaker, the most sacred duty delegated to the Congress of the United States is the exclusive power given in the Constitution over taxation, including the fixing of imposts, which are tariff taxes.

"This sacred duty is one that is exclusively ours as the legislative department. I am not willing to surrender this duty to the executive department.

"Regardless of the fact that the Supreme Court of the United States has sanctioned the delegation of such power in a former law, it still rests with us, as the representatives of the people, to decide whether it is expedient, to decide whether it destroys the balance of power in the departments of government for us to surrender the authority to the President in the imposition of tariff duties.

"* * * I am not willing to center power in the Executive of the United States to fix taxation. Power to tax is the power to destroy. Power to tax is the power to show favoritism. Power to tax or to fix duties is authority to give privilege. I think the Executive of the United States should not, as one man, be clothed with this supreme power.

"I am in favor of keeping the three departments of government separate and inviolate. It is better for the rest of the people for Congress to act in matters of legislation rather than delegating that power to the President. I am not willing to rob the judiciary of its power to decide judicial questions, and I do not believe in depriving the Congress of the power to legislate on legislative questions. I am not willing to give my support to such a diabolical scheme. I shall not vote to destroy our balanced system of constitutional government."

REPRESENTATIVE TUCKER, OF VIRGINIA

Representative Tucker, Democrat, of Virginia, May 16, 1930 (CONGRESSIONAL RECORD, vol. 72, pt. 8, p. 9101), said:

"Consider just for a moment what this question means. Three hundred years ago in England our forefathers met this proposition and settled it. The Crown, over years of gradual accretions of power, had come to demand as of right supplies from the timid Commons. The imperious Stuarts and Tudors were wont to say to the House of Commons, 'Hurry up; hurry up my supplies, and then adjourn.' It cost the head of one King and the removal of another to bring about this change. Arbitrary power and the power to control the purse strings of the Nation is a combination so dangerous that all free people should fight the first steps of its approach. The separation of the three branches of the Federal Government and the preservation of the right of taxation and the control of the purse strings of the Nation by the House of Representatives are the plain guaranties of continued liberty. This bill would start a movement to destroy the power of the House of Representatives and magnify the Executive power of the country, and every freeman, man and woman, without regard to political bias, should cling closely to the preservation of those fundamentals without which we cannot exist as a free people, and I gladly welcome the defiant cry of the noble Senator from Texas, Tom CONNALLY, who announced he was ready to fight it out all summer if it took that time to defeat that infamous provision. The time for action has come. Obsta principiis is the doctrine of safety, and to hesitate now may be the surrender of the power of this House forever."

SENATOR CONNALLY, OF TEXAS

Senator CONNALLY, of Texas, May 19, 1930 (CONGRESSIONAL RECORD, vol. 72, pt. 9, p. 9130), said:

"The flexible provision as prepared by the House is an absolute invasion of the constitutional authority of the Congress of the United States. It is more; it is a blending of the legislative power with the Executive power—one of the most dangerous expedients to be adopted by any free people. It destroys the nice system of checks and balances which the Constitution set up in order to guarantee liberty. Writers on early constitutions have all agreed that the union of the legislative and the executive or the judicial power in the hands of one agency is a sure agency of tyranny.

"Mr. President, the encroachments of the Executive will continue in the future, and this particular instance will be used as a precedent, just as the vote in 1922 is now being used as a precedent for giving the President still more power than he was given in 1922.

"It took the British Parliament 400 long, weary, struggling years to extort from the King the very power we are now being asked to hand back to the outstretched hand of an American President. Hallam, I believe it was, said that the liberties of the British people were erroneously believed to have been purchased by the blood of their heroic ancestors. He said that was an error, that the liberties of the British people had been purchased by money through the control of Parliament of the purse and the taxing power.

"Mr. President, the Senate flexible tariff provision is absolutely fundamental to liberty and to American institutions. I want to see my country survive, but I want to see it survive as a republic, rather than as a monarchy; I want to see it live, but I want to see it live as a democracy and not as a despotism."

Following the enactment of the tariff law with its flexible clause, the Democratic party continued to make an issue of the

powers vested in the President by that clause, claiming it was an infringement upon the constitutional rights of Congress.

Throughout the 1930 congressional campaign Democratic leaders, under the auspices of the Democratic National Committee, denounced this provision in radio addresses. The following are excerpts from Nation-wide radio addresses delivered during that campaign by some of the more important Democratic leaders.

CLAUDE G. BOWERS

Outstanding Democrat for many years and leader in Indiana; later editorial writer on the New York World; selected to deliver the keynote speech at the Democratic National Convention at Houston, Tex., in 1928. He is now Ambassador to Spain, by appointment of President Roosevelt.

Under the auspices of the Democratic National Committee in 1930 Mr. Bowers gave a radio address over a Nation-wide hookup October 23, 1930. He attacked the flexibility clause of the present tariff upon the ground that it conferred upon the President dictatorial powers. His comment was as follows, according to the text of his speech as distributed by the Democratic National Committee:

"But there is in this provision (the flexibility clause) something more vicious far—it transfers the right to tax from the legislative department to a single man. Now it is axiomatic with our race that the power of the purse shall never rest with the executive department. It was in support of that policy that Charles the First was ushered through the window at Whitehall to the scaffold. Had the Constitution when submitted contained the flexibility clause it would have failed of ratification by a single State. Whenever you intrust to a single man the command of the Army and the control of the purse you pave the way for a centralization of power that ultimately makes for tyranny and oppression.

"With this power a President can punish or reward a section; he can penalize or enrich an industry; and if unscrupulous, with this power he can raise the most enormous slush fund in human history to continue himself in office. We submit that this is too much power to intrust to any man, and we stand on the wise traditions of our race and for the safeguards of the constitutional intent."

SENATOR TOM CONNALLY OF TEXAS

In a radio address over a Nation-wide hookup September 2, 1930, under the auspices of the Democratic National Committee, said:

"Under this doctrine of centralization of power in the hands of one man, the constitutional prerogative of Congress to fix the amount of tariff taxes levied upon the people of the United States was in a large manner handed over to the President. This invasion of the wise provision of the Constitution regarding the balance of power between the three branches of the Government constitutes an assault upon the very fundamentals of the wise system of the founders of the Republic. Anglo-Saxon liberty had its birth and won its greatest triumphs in its struggle to secure for the representatives of the people the right and the exclusive right to control taxation and to hold the purse strings of the people. This scheme to divest Congress of that power and hand it over to the Executive * * * will build up at Washington a giant bureaucracy, gradually absorbing the powers of the States and now by the device of the flexible tariff depriving the Congress, chosen directly by the people themselves, of its constitutional rights and transferring them to the President of the United States, already the most powerful ruler on this revolving globe."

SENATOR HARRISON

In a statement issued May 23, 1930, through the Democratic National Committee, Senator HARRISON said:

"Through the action of the conference in depriving the Congress of the right of levying taxes on the people, they have given greater powers to the President and made another assault upon the fundamental principles of our Government."

The Senator was speaking upon the action of the conference committee on the tariff bill, which had eliminated the NORRIS-SIMMONS amendment and restored to the bill the original flexible provision giving the President the right to change the rates after reports were filed with him by the Tariff Commission. Senator HARRISON, further on in his statement, stated that:

"The Senate proposal preserved the constitutional power of taxation in the Congress."

SENATOR BLACK, OF ALABAMA

In a statement issued through the Democratic National Committee April 22, 1930, in criticizing the flexible provision of the tariff bill, said:

"The founders of this Government granted the power to levy a tariff tax to their Representatives in Congress, selected from every section of the Nation. This furnishes every safeguard to every locality and section. It is now proposed to substitute the will of one man for the deliberate judgment of many. It is a scheme to wrest tariff-taxing power from the lawmaking body selected by the people and transfer it into the hands of a party President. * * *

"It would be as justifiable to authorize the President to fix income and inheritance taxes. If executive officers are to fix tariff rates, sheriffs might impose county taxes upon cows, horses, and automobiles, while Governors would fix State taxes for houses and farms. Executives, including the President, are sworn to 'enforce' the law, not to 'enact the law.'

"Freedom-loving people have long since learned that too much power is dangerous in the hands of any group, be it social, economic, religious, or political. Concentration of any governmental power in one individual is a constant menace to the peace and security of any people."

SENATOR BRATTON, OF NEW MEXICO

In a statement issued through the Democratic National Committee May 26, 1930, said, regarding the proposal to vest in the President the power to change tariff rates following a report from the Tariff Commission:

"I regard the provision as unconstitutional. It is the most revolutionary proposal ever advanced. It is the widest departure from the plain intent of the Constitution, that the taxing power shall be exercised exclusively by the Congress."

SENATOR WAGNER

Upon the same date issued through the Democratic National Committee a statement in which he said in part as follows:

"This procedure is unconstitutional. The argument upon which this conclusion is reached is a very simple one. The power to lay duties is by the Constitution defined as a legislative power. When the President or a commission changes tariff rates they lay a duty, which is, therefore, exercising a legislative power which Congress alone is under the Constitution authorized to exercise."

"The fact that the Supreme Court of the United States in a single case has sustained the constitutionality of a different flexible provision, which was contained in the act of 1922, is by no means conclusive that the provision recommended by the conference committee (of the Hawley-Smoot bill) is unconstitutional. * * *

"The conference proposal is objectionable also because it concentrates economic power in the hands of a single individual. * * * It destroys the system of separation of power and the principle of checks and balances which are the very cornerstone of our Government structure."

SECRETARY OF STATE CORDELL HULL

It remained for Mr. Cordell Hull, then United States Senator from Tennessee, to make the most vicious attack upon conferring these legislative powers upon the President. This he did in a statement issued May 14, 1931, through the Democratic National Committee. The burden of that statement was that conferring such powers upon the President placed in his hands the opportunity of blackjacking business and industrial interests and of practicing extortion and soliciting funds from individuals and industries. He stated the flexible provisions of the tariff law constituted "a new scheme of taxation by Executive fiat" and "excites deep-seated fear among so-called 'business leaders.'"

The occasion of that thinly veiled charge of corruption was two national conventions which were being held in Washington and Atlantic City, respectively. Senator Hull, in his statement released through the Democratic National Committee, charged that these meetings were characterized—

"By a constant apprehension that they might incur the displeasure of the administration if they should undertake a serious discussion of the real problems and conditions confronting the country and expressing conclusions embodying practical remedies."

"In view of this state of awe, or fear, or hope of reward, that seemed to permeate these two recent meetings, an additional and most powerful reason is furnished for the repeal of the present flexible tariff provision and the substitution of a measure which will restore to Congress, where it belongs constitutionally, the whole authority and responsibility of tariff making."

"The President, or any other official, of course, did not remotely contemplate the intimidation of business leaders for political or any other purpose. The fact, however, that this was not in the slightest degree necessary renders all the more dangerous the mere existence of a flexible tariff agency which gives the President virtually unlimited power to grant or to withhold almost invaluable favors from many groups of individuals and industries."

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from Wyoming [Mr. CAREY].

Mr. McNARY rose.

Mr. ROBINSON. Mr. President, unless the Senator from Oregon wishes to address the Senate—

Mr. McNARY. No; I do not, Mr. President.

Mr. ROBINSON. I move to lay on the table the amendment of the Senator from Wyoming; and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Borah	Chavez	George
Austin	Brown	Connally	Gibson
Bachman	Bulkeley	Coolidge	Glass
Bailey	Bulow	Davis	Gore
Bankhead	Burke	Dickinson	Guffey
Barbour	Byrnes	Donahey	Harrison
Barkley	Capper	Duffy	Hastings
Black	Caraway	Fletcher	Hatch
Bone	Carey	Frazier	Hayden

Holt
Johnson
King
La Follette
Logan
Lonergan
Long
McCarran
McGill
McKellar
McNary

Maloney
Metcalf
Minton
Moore
Murphy
Neely
Norbeck
Norris
Nye
O'Mahoney
Overton

Pittman
Pope
Radcliffe
Reynolds
Robinson
Russell
Schall
Schwellenbach
Shipstead
Smith
Steiger

Townsend
Trammell
Truman
Tydings
Vandenberg
Van Nuys
Wagner
Walsh

The PRESIDENT pro tempore. Seventy-seven Senators having answered to their names, a quorum is present.

The question is on the motion of the Senator from Arkansas [Mr. ROBINSON] to lay on the table the amendment of the Senator from Wyoming [Mr. CAREY].

Mr. LONG. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk called the roll.

Mr. DICKINSON. I have a pair with the junior Senator from Mississippi [Mr. BILBO], who is necessarily absent. I transfer that pair to the senior Senator from Maine [Mr. HALE] and vote "nay."

Mr. HASTINGS. I have a pair with the senior Senator from Missouri [Mr. CLARK], who is absent. I transfer my pair to the junior Senator from Maine [Mr. WHITE] and vote "nay."

Mr. NEELY. I repeat the announcement made on the previous vote relative to the unavoidable absence of the Senator from Virginia [Mr. BYRD], the Senator from Missouri [Mr. CLARK], the senior Senator from Illinois [Mr. LEWIS], the junior Senator from Illinois [Mr. DIETERICH], the junior Senator from Utah [Mr. THOMAS], the junior Senator from Mississippi [Mr. BILBO], the junior Senator from Massachusetts [Mr. COOLIDGE], the senior Senator from Texas [Mr. SHEPPARD], and the senior Senator from Montana [Mr. WHEELER], and I ask that this announcement may stand for the day. I am advised that, if present, these Senators would vote "yea" on this question.

I also wish to announce that the Senator from California [Mr. McADOO], the Senator from New York [Mr. COPELAND], the Senator from Montana [Mr. MURRAY], and the Senator from Oklahoma [Mr. THOMAS] are detained on departmental matters.

Mr. TOWNSEND. On this vote I have a pair with the junior Senator from Virginia [Mr. BYRD]. If present, he would vote "yea." If permitted to vote, I should vote "nay."

Mr. HAYDEN. I desire to announce that my colleague the senior Senator from Arizona [Mr. ASHURST] is detained on departmental business.

Mr. AUSTIN. I desire to announce that on this question the Senator from New Hampshire [Mr. KEYES] is paired with the Senator from Utah [Mr. THOMAS].

The result was announced—yeas 53, nays 23, as follows:

YEAS—53

Adams	Connally	La Follette	Radcliffe
Bachman	Costigan	Logan	Reynolds
Bailey	Donahey	Lonergan	Robinson
Bankhead	Duffy	McGill	Russell
Barkley	Fletcher	McKellar	Schwellenbach
Black	George	Maloney	Smith
Bone	Glass	Minton	Trammell
Brown	Gore	Moore	Truman
Bulkeley	Guffey	Murphy	Van Nuys
Bulow	Harrison	Neely	Wagner
Burke	Hatch	Norris	Walsh
Byrnes	Hayden	O'Mahoney	
Caraway	Holt	Pittman	
Chavez	King	Pope	

NAYS—23

Austin	Dickinson	McCarran	Schall
Barbour	Frazier	McNary	Shipstead
Borah	Gibson	Metcalf	Steiger
Capper	Hastings	Norbeck	Tydings
Carey	Johnson	Nye	Vandenberg
Davis	Long	Overton	

NOT VOTING—20

Ashurst	Copeland	Keyes	Thomas, Okla.
Bilbo	Couzens	Lewis	Thomas, Utah
Byrd	Dieterich	McAdoo	Townsend
Clark	Gerry	Murray	Wheeler
Coolidge	Hale	Sheppard	White

So Mr. ROBINSON's motion to lay on the table Mr. CAREY's amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the bill (S. 2830) to repeal sections 1, 2, and 3 of Public Law No. 203, Sixtieth Congress, approved February 3, 1909.

The message also announced that the House had passed the following bills of the Senate, severally with amendments, in which it requested the concurrence of the Senate:

S. 405. An act for the suppression of prostitution in the District of Columbia;

S. 2034. An act to prevent the fouling of the atmosphere in the District of Columbia by smoke and other foreign substances, and for other purposes; and

S. 2259. An act to amend sections 966 and 971 of chapter 22 of the act of Congress entitled "An act to establish a Code of Law for the District of Columbia", approved March 3, 1901, as amended, and for other purposes.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 7199. An act to provide for the donation of certain Army equipment to posts of the Veterans of Foreign Wars;

H. R. 8444. An act to authorize the transfer of a certain military reservation to the Department of the Interior;

H. R. 8579. An act to amend the law with respect to jury trials in the police court of the District of Columbia;

H. R. 8580. An act to amend the law with respect to the time for jury service in the police court of the District of Columbia;

H. R. 8581. An act to amend the law providing for exemptions from jury service in the District of Columbia;

H. R. 8582. An act to provide for the semiannual inspection of all motor vehicles in the District of Columbia;

H. R. 8583. An act to amend the Code of Law for the District of Columbia in relation to the qualifications of jurors;

H. J. Res. 335. Joint resolution to permit articles imported from foreign countries for the purpose of exhibition at the Texas Centennial Exposition and celebrations to be admitted without payment of tariff, and for other purposes; and

H. J. Res. 351. Joint resolution authorizing the use of public parks, reservations, and other public spaces in the District of Columbia; and the use of tents, cots, hospital appliances, flags, and other decorations, property of the United States, by Washington (D. C.) 1935 Improved, Benevolent, and Protective Order of Elks of the World; and for other purposes.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred, or ordered to be placed on the calendar, as indicated below:

H. R. 7199. An act to provide for the donation of certain Army equipment to posts of the Veterans of Foreign Wars; and

H. R. 8444. An act to authorize the transfer of a certain military reservation to the Department of the Interior; to the Committee on Military Affairs.

H. R. 8579. An act to amend the law with respect to jury trials in the police court of the District of Columbia;

H. R. 8580. An act to amend the law with respect to the time for jury service in the police court of the District of Columbia;

H. R. 8581. An act to amend the law providing for exemptions from jury service in the District of Columbia;

H. R. 8582. An act to provide for the semiannual inspection of all motor vehicles in the District of Columbia; and

H. R. 8583. An act to amend the Code of Law for the District of Columbia in relation to the qualifications of jurors; to the Committee on the District of Columbia.

H. J. Res. 335. Joint resolution to permit articles imported from foreign countries for the purpose of exhibition at the Texas Centennial Exposition and celebrations to be admitted without payment of tariff, and for other purposes; to the Committee on Finance.

H. J. Res. 351. Joint resolution authorizing the use of public parks, reservations, and other public spaces in the District of Columbia; and the use of tents, cots, hospital appliances, flags, and other decorations, property of the United States, by Washington (D. C.) 1935 Improved, Benevolent, and Protective Order of Elks of the World; and for other purposes; to the calendar.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The Senate resumed the consideration of the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes.

Mr. SMITH. Mr. President, I desire to offer an amendment, on page 9, line 22, to insert, after the word "only", the words "with respect to such handling as is."

The object of the amendment is to restrict the provision to interstate commerce, and it provides that an agreement shall affect only interstate commerce.

Mr. O'MAHOONEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Wyoming?

Mr. SMITH. I yield.

Mr. O'MAHOONEY. The amendment of the Senator from South Carolina was not understood by all of the Senators as it was stated. I did not understand it. May I ask that it be stated again?

Mr. SMITH. If it is agreeable, I will read the language as it will be as amended. The amendment is to the language on page 9, line 22, after the word "only", to insert the words "with respect to such handling as is", so that the paragraph would read as follows:

SEC. 4. Subsection (2) of section 8 of the Agricultural Adjustment Act, as amended, is amended by designating said subsection as section 8b, by inserting said section at the end of section 8a, and by amending the first sentence thereof to read as follows: "In order to effectuate the declared policy of this title, the Secretary of Agriculture, shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof."

I think that is thoroughly understood.

Mr. O'MAHOONEY. Mr. President, may I suggest to the Senator that it might be advantageous if, instead of using the words "interstate commerce", we should adopt the actual language of the Constitution itself, and instead of saying "with respect to such handling as is in interstate or foreign commerce", should say, "with respect to such handling as is in commerce with foreign nations and among the States." The language suggested is the exact language of the Constitution itself; and I ask the Senator if he would not be willing to accept it.

Mr. SMITH. Mr. President, I should be perfectly willing to accept the broadening of the language. I do not think it is necessary, but, if there is no objection, I will accept it.

Mr. BANKHEAD. I think the amendment offered by the Senator from Wyoming would tend to restrict the effectiveness of this measure. The language which he offers provides that only interstate commerce shall be affected, which, of course, would not go so far as the language of the Supreme Court goes.

Mr. SMITH. I thought the purpose of the Senator was simply to add foreign commerce. The purpose of this change is to make it clear that marketing agreements may be entered into with persons engaged both in interstate and intrastate commerce, so long as the marketing agreements affect only the interstate portion of such business. If the amendment offered by the Senator from Wyoming is to affect that provision, which we have all been working for,

as a matter of course I should prefer that the language remain as it is.

Mr. O'MAHONEY. Mr. President, the language I suggest is not a narrowing of the effectiveness of this measure at all, as the Senator from Alabama seems to understand. It is quite the reverse. I think it broadens and carries out more successfully what the committee has had in mind.

Mr. SMITH. Mr. President, I think it would be better for us to keep the language which is used throughout the bill. It has been carefully studied and drafted by those who will be responsible for its administration, and I cannot, individually or as chairman of the committee, accept the proposed amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from South Carolina [Mr. SMITH].

The amendment was agreed to.

The PRESIDENT pro tempore. The Chair understands the Senator from South Carolina [Mr. SMITH] has a series of perfecting amendments.

Mr. SMITH. Yes, Mr. President.

Mr. KING. Mr. President, before the Senator begins to present his perfecting amendments, may I ask him to explain what is contemplated by the word "others" found in line 20? Who are the individuals or corporations who will fall within the category of "others"?

Mr. SMITH. They are confined in the bill to shippers, processors, and handlers, and any of those who are essential to the making of the agreement. That is what the word means.

Mr. President, I offer an amendment, on page 9, line 23, to strike out the words "so" and "to" and add "s" to each of the words "burden" and "obstruct", so that the language will be—

In the current of interstate or foreign commerce, or as directly burdens, obstructs.

The amendment proposed is only in the nature of a perfecting amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BORAH. What is the Senator going to do with the word "affect"?

Mr. SMITH. I propose to add an "s" on that word. I did not know I had left it out.

The PRESIDENT pro tempore. Without objection, the word "affect" will be amended to read "affects."

Mr. BORAH. The Senator will get himself into a great deal of trouble unless he defines the word "affect."

Mr. SMITH. We discussed this matter when it was up before, Mr. President, and from the context it is seen that it applies to cases where it directly affects, so as to burden or obstruct, interstate commerce.

Mr. BORAH. That would be all right. I should have no objection to it. So far as I am concerned, I am only making that suggestion to the chairman of the committee when the language is "so as directly to burden", and so forth. The language would be within the rule.

Mr. SMITH. Mr. President, I think in the light of the decision of the Supreme Court in the Schechter case this will be interpreted to mean "burden, obstruct, or affect" to such an extent as to render null and void the operation of the interstate traffic, whatever it is.

The next perfecting amendment is on page 45, line 14. It is proposed to substitute a new section for section 14, as follows:

Section 14 (a), paragraph (1) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is amended by inserting following the word "wheat" in the two instances in which it occurs, a comma, and the following: "rye, barley."

This is done for the purpose of taking rye and barley from under the processing tax when they are used for feed purposes. Whenever it is desired to use rye and barley for feed purposes, no processing tax is to be laid on them.

Mr. LONG. Mr. President, I should like to be heard for just a moment on the pending amendment. I could not

speak on the tariff question on which a vote has just been taken, because a motion was made to table the amendment, so I will take just a few minutes on this amendment. I should prefer to have taken the time on the tariff amendment. My remarks will refer to the tariff vote.

Mr. President, yesterday the junior Senator from Nevada [Mr. McCARRAN] and the senior Senator from Mississippi [Mr. HARRISON] exchanged some remarks about the acrobatic attitude of some of the leading party Members. The Senator from Mississippi undertook to justify his stand to some extent by reminding or undertaking to remind the Senator from Nevada that he had perhaps once stood with him. I looked over the RECORD yesterday after the Senate recessed, and I find that when I came to the Senate the flexible tariff law of Mr. Hoover was on the books and, unfortunately, had been held by the Supreme Court to be valid. I think the Court must have gone right up to the line in order to have held that way. The Senator from Mississippi introduced a joint resolution to repeal the flexible tariff law of Mr. Hoover, and the Democrats voted for it. I voted with the Senator from Mississippi.

However, following the coming into power of those on this side of the Chamber, when the Democratic Party made known its attitude, it was not proposed to do what we had previously done, as we all know; but it was proposed to go Mr. Hoover three or four steps better and even to make provision for annulling and making tariffs, for lowering them and raising them, without a standard to go by.

I find from looking at the RECORD that the leader on the Republican side has crossed over to the Democratic side and then crossed back to the Republican side. I find that the leaders on the Democratic side have crossed over to the Republican side and then crossed back over to the Democratic side and then crossed back again to the Republican side.

The clouds may play on the great green vale, and the stars show their beauty in the wide azure spaces, but the Northern Star gives direction. So it has been that the shining lights of two leaderships on the tariff question have gone down in a maze of confusion. From the point of this desk on the tariff question there is direction. My vote is the same under the various parties' control.

The PRESIDENT pro tempore. The question is on the amendment offered by the Senator from South Carolina [Mr. SMITH].

Mr. KING. Mr. President, may the amendment be stated?

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 45, line 14, it is proposed to substitute a new section for section 14, as follows:

Section 14 (a), paragraph (1) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is amended by inserting following the word "wheat" in the two instances in which it occurs, a comma, and the following: "rye, barley."

Mr. SMITH. Let me explain to the Senator that the purpose of the amendment is to exempt rye and barley from a processing tax where they are used for feed purposes.

Mr. McNARY. Mr. President, there is so much confusion, I did not understand the nature of the amendment. May it be read again by the clerk?

The PRESIDENT pro tempore. The clerk will again state the amendment.

The amendment was again stated.

Mr. SMITH. Under the amendment rye and barley when used for feed purposes would be exempt from the processing tax.

Mr. McNARY. So the amendment places rye and barley in the same classification as wheat when used for home purposes?

Mr. SMITH. Yes.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to. There is a further amendment in this connection which will be stated.

The CHIEF CLERK. After the amendment just agreed to, it is proposed to insert the following:

(b) Paragraph (5) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is hereby repealed.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

Mr. BURKE. Mr. President, I desire to call up and have considered at this time an amendment which has been printed and is now on the clerk's desk.

The PRESIDENT pro tempore. The amendment offered by the Senator from Nebraska will be stated.

The CHIEF CLERK. At the end of the bill it is proposed to insert the following:

ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

SEC. 54. It is hereby declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

SEC. 55. In order to effectuate the policy declared in section 54 of this act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such serum and virus. Such persons are hereafter in this act referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

SEC. 56. Marketing agreements entered into pursuant to section 55 of this act shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 55, will tend to effectuate the policy declared in section 54 of this act:

(a) One or more of the terms and conditions specified in subsection (7) of section 8c of the Agricultural Adjustment Act, as amended.

(b) Terms and conditions requiring each manufacturer to have available on May 1 of each year a supply of completed serum equivalent to not less than 40 percent of his previous year's sales.

SEC. 57. Whenever all the handlers of not less than 75 percent of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 55 of this act, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

SEC. 58. Subject to the policy declared in section 54 of this act, the provisions of subsections (6), (7), (8), and (9) of section 8a and of subsections (14) and (15) of section 8c of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with orders issued pursuant to section 57 of this act, and the provisions of section 8 (d) of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with marketing agreements entered into pursuant to section 55 and orders issued pursuant to section 57 of this act. The provisions of subsections (a), (b), (2), (c), (f), (h), and (i) of section 10 of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with the administration of sections 54 to 58, inclusive, of this act. The sums appropriated by section 12 of the Agricultural Adjustment Act, as amended, are hereby appropriated to be available to the Secretary of Agriculture for administrative expenses (including those described in section 12 (c) of the Agricultural Adjustment Act, as amended), in connection with sections 54 to 58, inclusive, of this act.

Mr. BURKE. Mr. President—

Mr. McNARY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from Oregon?

Mr. BURKE. I yield, but I wish to make a very brief statement.

Mr. McNARY. I hope the Senator will do so. I am very sorry, but I did not understand the proposal at all.

Mr. BURKE. I will try to explain it.

Mr. McNARY. May I ask where it is to go in the bill, if it is to go in at all?

Mr. BURKE. The amendment is proposed to be added as an additional section at the end of the bill, and it covers an entirely new subject.

Mr. President, under this proposed amendment the Secretary of Agriculture will be charged with the duty of entering into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus. This is an industry of a special and limited

nature. There are only 46 units in the entire country. These are located chiefly in the four States of Kansas, Missouri, Iowa, and Nebraska. The total annual value of the product is between four and five million dollars. However, the use of anti-hog-cholera serum is vital in preventing incalculable losses in the marketing of a farm product valued at more than a billion dollars.

In 1913 Congress passed the Serum and Virus Act. Since that date no one is permitted to engage in the business of producing anti-hog-cholera serum and hog-cholera virus except under licenses from the Department of Agriculture and subject to supervision of the United States Bureau of Animal Industry. The license and regulation, however, cover only the matter of insuring purity and potency of the product. There is at least one essential lacking before the industry can properly function in preventing the appalling losses that otherwise at intervals are certain to afflict the hog raisers of the country. That essential is the maintenance of an adequate reserve of serum. For instance, in 1926 a hog-cholera epidemic swept over a portion of the country and left in its wake a wholly unnecessary \$30,000,000 loss to the farmers of the Middle West—an unnecessary loss because it would not have occurred had there been available an adequate reserve of serum.

By means of marketing agreements made possible under this amendment such a reserve will at all times be maintained. There are other benefits, but they need not be discussed here. Suffice it to say this industry is unanimously in favor of the provision which I am advocating. The amendment was drawn by the legal staff of the A. A. A. It has the full and hearty approval of the Administrator, Chester Davis. It has been submitted to the chairman of the committee in charge of this bill and, I understand, meets with his approval. I trust that the amendment may be adopted.

Mr. SMITH. Mr. President, I think, at least, there should be an opportunity afforded to the conferees to consider this amendment and study it. I think there is merit in it.

Mr. KING. Mr. President, as I understand the able Senator from Nebraska, there is only one valid reason—I am not sure how valid that is—for this rather long, if not complicated amendment, namely, that there may be an inadequate quantity of serum in the United States in periods when there may be a plethora of hogs and the serum may be needed.

Mr. BURKE. That is the most important reason, but there are other reasons why the opportunity should be afforded of entering into market agreements on the part of the producers of hog-cholera serum and hog-cholera virus. It has been our experience in periods when hog cholera prevails that the limited number of serum producers are without an adequate supply. Under the proposed marketing agreements, which would really be in the same form as the agreements which have been in effect during the past few years in this industry, the 46 producers would be required to maintain as of May 1 of each year, and to have on hand at that time, not less than 40 percent of the quantity of serum which was used during the previous year. In other ways the marketing agreement would be beneficial. The several members of the industry are anxious to continue the present form of agreement, which provides the necessary means whereby, if a severe epidemic should come, the hog producers would not suffer severe losses.

Mr. KING. Does not the Senator think that this will afford a precedent which will bring all the manufacturers of practically every medicine and every commodity that is utilized in interstate commerce under the control of the agricultural or some other department?

Mr. BURKE. There were quite a number of others who presented their claims to the Agricultural Adjustment Administration and to the committee, but they were not looked upon with favor. This industry, however, seems to stand in a very distinct class by itself.

Mr. KING. I shall not oppose consideration of the amendment, but I think existing law is adequate to meet all requirements of those engaged in selling hogs; and, if the amendment is adopted, it will not only be a precedent which will be seized upon to control other commodities, but will tend to create a monopoly on the production of the

serum, which it is claimed is important in protecting the hog industry.

Mr. BURKE. I think the Senator need not fear that such a situation will arise from this amendment.

Mr. McNARY. Mr. President, I assume from what the Senator has said, the purpose is to guarantee pure serum for those who have infected stock?

Mr. BURKE. If I may interrupt the Senator there, the guaranty of purity of the product is already contained in the Serum Virus Act passed by Congress in 1913.

Mr. McNARY. As I understand from what the Senator said, the amendment proposes to authorize the Secretary of Agriculture to enter into marketing agreements with the manufacturers of certain serum.

Mr. BURKE. That is correct.

Mr. McNARY. Does it require any particular percentage of the manufacturers to enter into the agreement? What is the power to be conferred upon the Secretary of Agriculture to bring about marketing agreements? Are they to be voluntary in character?

Mr. BURKE. Yes. They can be entered into only when 75 percent of the industry asks for them. However, as a matter of fact, this entire industry, which, as I have said, consists of only 46 licensed producers, desires to have the amendment adopted, and to enter into the marketing agreements. No one else may enter into that industry without securing a license from the Secretary of Agriculture under the act which Congress has already passed.

Mr. McNARY. Has this amendment been submitted to the Bureau of Animal Industry of the Department of Agriculture?

Mr. BURKE. Yes; and it has received the entire approval of that Department.

Mr. McNARY. Did Dr. Mohler subscribe to this proposal?

Mr. BURKE. Yes; entirely so. He is very heartily in favor of it.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Nebraska.

The amendment was agreed to.

Mr. BANKHEAD. I send to the desk an amendment, which I ask to have stated.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. On page 62, after line 12, it is proposed to insert the following new subsection:

(e) In connection with the establishment by any claimant of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, bearing upon the facts so required to be established, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take his testimony with reference to the facts required by subsection (d) of this section to be established in such claim, with power to administer oaths to such person or persons. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or to both, and shall be removed from office.

Mr. BANKHEAD. Mr. President, the authority for the examination provided in the amendment is in language taken from section 1104 of the Revenue Act of 1926 relating to income taxes. It seems to me it is very important, in view of the issues which will doubtless be involved in the suits by packers and processors in the event the original act shall be declared to be unconstitutional, to have provided authority for the Government to make the same type and character of examination before the cases are tried as is now given the Government in the income-tax law.

The administration feels that this is of great importance and is anxious to have the amendment incorporated in the bill.

Mr. BONE. Mr. President, will the Senator from Alabama yield for a question?

Mr. BANKHEAD. Certainly.

Mr. BONE. Has the language of the amendment, as taken from the income-tax law referred to by the Senator, been construed by the courts to prevent Congress or either branch of Congress from having the information?

Mr. BANKHEAD. This provides merely for an examination.

Mr. BONE. But it has a direct bearing on the amendment offered the other day by the Senator from Georgia [Mr. GEORGE] and adopted, has it not?

Mr. BANKHEAD. It follows the elimination from the bill of the provision foreclosing the courts to such suits. Now that suits are permissible, it is proposed to give the Government the same power as to processing taxes which it now has under section 1104 in relation to income taxes.

Mr. BONE. It is conceivable there might be some grave abuses growing out of refunds, and I am wondering if it might not be the part of wisdom to make available such information as might be desired by either House of Congress. I understand there has been a change in the revenue laws whereby either House of Congress may have access to information about refunds in income-tax cases. I do not know whether the amendment to which I have referred is the one referred to by the Senator from Alabama.

Mr. BANKHEAD. The amendment proposes to give the Government the opportunity in these complex cases to have the same benefit of examination that it has under the income-tax law.

Mr. GEORGE. Mr. President, I regret exceedingly that this amendment has been offered by the Senator from Alabama [Mr. BANKHEAD]. It has but one legitimate purpose, and that is to endeavor to nullify what the Senate did this week in giving the litigant a day in court.

The amendment is not intended to permit the Commissioner of Internal Revenue to examine the books of the processor to ascertain what if any taxes may be due. I wish the Senator from Washington [Mr. BONE] to understand that. The Collector of Internal Revenue has the power and authority under the internal revenue law, which is made applicable to processing taxes, to examine the books and accounts and records, and ascertain what taxes are due by every taxpayer of the country.

But this amendment is not for that purpose. It relates to cases where the taxpayer desires to go into court and assert a claim. Then he is made subject to examination by officers and agents of the Bureau of Internal Revenue.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BANKHEAD. The examination is to be made by the Internal Revenue Bureau.

Mr. GEORGE. But the Senator includes all field forces.

Mr. BANKHEAD. The field forces of the Internal Revenue Bureau.

Mr. GEORGE. I want it clearly understood that the purpose is not to examine to see whether taxes are due, not to examine the taxpayer to ascertain whether he is paying his proper taxes; but the sole purpose is to subject the litigant who dares to come into court, and assert a right which he has or thinks he has, to all kinds of annoyances by the authorities of the Government, to make him subject to examination by the Internal Revenue Collector's office here and in the field, the collectors of the processing taxes.

As a matter of fact, the proper agencies of the Government now have access to the books and records of every taxpayer including the taxpayer who is required to pay a processing tax. They go into every place of business; they see the books and invoices. They are entitled to all information upon which to base their tax assessments. That has been true from the first.

The purpose of this amendment is to make it difficult for the taxpayer who wishes to bring his case into court, to come into court, because he will be subjected to great annoyance.

Mr. President, the amendment is unnecessary. The burden is on the taxpayer to show that he has paid the tax, to

show what he has paid, and that he has not passed it on or taken it out of the price. The burden is on him. He cannot come to court without assuming and carrying that burden. He must make a showing. He must produce his books. Of course, like any other litigant, the moment he comes into court he is subject to all orders of the court to produce his books, his records, and everything he has that bears upon the case.

Mr. BONE. Mr. President, will the Senator yield?

Mr. GEORGE. Certainly.

Mr. BONE. I am wondering if under existing procedure the Federal Government would be permitted to file what are generally termed "interrogatories", to secure this kind of information in advance of trial if so desired?

Mr. GEORGE. Undoubtedly, and unquestionably, the Government can do so. It does not have to wait until the case actually comes into court for trial. It can require the advance information just as in other ordinary cases. It can cause the production of everything the taxpayer possesses or controls pertinent to the issues.

The Senator from Alabama does not approve the amendment which has been adopted. The taxpayer must show precisely what tax he claims to have made. He must show that he has not passed it on. He must show that he did not take it out of the price of the products on which the processing tax was levied. In other words, he must show everything the agents of the Government could find. He is subject to every process of court, every order to produce, every interrogatory the Government desires to submit. He may be made to produce these things in court before trial.

This amendment is not for the purpose of collecting taxes. It is for the purpose of harassing the citizen who desires to come into court with his claim, when the Government already has the power to require the production of this information and when the burden affirmatively rests upon the complaining citizen to bring all the information and make full showing before he can even be heard in court.

I express the hope that the Senate will vote down the amendment.

Mr. NORRIS. Mr. President, I cooperated with the Senator from Georgia [Mr. GEORGE] in the amendment which was voted in the bill, and which he presented after a conference. I believed in that amendment, and I still believe in it.

Some Senators were very strenuous in their opposition to that amendment. I have talked with the attorneys who have tried such lawsuits, mainly with the packers, and I know they were afraid of the amendment. They did not question the good faith of the Senate in adopting the amendment. Under ordinary circumstances, they would not have had any objection to the change in the language and the adoption of the amendment. They were fearful, however, that the amendment would cause them a great deal of trouble, and they so expressed themselves to me.

I agree with the Senator from Georgia that there is power now in any court action under that amendment for the presiding judge to make an order regarding books, papers, or documents; but the right to make that order exists under the general authority and jurisdiction of the courts. This amendment makes it specific. I do not see any harm that the amendment can do to any honest man who is trying to recover a processing tax which he claims to have been wrongfully paid.

In some of these cases involving the payment of considerable amounts of money by the large packers, I understand from the attorneys that evidence must be taken in different parts of the country, some of it technical evidence, and an examination of books and papers is necessary in order to find whether or not the tax has been paid, and whether or not it has been passed on. The pending amendment will not subject the taxpayer to anything to which an ordinary income-tax payer is not now subjected. It is copied verbatim, I understand, from that language.

While I, myself, think that if the suit were in a friendly court there would not be any trouble in getting the same

evidence, I can see, and these attorneys tell me, that there would sometimes be extreme difficulty in getting it, and that all kinds and sorts of technical objections would be interposed against it. This amendment would enable the Internal Revenue Bureau to do what it now can do in the case of income-tax returns—send its agents to examine the books and papers. I do not see how it would hurt an honest man. I do not see how it would hurt anybody who has a good case. In fact, if he has a good case it would prove his case.

Personally, I cannot see how a taxpayer who has not passed on the processing tax, and who is seeking to recover it, would be hurt in any way by the adoption of this amendment, and it might be of material assistance to him. The attorneys who are engaged in trying these cases, at least, think it might be very material. It might help them in cases where, with an unfriendly judge, or where the processor who has paid the tax may have offices, books, and headquarters in different places, it would perhaps be very difficult to bring out all the facts without the use of this language in the bill.

If any Senator can point out to me how the adoption of the amendment would injure any honest man who is trying to recover an honest debt, I should not support the amendment; but I cannot see how it would hurt anybody who is honest to have this additional factor placed in the hands of those who are representing the Government, and are trying their best to prevent anyone from recovering a processing tax to which he is not entitled under the law.

Mr. KING. Mr. President, will the Senator yield for a question?

Mr. NORRIS. I yield.

Mr. KING. The Senator referred, as I understood him, to some suits which had been brought, and said he had talked with the attorneys, and they told him that certain difficulties had been or might be encountered under the amendment which has been adopted. I did not know that any suits had been brought.

Mr. NORRIS. No; not under the amendment which has been adopted. I did not mean to say that. If I did, I did not mean it. There has been a great deal of litigation with processors, as I understand. I cannot point to any particular case, because I have had no interest in looking into any of them; but I am told by the attorneys that they have had all sorts of litigation, and it is extremely difficult litigation to handle.

Although the amendment offered by the Senator from Georgia, to which I fully agreed, provides that the burden of proof shall be on the processor to establish the facts which will entitle him to recover, we must understand that the claimants will go into all kinds of courts. Some of the courts are extremely unfriendly; some of them are extremely technical; and the experience of these attorneys with the obstacles thrown in their way, as related to me, as I have found, and I think other members of the committee have found, has often been very discouraging.

Mr. SMITH. Mr. President, I call the attention of the Senator from Nebraska, with his permission, to the fact that just the other day the drastic measure proposed in the bill, whereby we would shut out from the courts all those whose transactions had been completed up to the passage of these amendments, was rejected. The Senate threw open all the transactions, and gave to each and every claimant his day in court. As the Senator has pointed out, of course, thousands of cases will be brought on the ground that perhaps the processors have not passed on the tax. It seems to me that as the Senator has said, any honest man would welcome an amendment of this kind.

Mr. NORRIS. Why, of course he would; and, if he has a good case, the investigation would sustain his position.

Mr. SMITH. To be sure. I merely wanted to make the observation that if any honest man had not passed on the tax, and could prove that he ought to be reimbursed, he would welcome an establishment of that fact beyond any peradventure of a doubt.

Mr. BORAH and Mr. BONE addressed the Chair.

The VICE PRESIDENT. The Senator from Idaho.

Mr. BONE. Mr. President, I merely desire to ask the Senator from Nebraska a question, if he is willing to answer it.

The VICE PRESIDENT. The Senator from Idaho has the floor.

Mr. BORAH. I have no objection to the Senator asking the question.

Mr. BONE. It will take only an instant, if the Senator from Idaho is willing to yield.

I should like to ask the Senator from Nebraska if the matter he was discussing, dealing with the power of the court to require the production of documents, had reference to the inherent power of the court under the general rules of practice; or did the Senator refer to any specific power granted by the Agricultural Adjustment Act itself?

Mr. NORRIS. I was thinking of the inherent power of every court.

Mr. BONE. That is, under the regular rules of practice in the Federal courts?

Mr. NORRIS. Yes.

Mr. BONE. As I recall, the court has power to require the production of documents on the part of the plaintiff so that the Government may prepare its case. I do not know just how far that rule goes. This amendment perhaps would broaden the rule. I should like to have the Senator from Alabama enlighten us on that subject.

Mr. NORRIS. I do not think this amendment would broaden that rule at all.

Mr. BONE. I should not, perhaps, make that suggestion now, because the Senator from Idaho wishes to take the floor; but later I should like to have the Senator from Alabama enlighten us on that point.

Mr. BORAH. Mr. President, I think I agree with the Senator from Nebraska [Mr. NORRIS], and I agree with the Senator from Georgia [Mr. GEORGE].

In the first place, I think anything which may be done under this provision may be done without it. In the second place, I think it is inserted here through overcaution, and might be used to great annoyance.

Mr. BANKHEAD. Mr. President, will the Senator yield?

Mr. BORAH. I yield to the Senator from Alabama.

Mr. BANKHEAD. I wish to point out to the Senator that this provision is not limited to court cases but extends to settlements by the Commissioner where applications are made only for refunds. The Commissioner may use the authority granted by the amendment when there is no court case.

Mr. BORAH. In other words, I do not see anything in this amendment of which the Government might not avail itself without the amendment. I do not see why the Government desires it.

Mr. BANKHEAD. Then let me ask the Senator, What is the objection to it?

Mr. BORAH. If the Senator will be patient until I get through, I am about to state that I have no objection to it. Having stated that, I am sure the Senator will be patient until I get through.

Mr. President, I think, as I say, that once a suit is brought, the Government may require the disclosure upon the part of the claimant which is referred to in this specific amendment. Therefore, in reality, I do not think the amendment changes the situation at all after the suit has been filed; but, as I said, I think it is proposed simply through oversensitiveness as to the difficulty which claimants are going to have, or think they are going to have, and for that reason it has been submitted.

I have been interested in the amendment which we struck out, and the amendment of the Senator from Georgia, because I think the party who is interested here is the small, independent processor. I venture the opinion that the great packers of the country are not likely to go into court on the question provided for under this amendment.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. NORRIS. What the Senator says may all be true under the new amendment; they may not do it, but I am

told by those who have been defending the Government in hundreds of cases which have been commenced that, in the main, it is the large processor they have had to fight in court and not the little processor.

Mr. BORAH. Of course the little processor has not gone into court; he does not feel able to compete with the Government. He does not feel strong enough to litigate with the Government, and he has not gone into court; but I assure the Senator that, according to my mail, there are hundreds of them who feel that they have just claims against the Government if the law shall be declared to be unconstitutional. They would go into court if they felt able financially to compete with the Government in the matter of litigation.

On the other hand, the evidence that the big packers have passed on all the taxes is almost conclusive upon its face. They have, indeed, admitted it in writing. I have letters which they have written to their customers in different parts of the country saying that, in the first instance, they undertook to pass it on in the way of increased prices of the products, but the purchasers ceased to buy, and, therefore, they were compelled to pass it on by decreasing the price of what they were buying. In one way or the other they have passed it on. But that has not been true of the thousands of small, independent processors. They were not in a position where they could pass it on. Their business situation did not permit them to do so, and they are the ones in whom I am interested. As I have said, I think the evidence is so conclusive as to the large packers having passed on the tax that I doubt whether they will ever go into court under this measure.

I cannot see, however, that there is any reason why a person who makes a claim should not be examined, and, therefore, I shall not oppose the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Alabama [Mr. BANKHEAD].

The amendment was agreed to.

Mr. HATCH. Mr. President, I send to the desk an amendment which I ask to have reported.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. At the proper place it is proposed to insert a new paragraph to read as follows:

Section 5 (a) of an act entitled "An act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, is amended by inserting after the sentence "that no State shall receive an allotment of less than 200,000 bales of cotton if in any 1 year of 5 years prior to this date the production of the State equaled 250,000 bales" the following: "And be it further provided that after the year 1935 no State shall receive an allotment of less than 80,000 bales of cotton if in any 1 year of 5 years prior to the date of the passage of said act the production of the State equaled 100,000 bales."

Mr. HATCH. Mr. President, I should like to have the attention of the Senator from Alabama. This amendment is one which has been discussed in the committee, and the Senator from Alabama and I have been working together in an effort to correct a condition which the people of New Mexico believe unfairly discriminates against them.

The Senator from Alabama is now familiar with this provision, and I understand agrees with the proposal, which I want to assure him is in the amendment I have suggested. He informs me that it was impossible to make the amendment effective for this year due to the fact that allotments had already been made, and crops were now or would soon be harvested in portions of the South. So I have inserted in the amendment, I will advise the Senator from Alabama, provision that it shall be effective after 1935.

Mr. BANKHEAD. Mr. President, I am willing to accept the amendment and to take it to conference.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from New Mexico [Mr. HATCH].

The amendment was agreed to.

Mr. LA FOLLETTE. Mr. President, I offer an amendment which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 70 it is proposed to strike out lines 1 to 13, inclusive, and to insert in lieu thereof the following:

SEC. 37. In addition to all funds heretofore appropriated there is hereby appropriated out of any money in the Treasury not otherwise appropriated the sum of \$40,000,000 to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds authorized to be appropriated by this section and the funds appropriated by the second paragraph of Public Resolution No. 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the act entitled, "An act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes", approved April 7, 1934. Such funds shall remain available to carry out the purposes of this section and such section 6 until December 31, 1937, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution No. 27 to carry out the purpose of section 2 of such Act of April 7, 1934, shall remain available for the purposes of such section 2 until December 31, 1937.

Mr. LA FOLLETTE. Mr. President, when the Jones-Connally Act was under consideration I offered an amendment providing that \$50,000,000 should be available—

To enable the Secretary of Agriculture to make advances to the Federal Surplus Relief Corporation for the purchase of dairy and beef products for distribution for relief purposes, and to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him, and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto.

Pursuant to the authorization an appropriation of \$50,000,000 was made for these purposes. The program for the elimination of diseased beef and dairy cattle has been carried on under the direction of the Secretary of Agriculture as provided in the section to which I have just referred.

Of this sum \$38,500,000 was allotted for disease eradication, broken down as follows:

Twenty-five million five hundred thousand dollars for Bang's disease or contagious abortion.

Twelve million dollars for tuberculosis.

One million dollars for mastitis.

This program has gone forward in nearly every State of the Union. It has been one of the most effective programs for the benefit of the dairy and beef industries as well as from the point of view of public health that has ever been launched in the history of this country.

I have here letters from a great many of the officials in the respective States where these programs have gone forward, and I desire to read briefly from them for the purpose of demonstrating to the Senate the wide-spread and effective character of this program; and after having done so, I wish to speak briefly upon the importance of its continuation.

Mr. KING. Mr. President, will the Senator yield for a question?

Mr. LA FOLLETTE. I yield for a question.

Mr. KING. Have the States cooperated with the Federal Government in carrying on the work which is sought to be accomplished under the amendment?

Mr. LA FOLLETTE. The States have cooperated very effectively, I will say to the Senator, and, as far as I know, the program has met with enthusiastic response in every State of the Union.

Mr. KING. Have they made financial contributions?

Mr. LA FOLLETTE. Some States have enacted legislation; others have not. But one of the reasons which I

offered in justification for the original proposition was the fact that many of the States found themselves, during the stress of the emergency period, unable further to carry on their program for the eradication of tubercular cattle, particularly, and that there was danger of having those programs stopped and of the areas which had been cleaned up, in which millions of dollars had been spent all over the United States, being reinfected with this dread disease.

I quote briefly from Mr. C. A. Cary, of the State of Alabama Livestock Sanitary Department. He says:

The program of the Federal Government to help in control and eradicating Bang's disease has been very satisfactory up to date and has been the principal factor in the eradication of the disease.

Our people are calling more rapidly than we can comply, and I hope that the work will go on and that an appropriation will be made in order to continue the work.

I wish to quote from Mr. R. M. Dow, of the State Board of Stock Inspection Commissioners of the State of Colorado:

We started work under this program on September 15 and by July 1 this year will have the initial test made in the entire State. We now have two-thirds of the herds in the State accredited.

He goes on to say in another paragraph:

Our State is not in a financial condition to appropriate money for this work, but if we had Federal money, our stockmen would be heartily in favor of pushing the program.

I quote from George E. Corwin, deputy commissioner on domestic animals of the State of Connecticut:

We greatly appreciated the extra appropriation allotted for paying indemnity on tubercular cattle and this fund was of great assistance to us when carrying forward our work. We were able, due to the fact that there was a special appropriation for the eradication of tuberculosis, to obtain from the legislature funds sufficient to place all untested cattle in this State under test during this coming year.

I quote from the State Board of Agriculture of the State of Delaware; Mr. Ralph C. Wilson, secretary. He said:

We feel it essential that Federal funds for this work be continued, and should like to see a permanent Federal appropriation for the eradication of these diseases.

I quote from the Florida State Livestock Sanitary Board:

Although Florida will have accomplished at least two tests on all of our dairy and purebred beef cattle by the close of this year, I assure you that we would like to see an appropriation made to continue this work that all of the States may have the advantage of this program.

We would particularly like to see a larger appropriation made for mastitis work.

I quote from a letter from William E. White, Department of Agriculture, Atlanta, Ga.:

The cattle owners seem to be much more interested in this work than in the tuberculosis eradication, and I readily understand why this is, due to the fact that we find less than one-half of 1 percent of our cattle reacting to the tuberculin test; but, according to the figures submitted, you will see that we have quite a lot of Bang's disease and the owners seem to be satisfied or do not complain of the amount of the indemnity being paid.

I do not see how the Government, after starting this very important work, could discontinue same at the end of 1935, and I believe that every effort should be made to continue this work after this year.

I read from a letter from Dr. T. W. White, director animal industry bureau, Department of Agriculture, State of Idaho, as follows:

Since November 1 we have been testing cattle for Bang's disease under the cooperative State-Federal plan. We are testing in the neighborhood of 2,000 samples a week, and up to April 1 we had tested 30,800 samples and found the incidents of infection to be around 6 percent. About 50 percent of the herds tested showed one or more reactors.

I quote from the Department of Agriculture of the State of Illinois, Mr. John P. Stout, as follows:

The sentiment among the herd owners of Illinois seems to be in favor of continuation of Bang's disease, mastitis, and tuberculosis control work. In fact, the director of agriculture has received copies of resolutions passed by several groups in Illinois, requesting continuation of the abortion-control work.

It would be very desirable if Federal funds could be appropriated to continue this work, after the present appropriation expires at the end of this year.

I read from a letter by J. L. Axby, State veterinarian of Indiana, as follows:

Acknowledging receipt of your letter of inquiry relative to the advisability of coordinating and unifying efforts in the seeking of additional funds from Congress for the purpose of continuing Bang's disease, tuberculosis, and mastitis control, be advised the sentiment of the people in Indiana appears to be favorable to the continuance of this program.

Therefore, unless the B. A. I. has justifiable reasons for discontinuing the project as it is, in its administration of duties, as related to the United States Department of Agriculture, I would suggest additional Congressional appropriation.

May I say, Mr. President, that I did not write these letters. They were written by a member of the staff of the Wisconsin Commission of Agriculture and Marketing, without my solicitation or without my knowledge, and were sent to me subsequently.

The next letter I read is from J. H. Mercer, livestock sanitary commissioner of the State of Kansas.

Answering your letter of April 4, the emergency funds made available by Congress makes it possible for Kansas to complete the county free area T B work. Testing has been completed in all but one county, and that county will be finished by the last of next week. Kansas will soon be a State free area territory.

With respect to appropriation, I am sure Kansas will assist in securing for the B. A. T. any appropriation they might ask for in connection with this work. Unless financial conditions change in this State it will not be possible to secure a State appropriation to even match a Federal appropriation to continue a voluntary program of Bang's disease control work.

I am in hopes that by the last of this year conditions will have improved and that arrangements can be made to continue the Bang's disease control work either under a voluntary or a compulsory plan.

The next letter is from E. P. Flower, secretary and executive officer, Louisiana State Livestock Sanitary Board, as follows:

I might state that the livestock owners in this State are heartily in accord with the control of Bang's disease and the elimination of mastitis from their herds and the sentiment is exceedingly good in connection with the entire program. We might add, in this respect, that we are modifying counties devoting all efforts, first, to tuberculin testing and then following up with Bang's and mastitis work. Due to the excellent sentiment and cooperation of livestock owners, we are modifying counties over a period of not exceeding 21 days.

We are heartily in accord with the perpetuation or the inclusion of additional funds, if possible, to carry on this work, and I understand from Dr. Lash, who was here with us about 2 weeks ago, that an additional \$8,000,000 has been allocated to the Bureau for Bang's and mastitis.

I read from a letter signed by Mark Welsh, chairman Bang's disease committee, Maryland State Board of Agriculture:

I think we all have long recognized that Bang's disease was the basic cause of a variety of major and minor losses in dairy herds.

Plans are now being made and work started on tuberculosis eradication, which we hope will bring Maryland into the status of a modified accredited area. This work we feel will promote Bang's disease control at the same time.

Next is a letter from H. M. Lucker, chief division of animal industry, Department of Agriculture, State of Maine:

Everyone at all familiar with this work is heartily in favor of Federal funds being continued for Bang's disease control. It would certainly be a decided waste of the money already spent, and would hurt the project very materially if it were allowed to lapse, and we in this State are willing to do anything we can to secure its continuance.

I read an extract from a letter from C. H. Clark, State veterinarian, State of Michigan, as follows:

If the Federal Government is to continue spending large sums for experiments, social, industrial, and otherwise, I believe the money used in eradicating Bang's disease would provide a much more sensible program than plowing under cotton, corn, and swine.

Here is a paragraph of a letter from Charles E. Cotton, veterinarian and secretary and executive officer, Live Stock Sanitary Board, State of Minnesota:

I am pleased to inform you that this board, the livestock breeders' associations, and all the progressive breeders of livestock are almost unanimous in expressing their appreciation of the activity of the Federal Bureau of Animal Industry in the testing and payment of indemnity for cattle affected with Bang's disease and tuberculosis.

A letter from the State Board of Stock Commissioners of Nevada:

Replying to your inquiry under date of April 4, may say that we here would be very much interested in the continuance of the special funds for tuberculosis, Bang's disease, and mastitis control. Of these projects, that looking to the control of Bang's disease probably being of the most importance with us.

The public response to the Bang's disease program here has been very gratifying and interest apparently continues to increase.

From the State of New Hampshire, Department of Agriculture:

Our State has just started off on a campaign of Bang's disease control, and the present legislature is enacting legislation that will make possible a State program, and I know other States here in the East are doing the same thing. We will advise you what steps we take in relation to this matter.

From the State of New Jersey, Department of Agriculture, signed by Mr. J. H. McNeil:

The funds appropriated under the Jones-Connally Act for the control of tuberculosis, Bang's disease, and mastitis will undoubtedly do a lot of good, as evidenced here in New Jersey.

From the Cattle Sanitary Board of New Mexico, W. A. Naylor, secretary:

Although it may be a little early to make this as a definite statement, it would seem to us now that a continuation of the program is going to be very desirable. We hope to have the entire State of New Mexico placed on a modified accredited area basis for tuberculosis, certainly by the early part of August, providing range feeding conditions permit the gathering of range cattle in all sections. Thereafter, of course, we will be able to give more attention to the Bang's disease and mastitis program, and although there has not as yet been any State funds provided specifically for these projects, we have a general fund which has always been used in cooperation with the United States Bureau of Animal Industry in livestock disease eradication projects and which, it is believed, has proven satisfactory to this Federal organization.

I think, however, that every effort should be made to procure further allotments of Federal funds to assist in pushing the Bang's disease and mastitis eradication work.

A letter from William Moore, State veterinarian of North Carolina:

This work was well received by herd owners, and we have received splendid cooperation from them.

I feel that the sentiment among herd owners is very favorable toward both Bang's disease and mastitis control. I believe that we have sufficient funds to take care of Bang's disease work for the present calendar year, but we could use a rather large fund for both Bang's disease and mastitis control next year.

I read from a letter signed by T. O. Brandenburg, executive officer and State veterinarian of North Dakota, as follows:

I believe we should take advantage of this weakness and do all within our power to get available funds from them for the elimination of these two great animal diseases, namely, Bang's disease and tuberculosis.

I read from a letter by F. A. Zimmer, State veterinarian, Ohio:

The general sentiment in Ohio for the continuation of these cooperative programs is very good, and this statement is correct when we note that approximately 6,000 herds, containing 75,000 or more cattle, are on the waiting list for a blood test, subject to indemnity.

I read letter from C. C. Hisel, State veterinarian, Oklahoma State Board of Agriculture:

The general consensus of opinion in our State is that tuberculosis eradication should be completed at the earliest possible date and that the control of Bang's disease is important from an economic standpoint and to a limited degree from a public-health standpoint.

A letter from W. H. Lytle, division chief, department of agriculture, Oregon:

In reply to your letter of April 4, will advise that we would be very much in accord with the suggestions you have made relative to making a unified effort to seek additional funds from Congress for the continuance of the appropriation for Bang's disease, tuberculosis, and mastitis control for 1936.

A letter from C. R. Gearhart, secretary-treasurer Pennsylvania Dairymen's Association:

General indications are that the sentiment in favor of the tests and indemnity for Bang's disease and mastitis is growing very

rapidly among our dairymen, and that a continuation of the program is appreciated very much.

I read from a letter signed by T. H. Ruth, director Division of Animal Industry, South Dakota:

Dr. Hays, of the bureau, and I, are doing everything we can to start area work in the range areas of the State which lie west of the Missouri River. We have created considerable interest and have been able to bring to the attention of west-river cattlemen the necessity for a market for their feeders, so we expect to be able to accredit counties in such area and will necessarily need Federal funds for a longer period than January 1, 1936.

Also a letter from A. C. Topmiller, department of agriculture, State of Tennessee:

In reply to your letter of April 4, in regard to Bang's disease and mastitis control in the State of Tennessee, I wish to state that the work has been progressing nicely, and we have been receiving the best of cooperation from the livestock breeders of the State.

I would be in favor of a larger appropriation so that some definite steps could be taken whereby herds in time could be accredited.

From the State of Texas, livestock sanitary commission, T. O. Booth:

The herd owners in Texas have been particularly interested in both of these programs.

* * * * *

If you will make a suggestion as to how we may further the interest of this work from Texas we wish to whole-heartedly cooperate with you.

From the State of Utah, State board of agriculture, W. H. Hendricks—

While our State is a T. B. accredited area, we still feel the necessity of the Federal program because we have been able to eliminate quite a number of our Bang reactors, as well as our mastitis-infected animals. Our State legislature which recently adjourned made an appropriation to this department to cooperate with the Federal Government on a Bang-eradication program. The appropriation, of course, is for a 2-year period, and we are very desirous of having the present Federal program continue after the present calendar year. Our livestock men are very much in sympathy with the program and are anxious to have it continue.

From the State of Vermont, department of agriculture, signed by E. H. Jones, commissioner—

Vermont was one of the States which was unable to begin Bang's disease control work when the funds first became available, but we started testing about the 1st of November. The interest manifested by our dairymen and cattlemen has been excellent, and the laboratory has had all the work it could do.

Our State control plan is drawn on rather strict lines, and it will be impossible to certify our herds under the present bureau program on only two tests.

* * * * *

Vermont, according to its size, is just as much a special dairy State as Wisconsin, and I believe our congressional delegation would use its best efforts to secure additional funds from Congress for the continuation of Bang's disease control work.

From the Department of Agriculture and Immigration of the State of Virginia, H. C. Givens:

I would, briefly, advise you that the entire program is going over in a highly satisfactory manner. Our people are cooperating with us to the limit; are highly appreciative of the opportunity to rid their herds of these various ailments. Future appropriations and extension of time limit for the expenditure of the present allocated funds will be greatly appreciated and acceptable by the people in Virginia.

From the State of Washington, department of agriculture, Robert Prior:

Replying to yours of April 4, will say it is my observation that the present Congress should make provision for funds for the purpose of carrying out the further prosecution of the eradication campaign against tuberculosis, Bang's disease, and mastitis in cattle for the following reasons:

First. That these diseases are causing great economic losses to the herd owners of the United States in that they materially reduce production and that the herd owners are now in such financial straits that they are not able to do this at their own expense.

Second. There is an accumulation of evidence that these diseases are transmittable to the human in the forms of tuberculosis from tuberculous cattle, undulant fever from cattle infected with Bang's disease, and septic sore throat and kindred ailments which might come from the strep and staph infection of mastitis.

Third. That the Federal Government now has an investment of over \$30,000,000 in this work program; and last, and of considerable

economic importance at this time, is the amount of unemployment relief which has been extended for the professional services of the men engaged in this work.

From the State of Wyoming, H. C. Port, livestock and sanitary board:

We have received some very encouraging reports from States that have engaged extensively in a Bang's disease program, and if the results prove as effective as they anticipate, it would seem that a unified effort should be made on the part of sanitary officials to procure additional funds from Congress for the continuance of the various disease-eradication programs, and I assure you that we will gladly support such a request.

From the State of Wisconsin I wish to quote from Mr. Wisnicky, director of livestock sanitation, of the State department of agriculture and markets, as follows:

I am herewith also enclosing a summary of the work on the Bang's disease program in Wisconsin up to May 1. It will be noted that on the first retest of the infected herds two-thirds of the herds that showed infection in the initial test went clean on the second test. The infection in the infested herds on the first test was approximately 30 percent, and the retest showed that this was reduced to approximately 4 percent.

Mr. President, I have taken the time of the Senate to read brief extracts from these letters, because I think they tell better than I could attempt to do it the story of how well this program has been carried on. The letters demonstrate the fact that the program has been effective in nearly every State in the Union; that it has met very enthusiastic response upon the part of the dairymen and cattle raisers; that it has been of great assistance in this emergency in helping them to bring their dairy herds up to production capacity by eliminating diseased animals; that in the case of the cattle growers the aid has proved very beneficial in eliminating these diseases from their herds; and that, furthermore, we have taken a long stride toward the protection of the public health by carrying on this program.

It must be evident to every Senator who will stop to consider the problem that as we have launched this program it will be a great economic loss to curtail it or to fail to carry it on in the future, because, of course, unless we continue it until the States are accredited and their herds are free from disease, we are still in danger of losing the ground which has already been won.

In conclusion I may say that the amendment which I have offered in lieu of the House language accomplishes several purposes. First, it makes available until a year from next January the unexpended balance of \$100,000,000 appropriated to carry out section 2 of the Jones-Connally Act, which is as follows:

To enable the Secretary of Agriculture to finance, under such terms and conditions as he may prescribe, surplus reductions and production adjustments with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section (12) and to support and balance the markets for the dairy- and beef-cattle industries.

Secondly, this amendment makes available the unexpended balance under section 6 of the Jones-Connally Act to which I referred at the beginning of my remarks, which had two purposes: First, the purchase of surplus beef and dairy products for distribution by the Surplus Relief Corporation; and, second, the disease eradication campaign among dairy and beef cattle to which I have alluded.

In the third place, it makes available \$40,000,000 to carry on the programs provided in section 6 of the Jones-Connally Act. This will make certain that we shall not lose the ground already won in eradicating these diseases, which entail such great economic loss to the dairy and beef producers, and shall not retard the campaign to protect the public health against the danger of the communication of cattle disease to man.

I sincerely hope, Mr. President, that the amendment will be agreed to.

Mr. DUFFY. Mr. President, my colleague has stated in detail the very excellent reasons for the adoption of this amendment, and I would not presume upon the time of the Senate to go over the ground he has so well covered. However, I think it is the unanimous opinion of the people of Wisconsin, and of the other dairy States in particular, as

well as the States where cattle raising is a very important industry, that the program has been a splendid success; that very substantial progress has been made, and that the program should be carried forward. I believe that by the adoption of this amendment there will be sufficient sums made available so that that may be done.

Mr. CAREY. Mr. President, this subject has been covered so well by the Senator from Wisconsin that there is only one point that I should like to call to the attention of the Senate.

This work is partially done; and so far as it has been carried on, it has been well done. If it shall not be completed, it will mean that quarantines will be established against those sections and areas of the country where they have not eradicated these diseases; and if such quarantines shall be established, they will destroy the market for cattle in those sections.

Therefore I hope the Senate will agree to this amendment. It is very important. The work is only half done, and the money which has been spent will be wasted unless a thorough job shall be done.

Mr. BORAH. Mr. President, I should like to call the attention of the Senate to the fact that a treaty with Argentina is pending which, if it should be ratified, in my opinion, will tend greatly to destroy the effect of the effort which we are making by this appropriation. I hope when we come to consider that treaty we will bear in mind that we are engaged in keeping diseased cattle out of the United States. This appropriation and this program would be rendered ineffective to a marked degree should this treaty be ratified.

Mr. McNARY. Mr. President, I wish to make an inquiry as to the amount of money that is being carried for the eradication of tuberculosis and Bang's disease in this year's annual agricultural appropriation bill?

Mr. LA FOLLETTE. Mr. President, as I understand, this program is distinguishable from the program provided in the supply bill, in that this program may be carried on whether or not the States are in a position to cooperate. It is further distinguishable on the ground that the program provided in the regular supply bill relates only to tuberculosis, whereas this amendment permits the Secretary to make allocations, just as the first enactment did, of the amount of funds from the lump sum appropriation, which will be used to carry forward the various disease-control programs which are to be undertaken.

Mr. McNARY. Is it the purpose of the amendment proposed by the Senator to provide cooperation between the Federal Government, the States, and the owners of the stock affected?

Mr. LA FOLLETTE. Yes; I think the letters to which I have referred indicate that the Federal Government has been able to secure the most hearty cooperation on the part of the State authorities and also on the part of the herd owners.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. LA FOLLETTE].

The amendment was agreed to.

Mr. BAILEY. Mr. President, I offer an amendment.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. At the end of section 32, formerly section 29, it is proposed to insert a new subsection, as follows:

(f) Nothing in this section (32) shall be construed to validate or legalize acts, taxes, penalties, or regulations or proceedings thereunder that were done, imposed, had, or issued contrary to said prior acts, or any action not in conformity with the terms of said prior acts.

Mr. BAILEY. Mr. President, I take it the amendment really does not require explanation. Section 32 undertakes to legalize and validate certain acts, certain taxes, and so on, but it is written so broadly that it appears to go beyond the authority of the law. The amendment which I have proposed would validate all acts down under the prior acts and in accordance with those prior acts, but would validate nothing that was done in violation of those acts or not in conformity with those acts. I am sure that was the intention of the Senate, and I feel equally sure the Department

of Agriculture would not ask the Congress to enact a law exonerating them or validating acts of theirs or legalizing acts of theirs which were contrary to the law as written. The amendment does not relate to the question of constitutionality. It just keeps them within the law.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. RUSSELL. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed, on page 36, line 23, to strike out "and jute"; and on page 46, after line 2, to insert the following:

(h) There shall be levied, assessed, collected, and paid (during any period after the date of the adoption of this amendment, when a processing tax is in effect with respect to cotton) a processing tax on the first domestic processing of jute, jute fabrics, and jute products at a rate per pound equal to the rate of the processing tax which is then in effect on cotton.

Mr. RUSSELL. Mr. President, the purpose of the amendment is to equalize the competition between jute and cotton in this country. Jute is a vegetable fiber, just as is cotton. Jute is produced in India and is a product of labor which receives from 18 to 20 cents a day.

The greater part of jute and jute products are processed in other countries. I have always believed that the cotton farmer of the South was entitled, in view of the tariff policy of this country, even under the present administration, to some protection in the way of a tariff on his product, but inasmuch as practically no tariff is levied on raw jute and only a very low tariff on burlap, in my judgment the cotton farmer is entitled at least to equality in the matter by levying a tax on jute or jute products which is equal to the processing tax levied upon cotton. That is all the amendment seeks to obtain.

Mr. SMITH. Mr. President, there is already a tax on jute bags and twine of 2 cents a pound. These are the only articles made of jute which in any way compete with cotton in the cotton market.

We have already acted on rayon. I do not think a further tax should be imposed after we have carefully examined the situation and decided the matter. There are sections of the country which have to use sacks made of jute, which accommodates itself to their products and for which cotton could not be substituted. I do not think we are justified in imposing a tax, because I, for one, have never yet seen where the importation of jute and its use has affected the price of cotton one iota.

Mr. WAGNER. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from New York?

Mr. SMITH. Certainly.

Mr. WAGNER. The Agricultural Adjustment Administration, if they should decide there is a competitive condition, could now impose a compensatory tax, could they not?

Mr. SMITH. They have already imposed it upon jute twine and bags.

Mr. WAGNER. Exactly. The Senator from Georgia is asking us to do now with reference to jute what he asked us to do the other day with reference to rayon. Without any information on our part as to whether or not it is fair, without any knowledge upon the subject, without any opportunity to be heard before the committee, we are asked blindly to impose another tax upon a particular commodity. I think we are going to discredit the whole processing-tax system by this type of effort to legislate.

Mr. SMITH. I do not want to take the time of the Senate further, but the convenience of all parts of the country should be considered and likewise their interests. Let me say one word further and I am through with this subject. We use cotton for bags and cotton as a tare and covering for cotton. I do not think the silk interests and the rayon producers would create a psychology among their purchasers if it was thought that rayon was so cheap and so worthless as to be used for covering, to cover rayon

with rayon, to cover silk with silk, making the covering and making common bags and sacks out of rayon. I think the province of cotton in our economic life is far above any such thing except as to the lowest grades of cotton, which really are not commercial in their character.

I hope the amendment will not prevail.

Mr. BORAH. Mr. President, it is gratifying to have the chairman of the committee take the position he does in regard to this matter. If it should be considered seriously, it would necessarily lead to much discussion because it is a matter of vital importance to a large portion of the country.

Jute bags, the cotton producers fear may compete with cotton, do not compete with cotton bags at all or in a limited degree. In no sense is there any competitive relationship. They are of a nature which cotton does not possess. This tax is to be imposed in its final result specifically upon the producer, upon the man who produces potatoes and products such as wool which must be shipped in these bags. The tax is proposed to be laid directly upon the producer and he would have to pay it.

Mr. POPE. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Idaho yield to his colleague?

Mr. BORAH. I yield.

Mr. POPE. Is it not a fact that the Department of Agriculture has made investigation and found there is not sufficient competition to warrant a tax on jute, and for that reason the Department joined last year in supporting a bill which was introduced and passed both Houses of Congress, removing the tax from jute so that not only is the situation as strong as that of rayon, but even stronger, because the Department of Agriculture has found that such a tax is unjust and joined heretofore in removing the tax?

Mr. BORAH. I think that is a correct statement. It was found to have been an erroneous proceeding and the Department of Agriculture undertook to correct it. Just how far it has been corrected I am not advised, but I know they undertook to do it.

Mr. President, I desire to insert in the RECORD, without taking the time to read it—because I understand my 15 minutes on the amendment can be divided into 3-minute units if I wish—a letter which gives the cost to be carried to producers of the country upon jute bags if the tax proposed by the able Senator from Georgia should be imposed.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NEW YORK CITY, July 17, 1935.

HON. WILLIAM E. BORAH,

Senate Office Building, Washington, D. C.

Re: Processing tax on burlap bags, Agricultural Adjustment Act.

MY DEAR SENATOR: It is reported Senator RUSSELL, of Georgia, has notified the Senate of his intention to propose a processing tax on the first domestic processing of jute, jute fabrics, and jute products at a rate per pound equal to the rate of the processing tax on cotton.

If Senator RUSSELL's amendment is incorporated in the act, it will add greatly to the cost of all burlap bags which are so extensively used by the farmers in Idaho, also in all of the States throughout the Union, particularly in the North and far West.

The following figures indicate the additional cost that will be added to the bags described:

	Per 1,000 bags
100 burlap potato bags.....	\$16.06
120 burlap potato bags.....	18.22
150 burlap potato bags.....	20.49
80 cracked-corn bags.....	17.81
100 wheat feed bags.....	19.35
100 bran bags.....	20.49
100 middling bags.....	19.41
140 flour bags.....	26.52
Pacific coast wheat cental.....	20.93
Idaho wool bags.....	95.60
Texas wool bags.....	87.40

We recall your successful efforts about a year ago in having the compensating tax on burlap bags removed, and we sincerely trust you will oppose Senator RUSSELL's amendment if offered.

We do not deem it necessary to go into any lengthy discussion regarding the injustice of Senator RUSSELL's proposed amendment, knowing you are thoroughly familiar with the matter, but we thought the above figures might be helpful in quickly determining the penalties that would be inflicted upon the agricultural interests throughout the entire United States by the adoption of Senator RUSSELL's proposed amendment.

Yours very truly,

CHASE BAG CO.,
DUANE HALL, Secretary.

Mr. BORAH. I have a telegram from Portland, Oreg., which reads:

Any such tax would be disastrous to our agricultural community constituting a heavy burden on all growers of coarse grains, potatoes, beans, onions, hops, and so forth. When former tax effective on burlap bags was repealed, it was proven that it had not resulted in increased use of cotton goods and therefore constituted a tax only on industry and agriculture. If any such amendment shall be introduced, we hope you will oppose it vigorously.

Mr. President, that is all I desire to say at the present time.

Mr. BORAH subsequently said: Mr. President, I ask unanimous consent to have printed in the RECORD in connection with my remarks some telegrams which I overlooked sending to the desk at the time I concluded my remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

The telegrams are as follows:

TWIN FALLS, IDAHO, July 18, 1935.

Senator WILLIAM E. BORAH,

United States Senate, Washington, D. C.:

Understand Senator RUSSELL, of Georgia, proposes processing tax on burlap bags equal to processing tax on cotton. Farmers of Idaho strenuously object to any processing tax on burlap bags. Inform Senator RUSSELL potato growers of Idaho now using thousands of cotton bags and any penalty placed on burlap for benefit of southern cotton growers will arouse serious resentment. Urge you to use best efforts to prevent any such tax.

IDAHO VEGETABLE PRODUCERS,
E. N. PETTYGROVE.

NAMPA, IDAHO, July 17, 1935.

HON. WILLIAM E. BORAH,

United States Senate, Washington, D. C.:

Reliably informed Senator RUSSELL, of Georgia, threatening to introduce bill providing heavy tax on burlap with decision rendered Boston processing case beyond Idaho growers and shippers to understand the introduction such a measure. Agricultural interests absolutely opposed to any and all processing taxes and instead of inaugurating new taxes must insist on refund of those already paid; absolutely depending on your personal support. Advising if rumor correct.

IDAHO SHIPPERS TRAFFIC ASSOCIATION.

OGDEN, UTAH, July 19, 1935.

HON. WILLIAM E. BORAH,

Senate Office Building, Washington, D. C.:

Understand Senator RUSSELL is introducing amendment to A. A. A. for additional processing taxes on burlap bags which will increase their cost very materially. Any increased costs of this nature will be reflected in the price paid the farmer for his beets and we trust you will vigorously oppose passage of this amendment.

AMALGAMATED SUGAR Co.,
H. A. BENNING, Vice President.

POCATELLO, IDAHO, July 18, 1935.

HON. SENATOR WILLIAM E. BORAH,

Washington, D. C.:

Understand Hon. Senator RUSSELL, Georgia, proposes introduce amendment A. A. A. providing additional processing tax burlap bags which would amount to \$25 to \$50 or more per thousand bags, meaning additional cost growers Idaho potatoes approximately 5 cents hundred which be impossible burden for growers carry under present conditions prices being received. Urgently request your support defeat this amendment.

IDAHO POTATO DEALERS ASSOCIATION.

MEMORANDUM ON PROPOSED RUSSELL AMENDMENT TO H. R. 8492

JULY 15, 1935.

1. As passed by the House and reported by the Senate Committee on Agriculture, H. R. 8492 freezes the specific tax on the first domestic processing of jute for the particular uses as prescribed by the regulations of the Secretary of Agriculture in effect on the date the proposed amendments are adopted. (Subdivision (2), pp. 36-37.) On July 12 Senator RUSSELL announced that he intended to propose an amendment which, in lieu of the House and Senate committee proposal, would impose a processing tax—

“ * * * On the first domestic processing of jute, jute fabrics, and jute products at a rate per pound equal to the rate of the processing tax which is then in effect on cotton.”

The effect of this amendment would be to substitute for the specific tax of 2.9 cents on the specific jute processing, which the A. A. A. has administratively found sufficient, a tax on all jute and jute products of 4.2 cents.

2. There is no justification in fact or in policy supporting this proposal for an unnecessary further tax on the farmers and consumers of the country. The A. A. A. itself has administratively determined it to be unnecessary in connection with the processing tax. This is clearly shown by the history of jute compensating taxes in the A. A. A.:

A. The cotton-processing tax was promulgated, effective August 1, 1933. Section 15 (d) of the Agricultural Adjustment Act provides that the Secretary—

" * * * Shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof."

In such cases, if the Secretary finds after hearing that such tax is necessary, he may levy a compensating tax.

On July 21, 1933, the Secretary of Agriculture announced hearings to be held beginning July 31, 1933, to ascertain whether the payment of the cotton processing tax was causing or would cause disadvantages in competition from competing commodities. The commodities in question were not named. Beginning on July 31 and August 1, hearings were held day and night on this question. At these hearings representatives of the cotton-textile industry appeared and urged that a compensating tax be imposed, and representatives from the jute industry presented complete, comprehensive data concerning all jute products, their uses, manufacture, prices, etc. No compensating tax was imposed, since the A. A. A. could not on the evidence presented justifiably make any finding of competition.

On September 21 a further hearing was announced, to be held beginning October 2, 1933, to ascertain whether the payment of the processing tax on cotton was causing disadvantages in competition from paper, jute, hemp, and other specified fabrics. Again at these hearings, which lasted 2 days and 2 evenings, extensive information was furnished by cotton-textile interests in support of a compensating tax, and representatives of other industries were heard. Following such hearings, extensive supplementary data and briefs were filed, and during the following 2 months the A. A. A. Processing Tax Section conducted its own investigations among these trades and secured extensive information.

B. On December 1, 1933, the Secretary of Agriculture announced his findings. These were basically in general that jute products did not compete with cotton products except in certain limited fields. In the case of jute, these were (1) the processing of jute fabric into bags, on which a tax of 2.9 cents per pound was imposed, and (2) manufacture of jute yarn into twine of a length 275 feet per pound or over, on which a processing tax of 2.9 cents per pound of yarn was imposed. These taxes, it must be noted, were imposed after 6 months of careful investigation during the course of which two full public hearings had been held, at which hearing the cotton-textile interests urged that a tax on all jute (as well as silk, rayon, etc.) products be imposed. It should also be noted that during the course of these hearings the question of equivalent yardages and equivalent weights and yields was thoroughly explored and the ultimate tax on two specified uses was set not at 4.2 cents, the cotton rate, but at 2.9 cents.¹

C. Not only was the original compensating tax limited to two clearly specified uses set at a rate administratively found to be proper, but on June 12, 1934, this tax was abrogated in the case of large jute bags and was limited specifically to processing into small jute bags and the tax was reduced to 2.1 cents.

D. The Processing Tax Section of the A. A. A. has continued its investigations, pursuant to the statute, and in the case of many commodities has reopened its investigations and adjusted the compensating tax rates. Its investigations in the case of jute have likewise been continued but it has not been deemed necessary either to extend the scope of the tax or to increase the rate.

3. There is little need to repeat the testimony of these various hearings, or the debates on the floor of Congress, which indicated beyond question that the cost of this tax on jute fabric and in many instances on jute twine was borne directly by the American farmer who uses burlap bags for the marketing of his commodities. That such tax bears directly and heavily upon farmers producing wheat, potatoes, onions, citrus fruits, etc., is by now a matter of common knowledge. Likewise, the consumer bears the brunt of the compensating tax on twine. Evidence has accumulated since December 19, 1933, that the compensating tax on these two specified uses should be reduced, first, for the reason that no shift in consumption away from cotton could occur, and, second, that the imposition of the tax has created havoc in the jute industry and caused it to lose business to other fibers.

4. The foregoing indicates quite clearly that the proposed amendment certainly is not necessary for the purposes of the A. A. A. program, not based upon and indeed contrary to the careful administrative findings of the A. A. A. itself, and would constitute a burden upon the American farmer and consumer. It was not proposed by the A. A. A. to either congressional committee, and has not been considered by either committee. It would constitute a discriminatory levy of several million dollars upon an American industry. Why has it been proposed? This question is, of course, difficult to answer, but the following bulletin from the Cotton Textile Institute, dated July 2, is perhaps of interest:

"MEMORANDUM FOR COTTON MILLS

"The A. A. A. amendments which have just been reported to the Senate from the Senate Agricultural Committee provide for

¹ This was required by the statute, which states: "In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity." Since jute is much heavier than cotton, it is obvious that it takes more jute to make an equivalent fabric or twine, and hence the tax per pound of jute must be less. This principle of fairness is thoroughly violated by the proposal which would put the same rate per pound on jute and cotton.

rayon-processing tax at 125 percent of cotton tax. We are making an effort to have these amendments include other commodities that compete with cotton. Present compensating tax on small jute bags and certain sizes jute twine and certain paper products are inadequate to protect cotton interests as their combined amount is averaging about one-quarter million dollars per month as against over \$8,000,000 on cotton. The Department of Agriculture suggested 10-cent pound tax on silk [this statement is believed to be without foundation], but the Senate Agricultural Committee removed it on the ground that no demand for it had appeared from cotton interests. Expression of views at this time may yield beneficial results, especially with respect to more adequate protection from jute and paper and also levying of taxes on silk and hard fibers as well as rayon. It would be helpful if you could communicate promptly with your Senators.

"Sincerely yours,

"G. H. DORR, President."

Of similar tenor is a letter dated July 5, sent by the American Cotton Manufacturers Association of Charlotte, N. C.:

"To Southern Senators and Congressmen.

"GENTLEMEN: The cotton textile industry is the key industry of the South. It is depressed beyond endurance and must have some relief from its 'process tax free' competitors.

"The A. A. A. amendments which have just been reported to the Senate from the Senate Agricultural Committee provide for rayon processing tax of 125 percent of the cotton tax. We ask to have these amendments include other commodities that compete with cotton.

"Present compensating tax on small jute bags and certain sizes jute twine and certain paper products are inadequate to protect cotton interests as their combined amount is averaging about one-quarter million dollars per month as against \$8,000,000 on cotton and waste.

"The Department of Agriculture suggested 10-cent pound tax on silk, but the Senate Agricultural Committee removed this clause. We ask this to be put back in the amendment.

"More adequate protection from jute and paper and also levying of taxes on silk and hard fibers as well as rayon would be most helpful. You must help the industry.

"Sincerely yours,

"THOMAS H. WEBB, President."

6. It is respectfully suggested that in the light of the foregoing facts that the suggested amendment, if actually introduced, should be rejected.

Mr. BARBOUR. Mr. President, I shall detain the Senate only a moment. I cannot, however, resist drawing attention to the discussion we had a day or two ago when both rayon and silk were brought into the picture, so to speak. Senators will recall, I think, that at that time I prophesied that just as inevitably as that progressive course was pursued, first including one fiber and then another, it would be merely a matter of time before jute and other fibers would be involved.

There is absolutely no justification on any score whatever for the claim that jute bagging, particularly, competes with cotton in the sense that is really meant in this whole connection. To me it is an absurdity, if I may put it that way—and I say this without any disrespect, of course, to my colleague and friend from Georgia, or anyone else, for that matter—to attempt constantly to bring first one fiber and then another within the purview of these processing taxes simply to offset the mistake that has been made in respect to cotton in this regard.

The State of New Jersey is a large agricultural State, and we are just as interested in this whole matter as are any of the Western or Southern States. I very earnestly hope this amendment will not prevail.

Mr. SMITH. Just a moment, Mr. President. I do not wish to reply to the Senator from Louisiana, because my time is too valuable. [Laughter.] All I desire to say is that we have to consider the kind of insects with which we are dealing if we wish to know in which direction they are looking. [Laughter.]

Mr. POPE. Mr. President, I send to the desk certain telegrams on the subject of jute which I ask to have inserted in the Record.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The telegrams are as follows:

OGDEN, UTAH, July 19, 1935.

HON. JAMES P. POPE,

Senate Office Building, Washington, D. C.:

Understand Senator RUSSELL is introducing amendment to A. A. A. for additional processing taxes on burlap bags which will increase their cost very materially. Any increased costs of this nature will be reflected in the price paid the farmer for his beets and we trust you will vigorously oppose passage of this amendment.

AMALGAMATED SUGAR Co.,
H. A. BENNING, Vice President.

TWIN FALLS, IDAHO, July 18, 1935.

Senator JAMES P. POPE,

United States Senate, Washington, D. C.:

Understand Senator RUSSELL, of Georgia, proposes processing tax on burlap bags equal to processing tax on cotton. Farmers of Idaho strenuously object to any processing tax on burlap bags. Inform Senator RUSSELL potato growers of Idaho now using thousands of cotton bags and any penalty placed on burlap for benefit of southern cotton growers will arouse serious resentment. Urge you to use best efforts to prevent any such tax.

IDAHO VEGETABLE PRODUCERS.
E. N. PETTYGROVE.

NAMPA, IDAHO, July 17, 1935.

Hon. J. P. POPE:

Reliably informed Senator RUSSELL, of Georgia, threatening to introduce bill providing heavy tax on burlap. With decision rendered Boston processing case beyond Idaho growers and shippers to understand the introduction of such a measure. Agricultural interests absolutely opposed to any and all processing taxes and instead of inaugurating new taxes must insist on refund of those already paid. Absolutely depending on your personal support, advising if rumor correct.

IDAHO SHIPPERS TRAFFIC ASSOCIATION.

Mr. GEORGE. Mr. President, I merely wish to say, relative to jute and other competitive fibers, that there is not any question on earth that jute is competitive with cotton—not with respect to every article or every character of fabric which may be made of jute and cotton, but jute undoubtedly is competitive with cotton. The two may be used interchangeably throughout a rather wide range of uses. There can be no question about that. Rayon also is competitive with cotton to a certain degree. I do not think there can be any doubt about that.

I call the attention of the Representatives from the cotton-growing States, and the Representatives from all other sections of the country, for that matter, to the fact that the domestic consumption of cotton has declined under the operations of the Agricultural Adjustment Act. I am not speaking of the foreign consumption. I am not referring to the drying-up of foreign markets. That is another picture. Much may be said about it. Undoubtedly, the program we are following is losing, step by step, the foreign market for all our products which may be exported in great quantities. That stands to reason; but the fact is also that the consumption of cotton in the United States declined in 1934, and is still showing a decline.

Something accounts for it. What is it? As the price of any commodity is advanced the use of substitutes is invited, and any kind of substitute will be brought in if the price is advanced high enough; and, as it is advanced, substitutes will work their way into the market. That is merely common sense, as all of us know.

Here is a great product losing not only in foreign markets—which loss may be due in large measure to tariff and to other reasons, but losing it nevertheless—but the consumption in the domestic market likewise is declining.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. BARKLEY. I ask this question purely for information. My impression has been that over a number of years the consumption of cotton goods in this country has suffered a decline because of the preference of users of other commodities such as rayon, which, while it competes with silk, competes also with cotton, just as any fabric competes with any other fabric that is wearable. All of them are competitive as to price and taste and every other feature that enters into their desirability as wearing apparel or as other articles of consumption. Was the decline in the consumption of cotton goods coincident with the Agricultural Adjustment program, or had it started before that time?

Mr. GEORGE. Mr. President, of course there has always been the use of the competitive materials. Silk, while it is not directly competitive with cotton, nevertheless is purchased in preference to cotton, and wool is purchased in preference to cotton; and rayon, of course, is more directly competitive with silk. There has been the use of these articles, but there has been a decline in the American consumption of cotton since the passage of the Agricultural Adjustment Act.

Mr. BARKLEY. Was there no decline prior to that time?

Mr. GEORGE. Oh, certainly there had been some decline; but there had been increases also.

Mr. BARKLEY. There have been fluctuations.

Mr. GEORGE. The general tendency has been for the uses of cotton constantly to expand; but there have been losses to the various other fabrics which have been made and put on the market.

What I am saying, however, is that we have here, contrary to the situation in the case of every other product in the United States, a decreased consumption during the past few months. There are reasons for it; and one of the reasons is the inroads made by substitutes, not strictly competitive in a purely technical sense, perhaps, but nevertheless which may be used in large measure for the same purposes for which cotton is used.

Mr. WAGNER. Mr. President, will the Senator yield?

Mr. GEORGE. I yield. I have but 15 minutes, but I am glad to yield.

Mr. WAGNER. On Saturday last I presented specific figures as to the annual consumption of certain fibers. The comparative figures show that the consumption of cotton remained practically stationary; that while in 1920, 54 percent of all the cotton produced here was consumed in the United States, in 1934 the domestic consumption was a little over 53 percent. There have not been figures so far, at least, indicating any reduction in consumption.

Mr. BYRNES. Mr. President—

Mr. GEORGE. I yield to the Senator from South Carolina.

Mr. BYRNES. I desire to ask the Senator if he is familiar with the statement prepared and issued by the Cotton Textile Institute, showing very convincingly that both rayon and jute are serious competitors of cotton.

Mr. GEORGE. I think there is no question about it.

Mr. SMITH. Mr. President, will the Senator allow me to interrupt him just there?

Mr. GEORGE. I have but a very few minutes.

Mr. SMITH. Very well, I will take the floor in my own time.

Mr. GEORGE. I shall be glad to have the Senator do so if he wishes.

Mr. SMITH. No; go ahead.

Mr. GEORGE. Everyone who is familiar with the cotton business knows that there is a competition. Whether or not that competition justifies the imposition of a tax which would be exceedingly burdensome upon other users is a different question; but I wish to point out to the Senate that jute all along has received a very highly preferential treatment. It has been treated exactly the reverse of all other products which are subjected to the tariff.

My distinguished colleague [Mr. RUSSELL] is right in trying to get some protection against competition with cotton when it is called upon to bear the burden of the high processing tax, therefore, of course, increasing the sales resistance which its products must necessarily meet; but I am afraid there is not much hope of success, because we have a higher tax on the raw product, jute, which is not grown in the United States, than we have on the manufactured products, the burlaps and other products. In other words, as the labor content of the jute product increases, the tax is lowered. That is a tariff, truly, in reverse. That is not by accident. It just did not happen that way. As a matter of fact, it was done designedly, and jute has had special treatment and special preferences, and jute manufacturers in the United States have had special treatment and special preferences.

At the present rate of consumption about 450,000 bales of cotton less per year are now being consumed than in the 7 years average prior to the enactment of the A. A. A. law. Figure it out as we please, something is competing with cotton; something is hurting the fabric; something is hurting that product. In my opinion, it is substitution of such articles as rayon, jute and its products, and even paper in some instances.

I looked into this question very carefully and fully when the last tariff act was under consideration, and I tried to

go into it fairly. That there are purposes for which burlap or jute is very much better suited than cotton there can be no doubt. We would get nowhere by not being fair about it. I know very well that potato producers in Maine and in Idaho believe, and they have reasons for so believing, that the burlap bag is better for their purpose. There is no doubt about that. That it is better for certain wrapping purposes, I think there can be no question. Of course, it is a cheaper product, but there are many uses for which either cotton or burlap, the jute product, may be used. I think anyone who wants to be fair about it is obliged to make that admission.

In a technical sense, there is not the competition that we ordinarily speak of between certain fibers, but in the usage which may be made there is a possibility of the substitution of jute products for cotton in many instances, and also, as the price of rayon has gone down—though it was not so when the price of rayon was very high—there is the use of rayon where cotton had formerly been used.

It sometimes is a question of choice, and it is a question, of course, of desirability to the purchaser. Nevertheless, there are these substitutions, and in the case of this great American commodity, which for so many years has furnished us our balance of trade, and which we used to export to the extent of about 60 percent, but which now is being exported at a much less rate, there is a declining consumption in the home market. That consumption has shown a decline within the last few months, and there seems to me to be no reasonable answer except to say that when the consumption of other products and commodities has shown an increase, substitutes must be in use for cotton, or for the purposes for which cotton was formerly used.

Mr. President, I think that if there were a fair and equitable adjustment, this great American product would be given some adequate protection against these products which are for certain purposes and uses highly competitive with cotton.

Mr. SMITH. Mr. President, it seems to me that especially those from the South ought to understand the cotton question. The price of cotton has nothing whatever to do with its relation to its competitors. If the arguments we have heard are sound, the entire country would have turned to jute and other commodities when from 1916 to 1929 the average price of cotton was around 18 cents a pound and the consumption in this country was a million bales more than it is now. In 1926 we made 18,000,000 bales of cotton in the United States. We exported 11,000,000 and consumed 7,000,000, and the average price in that bumper year was nearly a cent a pound higher than it now is.

In addition to that, American cotton does not need any tariff. It needs a patriotic appreciation of its relation to American economics. But it happens to come from that section which is still a conquered territory.

I merely wish to say, while we are talking about tariffs, that the price of American cotton fixes the price of all the cotton of the world instantaneously, and American money and American men ought to fix the price of American cotton, whose intrinsic value is always for the benefit of America. But we never have that kind of cooperation. Even our buyers chisel it down for the benefit of the Europeans whom they represent and who purchase 55 percent of our cotton. It does not lie in our mouths to talk about the coarse, disgusting fiber of jute entering into competition with the fine fiber of cotton.

Mr. President, I hope we will understand that if we want a better price for cotton we must get the American people to appreciate the potential power we have regardless of any tariff. The world has to have our cotton. Fifty-five percent of it is shipped abroad, and it is belittling to talk about putting a tariff on jute in order to increase the value and consumption of cotton.

Mr. RUSSELL. Mr. President, the statement has been made by those opposing this amendment that there is no competition between cotton and jute, and that for this reason this compensatory tax should not be levied.

It is interesting to note that this statement is made by the same Senators who opposed the motion I made to re-

consider the defeat of the amendment which levied a compensatory tax on rayon, on the grounds that the Department of Agriculture had conducted an investigation to discover whether there was competition between rayon and jute; and as no action had been taken by the Department to levy a compensatory tax, there was no competition between these commodities.

In the case of jute, the Department of Agriculture went into the question and found that they were competitive fibers, and on the grounds that there was competition between jute and cotton, the Department assessed a processing tax of 2.9 cents per pound on jute, as compared with a processing tax of 4.2 cents per pound assessed against cotton. In my judgment, this tax is wholly inadequate to equalize the competition between cotton produced by southern farmers who are trying to make a living for themselves and their families, and jute, a product of peon labor in India. If the southern cotton farmer is to be protected and not dragged down to the same standard of living which obtains in India, he is entitled to a tax at least equal in amount to that levied on cotton.

As I have stated heretofore, I believe that so long as the present tariff schedules are to stay in force, the cotton farmer is entitled to a high tariff on jute, in addition to an equalizing compensatory tax, but, in any event, a compensatory tax equal to the processing tax on cotton should be imposed. This amendment only seeks to levy the same amount of tax on the competitive vegetable fiber known as "jute" as is now imposed on cotton.

It is perfectly true, as stated by the junior Senator of Idaho [Mr. POPE], that the Department of Agriculture removed the compensatory tax on jute that goes into the manufacture of a certain type of bags and sacks which are used by some of the farmers of the West. I understand that jute sacks are used quite extensively in sacking potatoes and some other farm commodities.

When the Department of Agriculture removed the tax on these jute bags, however, they did not abandon the finding that there was competition between jute and cotton. At the same time they removed the tax on jute they provided for refunding any processing tax paid by the manufacturers of cotton bags of the same class, competing with the jute bags. Thus the processing tax on cotton bags of this particular type was removed at the same time the compensatory tax of 2.9 cents per pound on jute bags was removed.

This was a double discrimination against the cotton farmer. Both rulings meant a defeat for him. After having first been given a tax on jute which is much less than that imposed on cotton, the Department of Agriculture proceeded to remove this tax for the benefit of the potato growers and others. To equalize the situation for the benefit of the potato growers and the manufacturers, the Department of Agriculture then issued an order removing the processing tax as applied to cotton manufactured into bags which are competitive with the jute or burlap bags. Thus, the cotton farmer is not only denied the tax on jute to protect him in his domestic market, but he is also deprived of the benefit payments which should go to him on that part of his crop which is manufactured into cotton bags in competition with the jute bags.

For 70 years the cotton farmer has produced America's one great export commodity and has borne the burdens of the tariffs imposed for the benefit of the rest of the Nation. In this era of protection and restriction of production when the cotton farmer is being compelled to reduce his crop more than any other producer, and at the same time is receiving smaller benefit payments on the average than the producers of other commodities, simple justice demands that he be afforded equal treatment, at least, with the slave labor of India, which will be afforded him by the imposition of this tax on jute.

Mr. JOHNSON. Mr. President, I shall not attempt to answer what has been so well said by the Senator from Georgia in regard to the competitive qualities of jute and of cotton in some aspects. I know, however, concerning the use of jute in the West. I know that in the Western States

the produce of all of our farmers and our agriculturalists is sacked in jute bags. I know that cotton is not appropriate as wrapping for the crops they harvest there. So I merely say, in response to what has been said concerning the competitive qualities of the two, that we are dealing here with an agricultural bill. In the agricultural section of the country with which I am familiar, the West, the agriculturalists use, and necessarily must use, jute bags. They cannot use, and they do not use cotton bags in connection with the harvesting and marketing of their crops. To insist upon this amendment would be disastrous to the farmers of the West; it would affect seriously an agricultural bill such as this, and, therefore, we think the amendment should not prevail.

Mr. WALSH. Mr. President, in connection with the amendment with respect to jute, I ask that there be printed at this point in the RECORD a letter from the Bemis Bros. Bag Co. and a memorandum dealing with the amendment.

The VICE PRESIDENT. Without objection, it is so ordered. The letter and memorandum are as follows:

BOSTON, MASS., July 18, 1935.

HON. DAVID I. WALSH,
Senate Office Building, Washington, D. C.

PROCESSING TAX ON JUTE FABRIC, AGRICULTURAL ADJUSTMENT ACT

MY DEAR SENATOR: I confirm the following telegram sent to you this morning:

"We hear that on July 12 Senator RUSSELL notified the Senate of his intention to propose a processing tax on the first domestic processing of jute fabrics and jute products at a rate per pound equal to the rate of the processing tax on cotton. We respectfully solicit your support in opposing this amendment if introduced, as it would add almost 50 percent to the cost of all burlap bags, which are so extensively used in packing factory as well as farm products throughout the United States."

The cotton-processing tax, as you know, is 4.2 cents per pound. A similar tax on jute fabrics made into burlap bags would, therefore, amount to \$42 per thousand pounds of bags. This would add almost 50 percent to the price of burlap bags, or say from \$25 to \$30 per thousand bags. On certain large heavy bags used for wool in the West, however, this proposed tax would amount to approximately \$168 per thousand bags.

We do not deem it necessary to go into a lengthy discussion regarding the injustice of Senator RUSSELL's proposed amendment, believing you are thoroughly familiar with the matter, and we hope that you will see your way clear to oppose the bill if it is introduced, as it would inflict heavy penalties upon factory and farm products packed in burlap bags throughout the entire United States if this proposed amendment was adopted.

Yours very truly,

F. M. EWER, Treasurer.
BEMIS BROS. BAG CO.,

MEMORANDUM OF PROPOSED RUSSELL AMENDMENT TO H. R. 8492

JULY 15, 1935.

1. As passed by the House and reported by the Senate Committee on Agriculture, H. R. 8492 freezes the specific tax on the first domestic processing of jute for the particular uses as prescribed by the regulations of the Secretary of Agriculture in effect on the date the proposed amendments are adopted. (Subdivision (2), pp. 36-37.) On July 12, Senator RUSSELL announced that he intended to propose an amendment which, in lieu of the House and Senate Committee proposal, would impose a processing tax.

"* * * On the first domestic processing of jute, jute fabric, and jute products at a rate per pound equal to the rate of the processing tax which is then in effect on cotton."

The effect of this amendment would be to substitute for the specific tax of 2.9 cents on the specific jute processing which the A. A. A. has administratively found sufficient, a tax on all jute and jute products of 4.2 cents.

2. There is no justification in fact or in policy supporting this proposal for an unnecessary further tax on the farmers and consumers of the country. The A. A. A. itself has administratively determined it to be unnecessary in connection with the processing tax. This is clearly shown by the history of jute compensating taxes in the A. A. A.:

A. The cotton processing tax was promulgated effective August 1, 1933. Section 15 (d) of the Agricultural Adjustment Act provides that the Secretary—

"* * * Shall ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof."

In such cases, if the Secretary finds after hearing that such tax is necessary, he may levy a compensating tax.

On July 21, 1933, the Secretary of Agriculture announced hearings to be held beginning July 31, 1933, to ascertain whether the payment of the cotton processing tax was causing, or would cause, disadvantages in competition from competing commodities. The commodities in question were not named. Beginning on July 31 and August 1, hearings were held day and night on this question.

At these hearings representatives of the cotton-textile industry appeared and urged that a compensating tax be imposed, and representatives from the jute industry presented complete, comprehensive data concerning all jute products, their uses, manufacture, prices, etc. No compensating tax was imposed, since the A. A. A. could not on the evidence presented justifiably make any finding of competition.

On September 21, a further hearing was announced to be held beginning October 2, 1933, to ascertain whether the payment of the processing tax on cotton was causing disadvantages in competition from paper, jute, hemp, and other specified fabrics. Again, at these hearings, which lasted 2 days and 2 evenings, extensive information was furnished by cotton-textile interests in support of a compensating tax, and representatives of other industries were heard. Following such hearings extensive supplementary data and briefs were filed, and during the following 2 months the A. A. A. Processing Tax Section conducted its own investigations among these trades and secured extensive information.

B. On December 1, 1933, the Secretary of Agriculture announced his findings. These were basically in general that jute products did not compete with cotton products except in certain limited fields. In the case of jute, these were (1) the processing of jute fabric into bags, on which a tax of 2.9 cents per pound was imposed; and (2) manufacture of jute yarn into twine of a length 275 feet per pound or over, on which a processing tax of 2.9 cents per pound of yarn was imposed. These taxes, it must be noted, were imposed after 6 months of careful investigation during the course of which two full public hearings had been held, at which hearings the cotton textile interests urged that a tax on all jute (as well as silk, rayon, etc.) products be imposed. It should also be noted that during the course of these hearings the question of equivalent yardages and equivalent weights and yields was thoroughly explored, and the ultimate tax on two specified uses was set not at 4.2 cents, the cotton rate, but at 2.9 cents.¹

C. Not only was the original compensating tax limited to two clearly specified uses and set at a rate administratively found to be proper, but on June 12, 1934, this tax was abrogated in the case of large jute bags and was limited specifically to processing into small jute bags, and the tax was reduced to 2.1 cents.

D. The processing-tax section of the Agricultural Adjustment Administration has continued its investigations, pursuant to the statute, and in the case of many commodities has reopened its investigations and adjusted the compensating-tax rates. Its investigations in the case of jute have likewise been continued, but it has not been deemed necessary either to extend the scope of the tax or to increase the rate.

3. There is little need to repeat the testimony at these various hearings or the debates on the floor of Congress, which indicated beyond question that the cost of this tax on jute fabric and in many instances on jute twine was borne directly by the American farmer who uses burlap bags for the marketing of his commodities. That such tax bears directly and heavily upon farmers producing wheat, potatoes, onions, citrus fruits, etc., is by now a matter of common knowledge. Likewise, the consumer bears the brunt of the compensating tax on twine. Evidence has accumulated since December 19, 1933, that the compensating tax on these two specified uses should be reduced, first, for the reason that no shift in consumption away from cotton would occur, and, second, that the imposition of the tax has created havoc in the jute industry and caused it to lose business to other fibers.

4. The foregoing indicates quite clearly that the proposed amendment certainly is not necessary for the purposes of the A. A. A. program, not based upon and indeed contrary to the careful administrative findings of the A. A. A. itself, and would constitute a burden upon the American farmer and consumer. It was not proposed by the A. A. A. to either congressional committee, and has not been considered by either committee. It would constitute a discriminatory levy of several million dollars upon an American industry. Why has it been proposed? This question is, of course, difficult to answer, but the following bulletin from the Cotton Textile Institute, dated July 2, is perhaps of interest:

"MEMORANDUM FOR COTTON MILLS

"The A. A. A. amendments which have just been reported to the Senate from the Senate Agricultural Committee provide for rayon processing tax at 125 percent of cotton tax. We are making an effort to have these amendments include other commodities that compete with cotton. Present compensating tax on small jute bags and certain sizes jute twine and certain paper products are inadequate to protect cotton interests, as their combined amount is averaging about one quarter million dollars per month as against over \$8,000,000 on cotton. The Department of Agriculture suggested 10-cent pound tax on silk [this statement is believed to be without foundation], but the Senate Agricultural Committee removed it on the ground that no demand for it had appeared from cotton interests. Expression of views at this time may yield beneficial results, especially with respect to more ade-

¹This was required by the statute, which states: "In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity." Since jute is much heavier than cotton, it is obvious that it takes more jute to make an equivalent fabric or twine, and hence the tax per pound of jute must be less. This principle of fairness is thoroughly violated by the proposal which would put the same rate per pound on jute and cotton.

quate protection from jute and paper and also levying of taxes on silk and hard fibers as well as rayon. It would be helpful if you could communicate promptly with your Senators.

"Sincerely yours,

"G. H. DORR, President."

Of similar tenor is a letter dated July 5, sent by the American Cotton Manufacturers Association of Charlotte, N. C.:

"To Southern Senators and Congressmen:

"GENTLEMEN:

"The Cotton Textile Industry is the key industry of the South. It is depressed beyond endurance and must have some relief from its 'process tax free' competitors.

"The A. A. A. amendments which have just been reported to the Senate from the Senate Agricultural Committee provide for rayon processing tax of 125 percent of the cotton tax. We ask to have these amendments include other commodities that compete with cotton.

"Present compensating tax on small jute bags and certain sizes jute twine and certain paper products are inadequate to protect cotton interests as their combined amount is averaging about one-quarter million dollars per month as against over \$8,000,000 on cotton and waste.

"The Department of Agriculture suggested 10-cent pound tax on silk but the Senate Agricultural Committee removed this clause. We ask this to be put back in the amendment.

"More adequate protection from jute and paper and also levying of taxes on silk and hard fibers as well as rayon would be most helpful. You must help the industry.

"Sincerely yours,

"THOMAS H. WEBB, President."

6. It is respectfully suggested that in the light of the foregoing facts that the suggested amendment, if actually introduced, should be rejected.

Mr. HALE. Mr. President, whatever may be the merits of cotton over jute, or of jute over cotton, the fact remains that in all the States where potatoes are grown they are handled in burlap bags made of jute. The effect of this amendment will undoubtedly be to raise the price of those burlap bags. With potatoes selling at about one-half the ordinary price, and in my own State, as was shown on yesterday in the debate, bringing about 5 cents a bushel, we can ill afford to have any additional charge put on the burlap bags used in the potato industry.

I hope the amendment will not be agreed to.

Mr. LONG. Mr. President, I wish to ask the Senator from Maine a question. Why not make that argument with reference to Japanese chinaware? The argument is just as good with respect to Japanese chinaware. We can get that for half what American chinaware costs.

Mr. BORAH. That argument may be made when the time comes to make it.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Georgia [Mr. RUSSELL].

The amendment was rejected.

Mr. LONG. Mr. President, I have been trying to get the floor for half an hour in order to offer an amendment.

The VICE PRESIDENT. The Chair is aware that the Senator has been trying to get the floor, and other Senators have endeavored to get the floor. The Chair tries to be fair and impartial to the Senator from Louisiana as well as to other Senators.

Mr. LONG. Mr. President, I send to the desk an amendment which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. At the proper place in the bill it is proposed to insert the following:

There shall never be any restriction in the production of sugarcane in the United States below an amount sufficient to yield annually 425,000 tons of sugar therefrom.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Louisiana.

Mr. GEORGE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. GEORGE. During the debate upon the provision in this bill which provided for the exclusion of fruit for canning, I had some occasion to refer to action heretofore taken by the Food and Drug Administration of the Department of Agriculture. In justice to the Department, and in order that the whole matter may be stated fairly and properly in the CONGRESSIONAL RECORD, I offer and ask to have printed in the RECORD a letter from Mr. P. B. Dunbar, the Assistant Chief, addressed to my secretary under date of

June 3, 1931, and a letter from W. G. Campbell, Chief of the bureau addressed to Mr. Jesse W. Tapp, Division of Marketing Agreements and Licenses, Agricultural Adjustment Administration, Department of Agriculture, under date of July 17, 1935.

The VICE PRESIDENT. Without objection, the letters will be printed in the RECORD.

The letters are as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOOD AND DRUG ADMINISTRATION,
Washington, D. C., July 17, 1935.

Mr. JESSE W. TAPP,

Division of Marketing Agreements and Licenses,
Agricultural Adjustment Administration, Department of
Agriculture, Washington, D. C.

DEAR Mr. TAPP: I have read the remarks attributed to Senator GEORGE on the floor of the Senate in regard to the purported effect of the operations of this Department under the Food and Drugs Act on the Georgia canned-peach industry. The statement appears on page 11076 of the July 12 issue of the CONGRESSIONAL RECORD. In compliance with your request I am making such comments on the statements in the RECORD as the facts justify.

Shortly after the passage of the McNary-Mapes amendment to the Federal Food and Drugs Act, on July 8, 1930, the erroneous impression developed among Georgia peach producers that the provisions of this amendment were such as to virtually class Georgia canned peaches as substandard per se and, therefore, subject to the special labeling requirements exacted by the amendment for substandard canned foods. This is, of course, not the case. On the other hand, the amendment offered the opportunity for the development of a real peach-canning industry in that State specializing in the packing of a high-quality article. I am enclosing a copy of a letter written by this administration to the secretary of Senator GEORGE on June 3, 1931, and copy of her reply of June 4.

The McNary-Mapes amendment was not sought by this Department; it was primarily instigated by the canning industry itself, its purpose being to effect a labeling differentiation between canned foods of standard grade or better and those which, while sound and wholesome, do not measure up to the quality criteria of the better grades. The amendment contained no provision in any way changing the labeling or other requirements of the Federal Food and Drugs Act on canned foods of standard grade or better, but provided that by regulation the Secretary was authorized to promulgate standards of quality and condition for canned foods and a mandatory substandard legend for canned foods falling below that standard. In the case of canned fruits, the specified legend is "Below United States standard. Good food. Not high grade." This special form of labeling promotes intelligent buying on the part of the housewife with limited means who desires wholesome but not fancy food.

Since no specific appropriation was made by Congress at the time of, or since, the enactment of the McNary-Mapes amendment, it has been necessary to limit the development of standards of quality and condition to a few staple canned foods. One of these is canned peaches. The standard for canned peaches was developed and promulgated by the Secretary only after exhaustive studies throughout the various canning sections of the country were made, for the purpose of determining an equitable standard fair to all sections. Furthermore, the standard was not promulgated until public hearing was held, at which time all interested parties were given an opportunity to offer suggestions and recommendations.

That the substandard labeling requirement for canned peaches is not discriminatory against Georgia is evidenced by the fact that thousands of cases of California substandard canned peaches go on the market every season labeled with the required legend and are accepted by the trade and by consumers for the purpose for which they are largely intended; that is, for pie-making purposes. Furthermore, even before the enactment of the McNary-Mapes amendment, a California statute was in effect requiring substandard fruits packed in that State to be stamped "seconds."

Members of the Food and Drug Administration are entirely familiar with conditions in the peach-producing area of Georgia through many years of contact. It is the conclusion of this administration as a result of a special survey of peach-canning districts of Georgia during the 1931 season that because of the excellent quality of the Georgia peach there is no reason, so far as the Food and Drugs Act is concerned, why that State should not develop a highly successful peach-canning industry, should it choose to divert its quality fruit from the fresh-fruit channels of distribution to the canneries. For many years, however, that State has chosen to concentrate upon the development of the fresh-fruit industry, and it is, of course, upon the fresh fruit that the reputation of the Georgia peach has been established. The limited canning of peaches in Georgia appears to have developed out of the need for an outlet for peaches not entirely suitable for a high class fresh market fruit. Inevitably, a canning industry based upon that motive must at times involve the packing of fruit which fails to meet the criteria of first-class canned peaches. The McNary-Mapes amendment simply prevents, by the imposition of special labeling, unfair competition of such low grade, but wholesome, canned peaches with high-grade canned peaches packed either in Georgia or in any other State.

With the excellent quality of raw material available in Georgia as a potential source of high-grade canned peaches, it is entirely a matter for the choice of the Georgia industry itself as to whether it will continue, as in the past, to base its reputation on the excellent quality of its fresh peaches or whether it will deliberately divert some of this quality fruit to canneries to build up a successful canned-fruit industry. There is nothing in the McNary-Mapes amendment to the Food and Drugs Act which will or can mitigate against the packing of quality canned peaches in Georgia which will not require the special form of labeling provided under the Food and Drugs Act for the lower grade of fruit.

Very truly yours,

W. G. CAMPBELL, *Chief.*

JUNE 3, 1931.

MISS SARAH ORR WILLIAMS,

*Secretary to Hon. Walter F. George,
United States Senate, Washington, D. C.*

DEAR MISS WILLIAMS: I have your letter of June 1 transmitting a letter from Mr. John L. Morris, manager of the Macon Chamber of Commerce, dated May 29, which further discusses the question of the status of Georgia canned peaches under the McNary-Mapes amendment to the Food and Drugs Act. I am glad to have Mr. Morris' letter, since it affords the opportunity to attempt to clear up certain misapprehensions and establish an understanding of the real purpose and effect of the Mapes amendment on the Georgia peach industry.

Mr. Turner, of the Continental Packing Co., to whom Mr. Morris refers, recently called at both our Philadelphia station and at our Washington offices. Frankly, I am inclined to feel that Mr. Turner has unwittingly misinterpreted statements that may have been made by department officials at these conferences. It is entirely possible that the conversations, in touching upon unpeeled peaches, may have brought out the fact that when the standard for canned peaches was under consideration our examination of numerous samples of unpeeled canned peaches from various sources throughout the country led us to the conclusion that no unpeeled canned peaches under existing packing practices could be considered as other than substandard.

There is admittedly, I believe, an established practice in Georgia in connection with the marketing of its high quality fresh peaches, of canning cull fruit of such commercial quality as to preclude its sale as fresh fruit. So long as it is sound and wholesome this type of canned product is a legal article of commerce and has found acceptance by a class of consumer which, while desiring good, wholesome food, finds it necessary to purchase the cheaper grades of canned goods. It is this class of peaches which will most likely fail to meet the Mapes amendment standard. The only effect of the amendment on such an article will be to more definitely advise its own class of consumer that while substandard it is good, wholesome food. There is no reason to believe that the receptiveness of the established trade in this article will be in any way disturbed through a frank statement of quality.

I have discussed the packing of these so-called "cull" peaches at some length, not with any implication that this article is representative of Georgia canned peaches as a whole, but because the existence of this commodity has complicated discussions which members of the industry have had with department representatives and has given rise to the erroneous belief that Georgia canned peaches per se must be regarded as substandard.

Mr. Turner, in discussing the situation, both with the Philadelphia station and at the time of his visit to our offices here, developed the fact that he was more particularly interested in the status under the amendment of a canned article prepared from the highest quality of peach. He pointed out that he bought the entire crop of orchards for canning purposes only, and allowed the fruit to remain on the trees long enough to insure a superior article from the standpoint of ripeness. He indicated that the product was packed in water. After reading the standard for canned peaches Mr. Turner expressed his belief that he would have no difficulty in packing peaches which would meet the standard in all respects, except that they were packed in water instead of the usual sirup-packing medium. As was explained to Mr. Turner, such an article is exempt from the substandard labeling requirement if labeled "water-pack peaches."

We have no desire to do other than to encourage Mr. Turner and the Georgia industry in the belief that it is entirely practicable to can peaches which will meet the standard. Whether or not it is commercially desirable to do so in all cases is, of course, a matter for the canners to decide, since they know their trade better than we can. The canned-peach standard adopted under the authority of the Mapes amendment has not been arbitrarily imposed. It has been given legal authority only after thorough and serious study, having consistently in mind the interests of canner and consuming public alike. Extensive studies of commercial packs from sources all over the country were followed by the public announcement of tentative standards which were widely published in trade journals. A public hearing was held on December 15, 1930, for the purpose of affording all interested parties an opportunity to comment on or criticize the standards proposed.

I cannot escape the conclusion that upon further study of the peach standard, Georgia canners will find themselves fully in harmony with the judgment of the Department, and the opinion of the canning industry in general, that it will promote the interest of consumers and canners alike. I am sure it will also be ap-

parent that the amendment affords the Georgia industry equal opportunity with any other section of the country to pack standard canned peaches.

Very truly yours,

P. B. DUNBAR, *Assistant Chief.*

Mr. LONG. Mr. President, I hope there will be no objection to the amendment I have offered. It merely provides that there shall be no restriction under the provisions of this bill which will cut the annual production of cane for the manufacture of sugar below 425,000 tons. We, ourselves, raised that much sugarcane in Louisiana at one time during a fairly normal year. Since that time Florida and Texas have been producing cane to a limited extent. As the Senate knows, we raise much less sugarcane than the country needs. We do not raise anything like the crops of sugarcane which America consumes. We import a great deal more than we produce. However, the development of sugarcane through our experiments, particularly those conducted at the Louisiana State University, is making it possible for America to raise a great deal more sugarcane and to satisfy more of the sugar demand of this country.

There is practically no difference at all between the amount I am asking for in my amendment and what was formerly produced in Louisiana alone in a normal year. Of course, if I were looking at this matter in the light that we might some day have to dispose of the problem of American investments in sugar production in other countries, my attitude might be different; but I hope the Senate is looking after American institutions at this time. This amendment would not interfere with anything which is produced in America. It would simply allow us to raise 425,000 tons of American sugarcane for sugar. Also, Mr. President, without any doubt the beet-sugar producers in time to come are going to show that there is no justification for such restrictions as have probably been imposed upon the beet-sugar industry of this country.

As I understand this bill, it does not intend to restrict the crop production when we do not raise enough in our country to supply our needs, and we do not have anything like the production of sugarcane which this country needs. It is well within the possibilities that in the next few years we can produce sufficient sugar in America to supply the American market; and I hope all Members of the Senate would like to see that happen.

If it be found in the conference between the Senate and the House, that the amendment I am offering requires modification in order to comply with any action taken by the House I, of course, should expect the conferees to take notice of that fact; but for the present I hope the Senate will let the amendment be adopted, and allow the three States I have named to produce as much sugar from the cane they grow as the one State of Louisiana formerly produced. We are trying to bring ourselves back to the condition which existed during 1913 and 1914, and around that time; and if we will look back far enough we will find that during those years our State produced nearly as much cane as I now ask the Senate to agree shall be the limit below which the provisions of the pending bill shall not be effective.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Louisiana [Mr. LONG].

The amendment was rejected.

Mr. LONERGAN. Mr. President, on page 11527 of the CONGRESSIONAL RECORD of yesterday appears an amendment which was adopted by the Senate, reading as follows:

Provided, That no such tax shall be levied upon the processing of any material which processing results in the production of newsprint.

This amendment was prepared and filed on July 12. It was the intention to have it made a part of section 15 of the pending bill, on pages 45 and 46. Last week section 15 was stricken from the bill. In order that the correct parliamentary procedure may be followed I ask unanimous consent that the vote of yesterday, by which the amendment was adopted, be reconsidered.

The VICE PRESIDENT. The Chair understands that the Senator from Connecticut offered an amendment in the

form of a proviso, which was not in proper form, because the section in which it was sought to be placed had been eliminated from the bill. Now the Senator desires to have the vote by which the amendment was adopted reconsidered, and wishes to offer the amendment in the form of a different section. Is that statement correct?

Mr. LONERGAN. Yes; Mr. President.

The VICE PRESIDENT. Is there objection to the request of the Senator from Missouri? The Chair hears none, and the vote by which the amendment referred to was adopted is reconsidered.

Mr. LONERGAN. I now send the perfected amendment to the desk and ask to have it stated.

The VICE PRESIDENT. Does the Senator propose to change the original amendment?

Mr. LONERGAN. I propose that the amendment shall be section 15, and that it shall incorporate the words printed in lines 17, 18, and 19, on page 45, and the written words sent to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to insert the following:

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) Nothing contained in this title shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Connecticut.

The amendment was agreed to.

The VICE PRESIDENT. Without objection, the former amendment will be withdrawn.

Mr. McADOO. Mr. President, I should like to have the clerk read the amendment as I now offer it concerning citrus fruits.

The VICE PRESIDENT. The Senator from California offers an amendment which the clerk will state.

The CHIEF CLERK. On page 21, line 2, after the word "order", it is proposed to insert a comma and the words "except that as to California citrus fruits no order issued pursuant to this subsection (8) shall be effective until the handlers of not less than 80 percent of the volume of such commodity or product thereof covered by such order have signed such marketing agreement."

On page 21, line 10, after the word "thereof," insert the words "except that as to California citrus fruits said percent shall be 80 percent."

On page 21, line 23, after the word "thereof," to insert the words "except as to California citrus fruits said percent shall be 80 percent."

On page 22, line 10, after the word "producers," insert the words "except that as to California citrus fruit said order must be approved or favored by three-fourths of the producers."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from California.

Mr. McADOO. Mr. President, I ask unanimous consent to have these amendments considered as one, because if the first should be adopted the others would necessarily follow.

The VICE PRESIDENT. Without objection, the amendments will be considered as one.

Mr. McADOO. The only purpose of the amendment is in the case of the citrus fruit growers of California to require before a marketing agreement may be effected the consent of 80 percent of the handlers of such fruits.

A peculiar situation exists in California. One exchange controls something like 70 percent of the entire production of the State. The minority do not wish to be left wholly at the mercy of that 70 percent. Such a condition does not prevail in the State of Texas or the State of Florida. It is for that reason, in order to protect the minority, that we feel that the percentage with respect to the California situation should be increased.

I hope the chairman of the committee will have no objection to accepting the amendment.

Mr. FLETCHER. May I ask the Senator a question?

Mr. McADOO. Certainly.

Mr. FLETCHER. Does this amendment have any reference at all to canning?

Mr. McADOO. No; it has no reference to canning. It relates only to fresh fruits.

Mr. FLETCHER. And it applies only to California fruits? It would not affect arrangements made or agreements effected with reference to Florida fruits?

Mr. McADOO. Not at all; it has no application except to the situation in California.

Mr. CONNALLY. Mr. President, the amendment now offered by the Senator from California is not the original amendment prepared by him, is it? It has been modified, has it not?

Mr. McADOO. I have modified it and reduced the percentages to 80 and 75.

Mr. CONNALLY. The effect of the Senator's amendment is that as to the State of California 80 percent of the producers have to agree?

Mr. McADOO. Eighty percent of the handlers have to agree.

Mr. CONNALLY. How about the producers?

Mr. McADOO. And 75 percent of the producers, in certain instances.

The VICE PRESIDENT. Without objection, the amendment offered by the Senator from California [Mr. McADOO] is agreed to.

Mr. SHIPSTEAD. I offer an amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 16, in line 3, it is proposed to insert after the word "prohibit", the words "or in any manner limit, except as provided for milk only in subsection (d)."

Mr. SHIPSTEAD. Mr. President, this is a clarifying amendment. I have consulted the chairman of the committee who has agreed to accept it.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. SHIPSTEAD. I offer another amendment which I send to the desk and ask to have stated. It is likewise a clarifying amendment.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 54, in lines 1 and 2, it is proposed to strike out the words "processed from wheat" and to insert in lieu thereof a comma and the words "prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1"; in line 9, to strike out the parenthesis which follows the word "flour" and to insert in lieu thereof a comma and the words "prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1", followed by a parenthesis; in line 18, to insert, after the word "paragraph", the words "and of paragraph (2) of this subsection"; in line 19, after the word "flour", to insert a comma and the words "prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1"; and in line 20, after the word "paragraph", to insert the words "and of paragraph (2) of this subsection", so as to read:

SEC. 28. The second sentence of subsection (b) of section 16 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "Except as to flour, prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated."

SEC. 29. (a) Paragraph (1) of subsection (e) of section 16 of the Agricultural Adjustment Act, as amended, is amended by inserting, after the first word in the first sentence, a comma and the following: "subsequent to June 26, 1934", by inserting in the proviso, after the word "made", the following: "in the case of hogs"; and by inserting at the end of such paragraph the following: "In the case of wheat the provisions of this paragraph and

of paragraph (2) of this subsection shall apply to flour, prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, only; in the case of sugarcane and sugar beets, the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

Mr. SMITH. Mr. President, while this amendment is being considered, I should like to have inserted in the RECORD—it is not necessary to read it—a statement by the Department in support of the amendment which has been submitted by the Senator from Minnesota and explanatory thereof.

Mr. NORRIS. Does it clarify the clarifying amendment?

The VICE PRESIDENT. Without objection, the statement will be printed to the RECORD.

The statement is as follows:

[W-14. W. R.—A. A. Series 1, Supplement 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Wheat Regulations, Series 1, Supplement 1.) (Definitions and conversion factors.) Issued August 1933]

WHEAT REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, Rexford G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting as of June 26, 1933, a supplement to and in part a revision of Wheat Regulations, Series 1, and to the extent of such revision, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

The weight of wheat subject to the processing tax shall be the weight of clean wheat not artificially dried.

I. DEFINITIONS

The following terms as used in Wheat Regulations, Series 1, and in these regulations have reference to articles processed wholly or in chief value from wheat, and for all the purposes of said regulations shall have the meanings hereby assigned to them:

Whole wheat and graham flour is any flour containing in their approximate natural proportions substantially all of the constituents of cleaned wheat.

All flour except whole wheat and graham is any flour (except whole wheat, graham, semolina, and farina) obtained in the commercial milling of wheat, consisting essentially of the starch and gluten of the endosperm, which contains not more than 1 percent of ash (in the case of durum flour not more than 1.2 percent of ash).

Semolina is the granular product obtained in the commercial process of milling durum wheat and is that portion of the endosperm retained on 10XX silk bolting cloth.

Farina is the same as semolina except that it is made from hard wheat other than durum.

Prepared doughnut flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of crullers (i. e., doughnuts other than raised doughnuts) and fried cakes.

Prepared biscuit flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of short bread.

Prepared pancake flour is a commercial preparation (consisting of at least 50 percent of wheat flour and varying amounts of other flour, i. e., corn, rice, rye, and buckwheat) commonly used in the preparation of pancakes, griddlecakes, or waffles.

Prepared pie-crust flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of pie-crust or shells.

All bread except rye includes any type of bread except (a) rye as herein defined, (b) zwieback, and (c) rolls, all types, and coffee cake.

Rye bread is the bread obtained by baking a dough which differs from wheat-bread dough in that not less than one-third of the flour ingredient has been replaced by rye flour.

Zwieback is a commercially toasted bread.

Rolls, all types, and coffee cake include any product commonly called a "roll" or "coffee cake", the flour content of which consists of at least 95 percent of wheat flour.

Crackers include articles commonly known as "biscuits."

Pretzels are made from a yeast-raised dough submerged or pre-cooked in a caustic solution.

Macaroni and spaghetti are plain alimentary pastes, including vermicelli, prepared and shaped from the dry doughs made from semolina, farina, wheat flour, or from a mixture of any two or all of these flours, and with one or more other ingredients.

Canned macaroni and spaghetti consists of a mixture of cooked macaroni or spaghetti, as defined herein, mixed with cheese or other products and hermetically sealed.

Noodles are a form of egg alimentary paste.

Gluten is the product made from wheat flour by the almost complete removal of starch and consists primarily of protein.

Wheat starch is a product of wheat flour resulting from the removal from such flour of practically all of the protein, mineral, and fibrous material.

II. CONVERSION FACTORS

In lieu of and in revision of the conversion factors for articles processed from wheat established by the aforesaid Wheat Regulations, Series 1, I do hereby establish the following conversion factors for articles processed from wheat to determine the amount of tax imposed or refunds to be made with respect thereto:

The following table of conversion factors fixes the percentage of the per bushel processing tax on wheat with respect to 100 pounds of the following articles processed wholly or in chief value from wheat. These percentages are based upon a basic conversion factor of 4.6 bushels of wheat as equaling 196 pounds of the flour designated in item 1 (b) below.

Articles processed wholly or in chief value from wheat

Products of first domestic processing:	Conversion factors
1. Flour:	
(a) Whole wheat and graham.....	166.67
(b) All flour except whole wheat and graham.....	234.7
(c) Semolina and farina.....	234.7
(d) Bran, shorts, middlings, red dog, and all of the product of wheat (other than whole wheat and graham flour) resulting from the commercial milling thereof which contains more than 1 percent of ash (in the case of such product of durum wheat, more than 1.2 percent of ash).....	0
2. Prepared flour:	
(a) Doughnut.....	133.8
(b) Biscuit.....	223.0
(c) Pancake.....	164.3
(d) Pie crust.....	140.8
3. Cereal preparations made chiefly from wheat:	
(a) Whole wheat type, including those consisting chiefly of whole wheat.....	166.67
(b) All others except those consisting chiefly of bran.....	234.7
Products of secondary processing:	
4. Bread:	
(a) All bread except rye.....	161
(b) Rye.....	120
(c) Zwieback.....	154
(d) Rolls, all types, and coffee cake.....	161
5. Crackers.....	230
6. Pretzels.....	244
7. (a) Macaroni and spaghetti, except canned.....	250
(b) Canned macaroni and spaghetti.....	31.2
8. Noodles.....	238
9. Gluten.....	1,173.5
10. Wheat starch.....	0

The articles to which conversion factors are specifically assigned above are hereby defined, for the purposes of these regulations, as "factored articles."

As to all articles not hereby specifically assigned conversion factors which are made, directly or indirectly, in some part from a factored article, I do hereby establish that as to each 100 pounds of such part the conversion factor is the conversion factor hereby specifically assigned for such factored article.

As to all articles not hereby specifically assigned conversion factors and which in some part are made, directly or indirectly, from wheat but not (as to such part) from a factored article, I do hereby establish that as to each 100 pounds of such part the conversion factor is 166.67 percent of the per bushel processing tax on wheat.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 10th day of August 1933.

[SEAL.]

REXFORD G. TUGWELL,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

AUGUST 11, 1933.

Mr. ROBINSON. Mr. President, I should like to ask the Senator from Minnesota and the chairman of the committee whether the proposal submitted by the Senator from Minnesota is not an amendment to the committee amendment which has already been agreed to? If that be the case, it is necessary to reconsider the vote by which the committee amendment was agreed to.

Mr. SHIPSTEAD. I do not so understand.

The VICE PRESIDENT. The Chair will state to the Senator from Arkansas that the amendment offered by the Senator from Minnesota is to a committee amendment which has already been agreed to by the Senate, and in order to consider the amendment of the Senator from Minnesota it will be necessary to reconsider the vote by which the Senate adopted the committee amendment.

Mr. SMITH. I may say that the amendment offered is acceptable to the Department in that they thought it was clarifying, but I do not think it is essential to the execution of the proposed law.

Mr. KING. Mr. President, before action on the amendment, which is very long, and deals with almost every conceivable subject covered by the bill, including sugar and sugar beets, I should like an explanation from the Senator as to the effect it will have upon the text of the bill and of the original act.

Mr. SHIPSTEAD. The amendment is long and sounds complicated—

Mr. KING. Very.

The VICE PRESIDENT. Does the Senator from Minnesota desire to ask unanimous consent or to move to reconsider the vote by which the committee amendment was agreed to?

Mr. SHIPSTEAD. Yes, I ask unanimous consent that the vote may be reconsidered. I think the amendment offered by me is important. I can explain briefly its essentials.

Under the present law and the bill which we are now considering, the floor tax applies to flour. It should apply to "prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1."

That is all there is to the amendment. It has been written in this technical form in order to fill in the words where they belong in the various places in the bill. I ask unanimous consent, for the purpose only of considering this amendment, that the amendment of the committee heretofore adopted may be reconsidered. I hope, at least, my amendment may be permitted to go to conference.

The VICE PRESIDENT. Is there objection to the request of the Senator from Minnesota to reconsider the vote whereby the Senate agreed to the committee amendment on page 54 for the purpose of offering the amendment which has been read? Without objection the vote whereby the committee amendment was agreed to is reconsidered.

Mr. VANDENBERG. Mr. President, the Senator from Minnesota has not explained the effect of the amendment on sugar-beet processing and the taxes on sugar-beet processing.

Mr. SHIPSTEAD. My understanding is that it has no effect upon sugar-beet processing.

Mr. VANDENBERG. I caught the words as the amendment was being read.

Mr. SHIPSTEAD. The words were included because the draftsman advised me it was necessary to have them in the amendment. Will the Senator let the amendment go to conference?

Mr. VANDENBERG. The Senator from South Carolina says there is nothing in the amendment which will interrupt the execution of the law. I want to know whether there is anything in it which would interrupt the execution of processing?

Mr. SMITH. It does not change anything in the law, but defines more particularly the purpose and intent; that is all.

The VICE PRESIDENT. Without objection the amendment to the amendment is agreed to and without objection the committee amendment, as amended, is agreed to.

Mr. NORBECK. Mr. President, for the RECORD, I offer an editorial from the Argus-Leader, published at Sioux Falls, S. Dak., under the title "Similar to the Tariff." It goes on to show that the processing tax is similar except that the A. A. A. is for the benefit of one group, whereas the tariff is for the benefit of another group.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SIMILAR TO THE TARIFF

The processing taxes under the A. A. A. may be a tax upon all of the people for the benefit of one class.

But if they are to be condemned for that reason, so is the tariff. It is a tax upon all of the people for the benefit of one class.

Though the Argus-Leader does not consider the A. A. A. an adequate solution of the farm problem and feels that it may do more harm than good in the long run, it has served to bring into bold relief the necessity of some measure for the benefit of the farmers as long as the industrial regions are to retain the tariff.

Farmers will be only too happy to forget about the A. A. A. and other artificial measures if the industrialists will consent to relinquish their special subsidy or privilege—the protective tariff.

Mr. KING. Mr. President, I am advised that there is an amendment lying on the desk which was offered by a Senator who is temporarily out of the Chamber. I think he desires it acted upon before final action on the bill.

The VICE PRESIDENT. The amendment referred to will be stated.

The CHIEF CLERK. It is proposed, on page 12, line 8, after "fixing", to strike out all down to and including the word "and" in line 10; on page 12, line 12, after "producers", to strike out all down to and including line 2 on page 15; on page 15, line 3, to strike out "(E)" and insert in lieu thereof "(B)"; on page 15, line 5, after "producers", to strike out all down to and including "(5)" in line 9; on page 15, line 12, to strike out "(F)" and insert in lieu thereof "(C)"; on page 15, line 21, after "producers", to strike out all down to and including "milk" in line 25; on page 16, line 1, to strike out "(G)" and insert in lieu thereof "(D)"; and on page 18, beginning with line 13, to strike out all down to and including line 4 on page 19.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. SMITH. Mr. President, before the amendment shall be voted on I wish it understood that if it shall be adopted we might just as well eliminate the milk section entirely from the bill.

Mr. JOHNSON. That is what I wanted to inquire about.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. GORE. Mr. President, I offer the amendment, which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add a new section at the end of the bill, as follows:

Sec. —. Subsection (h) of section 1 of Public Resolution No. 11, Seventy-fourth Congress (Emergency Relief Appropriation Act of 1935) is amended by inserting after the figures \$350,000,000 the following words: *Provided*, That the sum of \$50,000,000 thereof is set aside and made available for soil erosion or soil conservation service and shall continue available until expended for said purpose.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment was rejected.

Mr. GORE. Mr. President, I offer another amendment, which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add at the end of the bill a new section, as follows:

Sec. —. Any person (not in the classified Civil Service) other than an attorney who receives under this or any other act of Congress a salary or other compensation at the rate of \$7,500 or more per annum, and any administrator or other officer or the members of any central board or other agency named to have supervision at the seat of Government over the program, work, and/or expenditures provided for and contemplated under this act or any other act of Congress, and receiving a salary or other compensation at the rate of \$6,000 or more per annum, and any State or regional administrator receiving a salary or other compensation at the rate of \$3,600 or more per annum, in pursuance of any of such acts, shall be appointed by the President by and with the advice and consent of the Senate: *Provided*, That section 1761 of the Revised Statutes shall apply to any and all persons required to be confirmed by the Senate under the terms of this section.

Mr. SMITH. Mr. President, I should like to have this amendment go to conference. It has been voted on several times. It is a question of which we ought to take cognizance. I hope it may be permitted to go to conference.

The VICE PRESIDENT. Without objection the amendment is agreed to.

Mr. SMITH. Mr. President, there is a correction which should be made in a committee amendment which is of some

importance. I send the amendment to the desk and ask that it may be stated.

The VICE PRESIDENT. Being an amendment to a committee amendment which has already been adopted, it will be necessary to reconsider the vote by which the committee amendment was adopted. Without objection that vote is reconsidered. The amendment of the Senator from South Carolina to the committee amendment will be stated.

The CHIEF CLERK. On page 37, line 16, after the word "August", it is proposed to strike out the numeral "1" and insert the numeral "15"; in line 17, after the word "December", strike out the numeral "1" and insert the numeral "31", and in line 21, after the word "August", strike out the numeral "1" and insert the numeral "15", so as to make the paragraph read:

SPECIFIC TAX RATE—MARKETING YEAR—FLOOR STOCKS—RYE

(3) For the period from August 15, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied, assessed, collected, and paid at the rate of 30 cents per bushel of 56 pounds. In the case of rye, the first marketing year shall be considered to be the period commencing August 15, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

The amendment to the amendment was agreed to.

The committee amendment as amended was agreed to.

The VICE PRESIDENT. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. ROBINSON. Let us have the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. CAREY (when his name was called). On this question I have a pair with the senior Senator from Virginia [Mr. GLASS]. Not knowing how he would vote, I withhold my vote. If permitted to vote, I should vote "nay."

Mr. KING. On this question I have a pair with the senior Senator from Illinois [Mr. LEWIS]. In his absence, I withhold my vote.

Mr. TOWNSEND (when his name was called). On this question I have a pair with the junior Senator from Virginia [Mr. BYRD], who is detained because of illness in his family. If he were present, he would vote "yea." If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. NEELY. I desire to announce the unavoidable absence of the Senator from Mississippi [Mr. BILBO], the senior Senator from New York [Mr. COPELAND], the senior Senator from Illinois [Mr. LEWIS], the junior Senator from Illinois [Mr. DIETERICH], the senior Senator from Virginia [Mr. GLASS], the Senator from Texas [Mr. SHEPPARD], and the Senator from Utah [Mr. THOMAS].

I wish also to announce that the Senator from Texas [Mr. SHEPPARD] is paired on this question with the Senator from Oklahoma [Mr. GORE]. If present, the Senator from Texas would vote "yea."

Mr. AUSTIN. I desire to announce the following general pairs:

The Senator from New Hampshire [Mr. KEYES] with the Senator from Utah [Mr. THOMAS];

The Senator from Delaware [Mr. HASTINGS] with the Senator from Mississippi [Mr. BILBO]; and

The Senator from Iowa [Mr. DICKINSON] with the Senator from Illinois [Mr. DIETERICH].

The Senator from New Hampshire [Mr. KEYES], the Senator from Delaware [Mr. HASTINGS], and the Senator from Iowa [Mr. DICKINSON] are necessarily detained from the Senate.

On this question the Senator from New Hampshire [Mr. KEYES] and the Senator from Delaware [Mr. HASTINGS], if present, would vote "nay", and the Senator from Utah [Mr. THOMAS] and the Senator from Mississippi [Mr. BILBO], if present, would vote "yea."

Mr. WALSH. My colleague the junior Senator from Massachusetts [Mr. COOLIDGE] is detained from the Senate on departmental business. If present, he would vote "nay."

Mr. GORE. On this question I am paired with the senior Senator from Texas [Mr. SHEPPARD]. In his absence, I withhold my vote.

Mr. LONG. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. LONG. I should like to have the RECORD show I am ashamed to vote as I am about to vote.

The VICE PRESIDENT. Debate is not in order during the roll call.

Mr. LONG. I vote "yea."

Mr. ROBINSON. Mr. President, I make the point of order that the Senator from Louisiana is not in order.

The VICE PRESIDENT. The Senator cannot make a speech during the time the roll is being called.

Mr. LONG. I vote "yea."

The VICE PRESIDENT. The Chair is quite certain the Senator knew the rule before he made the inquiry. Nevertheless, his remarks will appear in the RECORD unless stricken out by order of the Senate.

The result was announced—yeas 64, nays 15, as follows:

YEAS—64

Adams	Clark	Loneragan	Pittman
Austin	Connally	Long	Pope
Bachman	Costigan	McAdoo	Radcliffe
Bailey	Duffy	McCarran	Reynolds
Bankhead	Fletcher	McGill	Robinson
Barkley	Frazier	McKellar	Russell
Black	George	McNary	Schwellenbach
Bone	Gibson	Minton	Shipstead
Borah	Guffey	Murphy	Smith
Brown	Harrison	Murray	Steiwer
Bulow	Hatch	Neely	Thomas, Okla.
Burke	Hayden	Norbeck	Trammell
Byrnes	Holt	Norris	Truman
Capper	Johnson	Nye	Van Nuys
Caraway	La Follette	O'Mahoney	Wheeler
Chavez	Logan	Overton	White

NAYS—15

Ashurst	Donahay	Metcalf	Vandenberg
Barbour	Gerry	Moore	Wagner
Bulkeley	Hale	Schall	Walsh
Davis	Maloney	Tydings	

NOT VOTING—17

Bilbo	Couzens	Hastings	Thomas, Utah
Byrd	Dickinson	Keyes	Townsend
Carey	Dieterich	King	
Coolidge	Glass	Lewis	
Copeland	Gore	Sheppard	

So the bill was passed.

Mr. SMITH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBINSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SMITH. Mr. President, I ask permission to insert in the RECORD the rates of tax and agreements that have been entered into up to the present time.

The VICE PRESIDENT. Is there objection? The Chair hears none.

The matter referred to is as follows:

[R-2. W. R.—A. A. A. Series 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Wheat Regulations, Series 1.) (Market year, rate of processing tax, and conversion factors.) Issued June 1933]

WHEAT REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE, WITH THE APPROVAL OF THE PRESIDENT, UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,

OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, Rexford G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for wheat shall begin July 9, 1933.

I do hereby determine as of July 9, 1933, that the processing tax on the first domestic processing of wheat shall be at the rate of 30 cents per bushel of 60 pounds, which rate equals the difference between the current average farm price for wheat and the fair exchange value of wheat, which price and value, both as defined

in said act, have been ascertained by me from available statistics of the Department of Agriculture.

I do hereby establish the following conversion factors for articles processed from wheat to determine the amount of tax imposed or refunds to be made with respect thereto:

TABLE OF CONVERSION FACTORS

This table of conversion factors fixes the percentage of the per bushel processing tax on wheat with respect to 100 pounds of the following articles processed from wheat. These percentages are based upon a basic conversion factor of 4.6 bushels of wheat as equaling 196 pounds of the flour designated in item 1 (b) below.

Articles processed from wheat

Products of first domestic processing:	Conversion factor
1. Flour:	
(a) Whole wheat and graham.....	166.67
(b) All flour except whole wheat and graham.....	234.7
(c) Semolina and farina.....	234.7
2. Prepared flour:	
(a) Doughnut.....	133.8
(b) Biscuit.....	223.0
(c) Pancake.....	164.3
(d) Pie crust.....	140.8
3. Cereal preparations made chiefly from wheat:	
(a) Whole-wheat type, including those consisting chiefly of whole wheat.....	166.67
(b) All others except those consisting chiefly of bran.....	234.7
Products of secondary processing:	
4. Bread:	
(a) All bread except rye.....	161
(b) Rye.....	120
(c) Zwieback.....	154
(d) Rolls, all types, and coffee cake.....	161
5. Crackers.....	230
6. Pretzels.....	244
7. (a) Macaroni and spaghetti, except canned.....	250
(b) Canned macaroni and spaghetti.....	62.5
8. Noodles.....	238
9. Paste.....	185.8
10. Foundry molding materials.....	132.0

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 23d day of June 1933.

[SEAL]

Approved:

REXFORD G. TUGWELL,
Acting Secretary of Agriculture.

FRANKLIN D. ROOSEVELT,
The President of the United States.

JUNE 26, 1933.

[W-14. W. R.—A. A. A. Series 1, Supp. 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Wheat Regulations, Series 1, Supp. 1.) (Definitions and conversion factors.) Issued August 1933]

WHEAT REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, Rexford G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting as of June 26, 1933, a supplement to and in part a revision of Wheat Regulations, series 1, and to the extent of such revision, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

The weight of wheat subject to the processing tax shall be the weight of clean wheat not artificially dried.

I. DEFINITIONS

The following terms as used in Wheat Regulations, series 1, and in these regulations have reference to articles processed wholly or in chief value from wheat, and for all the purposes of said regulations shall have the meanings hereby assigned to them:

Whole wheat and graham flour is any flour containing in their approximate natural proportions substantially all of the constituents of cleaned wheat.

All flour except whole wheat and graham is any flour (except whole wheat, graham, semolina, and farina) obtained in the commercial milling of wheat, consisting essentially of the starch and gluten of the endosperm, which contains not more than 1 percent of ash (in the case of durum flour not more than 1.2 percent of ash).

Semolina is the granular product obtained in the commercial process of milling durum wheat, and is that portion of the endosperm retained on 10XX silk bolting cloth.

Farina is the same as semolina except that it is made from hard wheat other than durum.

Prepared doughnut flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of crullers (i. e., doughnuts other than raised doughnuts) and friedcakes.

Prepared biscuit flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of short bread.

Prepared pancake flour is a commercial preparation (consisting of at least 50 percent of wheat flour and varying amounts of other flour, e. g., corn, rice, rye, and buckwheat) commonly used in the preparation of pancakes, griddlecakes, or waffles.

Prepared piecrust flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of piecrusts or shells.

All bread except rye includes any type of bread except (a) rye as herein defined, (b) zwieback, and (c) rolls, all types, and coffee cake.

Rye bread is the bread obtained by baking a dough which differs from wheat-bread dough in that not less than one-third of the flour ingredient has been replaced by rye flour.

Zwieback is a commercially toasted bread.

Rolls, all types, and coffee cake include any product commonly called a roll or coffee cake, the flour content of which consists of at least 95 percent of wheat flour.

Crackers include articles commonly known as biscuits.

Pretzels are made from a yeast-raised dough, submerged or pre-cooked in a caustic solution.

Macaroni and spaghetti are plain alimentary pastes, including vermicelli, prepared and shaped from the dry doughs made from semolina, farina, wheat flour, or from a mixture of any two or all of these flours, and with one or more other ingredients.

Canned macaroni and spaghetti consists of a mixture of cooked macaroni or spaghetti, as defined herein, mixed with cheese or other products and hermetically sealed.

Noodles are a form of egg alimentary paste.

Gluten is the product made from wheat flour by the almost complete removal of starch, and consists primarily of protein.

Wheat starch is a product of wheat flour resulting from the removal from such flour of practically all of the protein, mineral, and fibrous material.

II. CONVERSION FACTORS

In lieu of and in revision of the conversion factors for articles processed from wheat established by the aforesaid Wheat Regulations, series 1, I do hereby establish the following conversion factors for articles processed from wheat to determine the amount of tax imposed or refunds to be made with respect thereto:

The following table of conversion factors fixes the percentage of the per-bushel processing tax on wheat with respect to 100 pounds of the following articles processed wholly or in chief value from wheat. These percentages are based upon a basic conversion factor of 4.6 bushels of wheat as equaling 196 pounds of the flour designated in item 1 (b) below.

Articles processed wholly or in chief value from wheat

Products of first domestic processing:	Conversion factor
1. Flour:	
(a) Whole wheat and graham.....	166.67
(b) All flour except whole wheat and graham.....	234.7
(c) Semolina and farina.....	234.7
(d) Bran, shorts, middlings, red dog, and all of the product of wheat (other than whole wheat and graham flour) resulting from the commercial milling thereof which contains more than 1 percent of ash (in the case of such product of durum wheat, more than 1.2 percent of ash).....	0
2. Prepared flour:	
(a) Doughnut.....	133.8
(b) Biscuit.....	223.0
(c) Pancake.....	164.3
(d) Pie crust.....	140.8
3. Cereal preparations made chiefly from wheat:	
(a) Whole wheat type, including those consisting chiefly of whole wheat.....	166.67
(b) All others except those consisting chiefly of bran.....	234.7
Products of secondary processing:	
4. Bread:	
(a) All bread except rye.....	161
(b) Rye.....	120
(c) Zwieback.....	154
(d) Rolls, all types, and coffee cake.....	161
5. Crackers.....	230
6. Pretzels.....	244
7. (a) Macaroni and spaghetti, except canned.....	250
(b) Canned macaroni and spaghetti.....	31.2
8. Noodles.....	238
9. Gluten.....	1,173.5
10. Wheat starch.....	0

The articles to which conversion factors are specifically assigned above are hereby defined, for the purposes of these regulations, as "factored articles."

As to all articles not hereby specifically assigned conversion factors which are made, directly or indirectly, in some part from a factored article, I do hereby establish that as to each 100 pounds of such part the conversion factor is the conversion factor hereby specifically assigned for such factored article.

As to all articles not hereby specifically assigned conversion factors and which in some part are made, directly or indirectly, from wheat but not (as to such part) from a factored article, I

do hereby establish that as to each 100 pounds of such part the conversion factor is 166.67 percent of the per bushel processing tax on wheat.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 10th day of August 1933.

[SEAL]

REXFORD G. TUGWELL,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

AUGUST 11, 1933.

[W. R. Series 1, No. 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Wheat Regulations, Series 1, No. 1.) (Marketing year, rate of processing tax, definitions and conversion factors.) Issued —, 1935, corrected]

WHEAT REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a revision, supplementation, and reprinting in combined form of Wheat Regulations, Series 1, and Wheat Regulations, Series 1, Supplement 1, and to the extent of such revision and supplementation, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect from August 1, 1935, and until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.¹

I. MARKETING YEAR

I do hereby ascertain and prescribe that for the purpose of said act the first marketing year for wheat shall begin July 9, 1933.²

II. RATE OF TAX

I do hereby determine that as of July 9, 1933, the processing tax on the first domestic processing of wheat shall be at the rate of 30 cents per bushel of 60 pounds, which rate equals the difference between the current average farm price for wheat and the fair exchange value of wheat, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture.³

The weight of wheat subject to the processing tax shall be the weight of clean wheat not artificially dried.⁴

III. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:⁵

Whole wheat and Graham flour is any flour containing in their approximate natural proportions substantially all of the constituents of cleaned wheat.

All flour except whole wheat and Graham is any flour (except whole wheat, Graham, semolina, and farina) obtained in the commercial milling of wheat, consisting essentially of the starch and gluten of the endosperm, which contains not more than 1 percent of ash (in the case of durum flour not more than 1.2 percent of ash).

Semolina is the granular product obtained in the commercial process of milling durum wheat, and is that portion of the endosperm retained on 10XX silk bolting cloth.

Farina is the same as semolina except that it is made from hard wheat other than durum.

Prepared doughnut flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of crullers (i. e., doughnuts other than raised doughnuts) and fried cakes.

Prepared biscuit flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of short bread.

Prepared pancake flour is a commercial preparation (consisting of at least 50 percent of wheat flour and varying amounts of other flour, e. g., corn, rice, rye, and buckwheat) commonly used in the preparation of pancakes, griddlecakes, or waffles.

Prepared piecrust flour is a commercial preparation (consisting of flour, shortening, and other ingredients) commonly used in the preparation of pie crusts or shells.

¹ The within regulations (Wheat Regulations, Series 1, No. 1) partially revise and supplement Wheat Regulations, Series 1, and Wheat Regulations, Series 1, Supplement 1. For convenience, there are also reprinted herein all portions of the prior wheat regulations which are now applicable, with references in the footnotes to the regulations from which they were taken and the date they took effect. All portions of these regulations which are written for the first time are printed in italics.

² Wheat Regulations, Series 1, effective June 26, 1933.

³ Wheat Regulations, Series 1, effective June 26, 1933.

⁴ Wheat Regulations, Series 1, Supplement 1, effective Aug. 11, 1933.

⁵ The definitions appearing herein, with the exception of the last two, are taken verbatim from Wheat Regulations, Series 1, Supplement 1, effective Aug. 11, 1933. The last two definitions are new herein.

All bread except rye includes any type of bread except (a) rye as herein defined, (b) zwieback, and (c) rolls, all types, and coffee cake.

Rye bread is the bread obtained by baking a dough which differs from wheat-bread dough in that not less than one-third of the flour ingredient has been replaced by rye flour.

Zwieback is a commercially toasted bread.

Rolls, all types, and coffee cake include any product commonly called a roll or coffee cake, the flour content of which consists of at least 95 percent of wheat flour.

Crackers include articles commonly known as biscuits.

Pretzels are made from a yeast-raised dough, submerged or pre-cooked in a caustic solution.

Macaroni and spaghetti are plain alimentary pastes, including vermicelli, prepared and shaped from the dry doughs made from semolina, farina, wheat flour, or from a mixture of any two or all of these flours, and with one or more other ingredients.

Canned macaroni and spaghetti consists of a mixture of cooked macaroni or spaghetti, as defined herein, mixed with cheese or other products and hermetically sealed.

Noodles are a form of egg alimentary paste.

Gluten is the products made from wheat flour by the almost complete removal of starch, and consists primarily of protein.

Wheat starch is a product of wheat flour resulting from the removal from such flour of practically all of the protein, mineral, and fibrous material.

Monosodium glutamate is the monosodium salt of glutamic acid which is obtained from gluten.

Distilled spirits are products derived from wheat mash by a process of distillation.

IV. CONVERSION FACTORS

I do hereby establish the following conversion factors for articles processed from wheat to determine the amount of tax imposed or refunds to be made with respect thereto:⁶

The following table of conversion factors fixes the percentage of the per bushel processing tax on wheat with respect to 100 pounds⁷ of the following articles processed wholly, partly, or in chief value from wheat. These percentages are based upon a basic conversion factor of 4.6 bushels of wheat as equaling 196 pounds of the flour designated in item 1 (b) below.

Articles processed wholly, partly, or in chief value from wheat

Products of first domestic processing:	Conversion factor
1. Flour:	
(a) Whole wheat and graham.....	166.67
(b) All flour except whole wheat and graham.....	234.7
(c) Semolina and farina.....	234.7
(d) Bran, shorts, middlings, red dog, and all of the products of wheat (other than whole wheat and graham flour) resulting from the commercial milling thereof which contains more than 1 percent of ash (in the case of such product of durum wheat, more than 1.2 percent of ash).....	0
2. Prepared flour:	
(a) Doughnut.....	133.8
(b) Biscuit.....	223.0
(c) Pancake.....	164.3
(d) Pie crust.....	140.8
3. Cereal preparations made chiefly from wheat:	
(a) Whole-wheat type, including those consisting chiefly of whole wheat.....	166.67
(b) All others except those consisting chiefly of bran.....	234.7
Products of secondary processing:	
4. Bread:	
(a) All bread except rye.....	161
(b) Rye.....	120
(c) Zwieback.....	154
(d) Rolls, all types, and coffee cake.....	161
5. Crackers.....	230
6. Pretzels.....	244
7. (a) Macaroni and spaghetti, except canned.....	250
(b) Canned macaroni and spaghetti.....	31.2
8. Noodles.....	238
9. Gluten.....	1,173.5
10. Wheat starch.....	—
11. Monosodium glutamate.....	4,694
12. Distilled spirits ⁷	18.8

The articles to which conversion factors are specifically assigned above are hereby defined, for the purposes of these regulations, as "factored articles."

As to all articles not hereby specifically assigned conversion factors which are made, directly or indirectly, in some part from a

⁶ All of the conversion factors contained herein with the exception of numbers 11 and 12 are taken verbatim from Wheat Regulations, series 1, supplement 1, effective Aug. 11, 1933. The conversion factors for monosodium glutamate and distilled spirits are new herein.

⁷ In the case of distilled spirits 1 gallon of 100 proof.

factored article, I do hereby establish that as to each 100 pounds^a of such part the conversion factor is the conversion factor hereby specifically assigned for such factored article.

As to all articles not hereby specifically assigned conversion factors and which in some part are made, directly or indirectly, from wheat but not (as to such part) from a factored article, I do hereby establish that as to each 100 pounds of such part the conversion factor is 166.67 percent of the per bushel processing tax on wheat.

In the event that any taxpayer, the Commissioner of Internal Revenue, or any person entitled to a refund or credit shall establish that any article processed wholly, partly, or in chief value from wheat represents more or less wheat than is indicated by the conversion factor listed above for such article, then the amount of tax, refund, or credit with respect to such article shall be computed at the rate of the processing tax on the basis of the amount of wheat established to be actually represented therein.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, this 6th day of July 1935.

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

JULY 8, 1935.

[R-1. C. R.—AAA Series 2, Supplement 1 (item 11). The United States Department of Agriculture, Agricultural Adjustment Administration. (Cotton Regulations, Series 2, Supplement 1.) (Marketing year, rate of processing tax, and conversion factors.) Issued July 1933]

SUPPLEMENTARY COTTON REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE, WITH THE APPROVAL OF THE PRESIDENT, UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, Henry A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a supplement to and in part a revision of Cotton Regulations, Series 2, and to the extent of such revision, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

The net weight of lint cotton subject to the processing tax shall be determined by deducting the weight of tare (bagging, ties, and patches) from the gross weight of the bale.

In lieu of and in revision of the fourth paragraph of the above-mentioned Cotton Regulations, Series 2, I do hereby establish that the conversion factor for articles, processed from cotton, to determine the amount of tax imposed or refunds to be made with respect thereto, is, per pound of cotton content, 105.2 percent of the per pound processing tax: *Provided, however*, That the conversion factor shall be zero for (a) motes and fly, flat strips, comber waste, slasher waste, cuttings, rags, and other waste (not including substandard products and short-length piece goods), incident to the processing, manufacturing, or fabricating of cotton or of cotton products, (b) second-hand articles, and (c) such part of the content of any article or product as is made from any article or combination of articles described in (a) or (b). No deduction shall be allowed from the weight of any article for normal moisture content, but a reasonable deduction shall be allowable for the sizing, buttons, or other non-cotton materials.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 28th day of July 1933.

[SEAL] HENRY A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

JULY 28, 1933.

[C. R.—A. A. Series 2 (item 9). The United States Department of Agriculture, Agricultural Adjustment Administration. (Cotton Regulations, Series 2.) (Marketing year, rate of processing tax, and conversion factor.) Issued July 1933]

COTTON REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT, UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, Henry A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

^a Except where the factored article from which such part is made is distilled spirits, in which case "each 1 gallon of 100 proof" is the measure instead of "each 100 pounds."

I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for cotton shall begin August 1, 1933.

I do hereby determine as of August 1, 1933, that the processing tax on the first domestic processing of cotton shall be at the rate of 4.2 cents per pound of lint cotton, net weight, which rate equals the difference between the current average farm price for cotton and the fair exchange value of cotton, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture.

I do hereby establish that the conversion factor for articles (other than nonspinnable waste, hereby defined as including only opener, breaker and finisher picker waste, card motes and fly, sweepings, and clearer waste, and the products thereof), processed from cotton, to determine the amount of tax imposed or refunds to be made with respect thereto, is, per pound of cotton content, 105.2 percent of the per pound processing tax. The cotton content of such articles shall be deemed to include the weight of cotton in the form of yarn, fabric, thread, twines, roving, sliver, laps, and all other forms. No deduction shall be made from the weight of such articles for normal moisture content, but reasonable deductions shall be made for sizing, buttons, and such other noncotton materials.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 14th day of July 1933.

[SEAL] HENRY A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

JULY 14, 1933.

[Form No. R-11. C. R.—A. A. Series 2, Supplement 2. United States Department of Agriculture, Agricultural Adjustment Administration. (Cotton regulations, series 2, supplement 2.) (Definitions and conversion factors.) Issued December 1933]

SUPPLEMENTARY COTTON REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, R. G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a supplement to and in part a revision of cotton regulations, series 2, and cotton regulations, series 2, supplement 1, and to the extent of such revision, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect on and after December 1, 1933, and until amended or superseded by regulations thereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

I. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing: First domestic processing—

(a) With respect to cotton that is to be spun, is every state of manufacture or processing up to the removal of the bobbin or cop from the spinning machine on which its yarn has been spun;

(b) With respect to cotton that is not to be spun, is that amount and degree of manufacture or processing up to the point where the cotton is fashioned into an article, either to be packaged and sold as such, or to be used for further manufacturing into a different type of article.

Absorbent cotton: Absorbent cotton is cotton treated chemically to remove natural fatty substances and further prepared for surgical purposes.

Adhesive tape: Adhesive tape is a cut-edge ribbon of cotton cloth having adhesive on one side, usually intended for surgical purposes.

Artificial leather: Artificial leather is a stout coarse cotton fabric, spread or coated with nitrocellulose or varnish, and grained and finished, usually to resemble leather.

Auto slip-cover cloth: Auto slip-cover cloth is a medium weight cotton fabric, plain weave, with ingrain colored warp stripes.

Awning stripes: Awning stripes is a strong, durable cotton canvas made in colored stripes with colored warp yarns, or having printed, stenciled, and/or painted stripes. This classification includes ingrain solid-colored awning material.

Bags: Bags are cotton containers woven, or cut and sewn, into tubular form and closed on one end. Tubular woven or seamless bags generally contain a few colored ingrain warp stripes.

Bathing suits: Bathing suits are torso outer garments in one piece or in two separate pieces, top and bottom, fabricated from a knit cotton fabric.

Bathrobes: Bathrobes are lounging robes with sleeves, full length, front opened, usually with belt cord, and made of terry cloth, blanket cloth, or other cotton fabrics.

Batting: Batting is layers of cotton, cleaned and slightly matted. Bed sheets: Bed sheets are articles of bedding, torn or cut from cotton fabric, and hemmed at both ends.

Bedspreads: Bedspreads are cotton household articles, commonly known as "counterpanes", cut and hemmed, or fringed on both ends, made from bedspread and/or woven quilt fabric.

Bedsread and quilting: Bedsread and quilting are cotton fabrics used for making the top covers of a bed, such as crochet quilts,

Marseilles quilts, satin quilts, dimity spreads, and crinkled or raised pattern spreads.

Belts, machinery: Machinery belts are cotton articles used to transmit power, woven from heavy cabled yarns into a strong fabric, one or more plies of which are stitched, stapled, or vulcanized together into a continuous band.

Blanketing: Blanketing is a napped cotton cloth having comparatively fine count warp yarns and coarse, soft-spun filling yarns.

Blankets: Blankets are articles made from blanketing, cut and hemmed in sizes suitable for bedding and other purposes.

Bleached: Bleached is a term indicating that the fibers in any state have been treated with chemicals for the purpose of whitening.

Book cloth: Book cloth is a woven cotton fabric which has been heavily filled, and is generally glazed and embossed.

Bloomers: Bloomers is an article of underwear for covering the lower portion of the torso and the thighs, with elastic at waist, and with or without elastic at knees, made from a knit cotton fabric.

Braided fabric: Braided fabric is a flat, round, or tubular narrow fabric plaited from cotton yarns.

Breeches, riding: Riding breeches are trousers, including jodhpurs, wide at the hips and shaped to fit the legs below the knees. They may be calf length or ankle length.

Broadcloth: Broadcloth is a cotton fabric woven with fine yarns, with warp yarns predominating.

Buckram: Buckram is a coarse, plain woven, lightweight cotton fabric, with a heavy glue dressing, used as stiffening material in garments or other articles.

Canton flannel: Canton flannel is a cotton fabric, with twill face and napped back.

Carded: Carded is a term meaning that the cotton fibers have been separated, straightened, and mixed by passage through a carding machine, but not through a comb.

Carded fabrics: Carded fabrics are any cotton products made from carded yarns.

Carded yarns: Carded yarns are yarns made of carded cotton fibers.

Card strips: Card strips are the flat strips, cylinder strips, and doffer strips, inclusive, which are removed during the carding process.

Casings, pneumatic: Pneumatic casings are articles made from cord, webless cord, and/or square woven tire fabrics, impregnated and coated with vulcanized rubber, and used as the outer covering or casing for pneumatic tubes.

Chambray: Chambray is a medium-weight, plain woven cotton fabric, having a colored warp and white weft, usually dressed and calendared.

Cheesecloth: Cheesecloth is a light-weight, thin, loose-woven cotton gauze without dressing; also called "tobacco cloth", and sometimes used for mosquito netting.

Chenille fabric: Chenille fabric is a cotton fabric woven with chenille weft yarns.

Chenille yarn: Chenille yarn is a cotton yarn having a cut pile protruding all around at right angles.

Coated products: Coated products are cotton fabrics which have been impregnated with, and/or to which have been applied, one or more layers of nitrocellulose, pigmented linseed oil, clay, rubber, and/or like materials in order to impart a durable and impervious surface.

Coats, work: Work coats are work garments, including jumpers, that cover the torso, full button or half open, usually made from denim.

Colored: Colored is a term meaning that the fibers, in any state of preparation, have been impregnated with dyestuffs and/or other coloring matter, but does not include articles having only colored borders, hems, selvages, or occasional stripes used as distinctive markings, such as the types of towels which have a colored border or stripes.

Combed: Combed is a term meaning that the fibers of carded cotton have been further straightened and separated by a combing machine.

Combed fabrics: Combed fabrics are any cotton products made from combed yarns.

Combed yarns: Combed yarns are yarns in which the carded cotton fibers have been passed through a comb.

Comber waste or comber noils: Comber waste or comber noils are the fibers which are combed out during the combing process.

Conveyor belts: Conveyor belts are cotton articles made for use in transporting merchandise and other materials, constructed from plied yarn duck of single or numerous layers, which are stitched, stapled, or vulcanized together and connected into an endless loop.

Cordage: Cordage is a term used in a collective sense to include all kinds of twines, cords, and ropes.

Corduroy: Corduroy is a cut weft pile fabric having a surface of pile welts.

Corset cloth: Corset cloth is a strong, heavy cotton fabric, satin weave, usually with woven figured designs.

Cottonades: Cottonades are heavy, coarse, cotton fabrics, plain woven with ingrain colored checks and stripes, sometimes with napped back.

Crash towels: Crash towels are household articles cut and hemmed from crash toweling fabric.

Crash toweling: Crash toweling is a medium-weight cotton toweling fabric made with plain, twilled, or herringbone weave, and usually having warp-colored borders.

Crepe: Crepe is a light-weight cotton cloth with a fine crinkly surface.

Crinoline is a stiff, open, light-weight cotton fabric, heavily dressed, usually plain woven, commonly used for interlinings and hat construction.

Cut-pile fabric: Cut-pile fabric is a cotton-pile fabric in which the upright yarn loops have been cut and brushed.

Damask, table: Table damask is a medium-weight cotton fabric made with uncolored and/or colored yarns, with satin or figured reversible designs.

Denim: Denim is a strong, heavy-weight, cotton fabric, twill weave, woven ingrain, and single yarns.

Diapers: Diapers are cotton articles of infant's wearing apparel, usually made from diaper cloth.

Diaper cloth: Diaper cloth is an absorbent cotton fabric with soft, coarse weft yarns, and having a woven birdseye or diamond design.

Drawers: Drawers is an article of underwear for covering the lower portion of the torso and all or parts of the legs, fabricated from a knit cotton fabric.

Dresses, house: House dresses are women's cotton outer garments, in one or more pieces, with or without sleeves, cut and sewn from light- or medium-weight woven cotton fabrics.

Dressing or filling: Dressing or filling is a preparation applied to cotton fabrics to improve the finish and/or add weight.

Drills and twills: Drills and twills are heavy cotton fabrics woven with twill weave and having distinct diagonal lines running across the face of the cloth.

Duck:

Duck, enameled: Enameled duck is cotton duck coated with enamel.

Duck, enameling: Enameling duck is a heavy-weight, plain woven, cotton fabric made from single-warp yarns and single or plied weft yarns.

Duck, flat: Flat duck is a heavy-weight, plain woven, cotton fabric made from single yarns. It is usually woven with two warp ends in each heddle.

Duck, plied yarn: Plied yarn duck is a heavy-weight, plain woven, cotton fabric made with plied yarns.

Enameled drill: Enameled drill is cotton drill coated with enamel.

Express stripes or hickory stripes: Express stripes or hickory stripes is a strong, medium-weight cotton fabric, twill weave, woven ingrain usually with narrow alternating colored and white stripes.

Figured: Figured is a term meaning woven or cut designs.

Flannelette: Flannelette is a soft cotton fabric napped on both sides.

Frieze (loop pile) fabric: A frieze (loop pile) fabric is a cotton cloth with uncut loop pile on the face.

Gassed or singed: Gassed or singed is a term meaning that the cotton products have been subjected to a flame or hot plate in order to remove protruding fibers.

Gauze: Gauze is cheesecloth, fully bleached, uncolored, and without dressing, commonly used for surgical purposes.

Gingham: Gingham is a light-weight cotton fabric, plain weave, with large or small check or plaid patterns, ingrain colored warp and weft yarns.

Glazed or polished cotton products: Glazed or polished cotton products are products that have been treated with dressing and subjected to brushing and/or calendaring to produce a smooth, glossy surface.

Gloves: Gloves are articles of wearing apparel for covering the hands and wrists, providing a separate compartment for each digit, fabricated from a knit or woven cotton fabric.

Chamois suede gloves: Chamois suede gloves are cotton gloves made from closely knit high-count combed yarn with a suede finish on the face.

Jersey work gloves: Jersey work gloves are cotton gloves made from a heavy flat knit fabric, generally fleece lined.

Gowns, night: Night gowns are loose, one-piece cotton articles of nightwear, with or without sleeves.

Handkerchiefs: Handkerchiefs are accessories of wearing apparel cut from cotton fabric and hemmed.

Hosiery: Hosiery is knit cotton footwear of any kind whatsoever.

Flat knit circular hosiery: Flat knit circular hosiery is cotton hosiery knit with a plain smooth surface on circular seamless knitting machines, having a single cylinder, and classified as those with (1) 144 or fewer needle spaces, (2) 145 to 200 needle spaces, and (3) over 200 needle spaces.

Full-fashioned hosiery: Full-fashioned hosiery is cotton hosiery knit on a flat machine to definite patterns to fit the shape of the leg and feet after seaming.

Ribbed knit hosiery: Ribbed knit hosiery is seamless cotton hosiery, knit with a firm elastic consistency, having lateral wales on inner and outer surfaces, and produced on circular knitting machines having different sets and numbers of needles in cylinder and dial, and classified as those having (1) less than 300 needle spaces, and (2) 300 or more needle spaces.

Huckaback, toweling, or huck toweling: Huckaback toweling or huck toweling is cotton toweling woven with small designs and soft-spun weft yarns.

Huck towels: Huck towels are household articles cut and hemmed from huckaback toweling fabric.

Hunting coats and vests: Hunting coats and vests are cotton coats and vests for covering the torso, with or without sleeves, usually full buttoned, with special pockets, made from a variety of cotton fabrics and generally interlined.

Infants' wear: See "Undershirts, bands, and wrappers, infants'"; "Pants, infants'."

Ingrain: Ingrain is a term indicating textile products made wholly or in part of cotton yarn that has been previously dyed.

Jerseys: See "Pull-over sweaters and jerseys."

Knickers: Knickers are short wide-leg cotton trousers fitted to the calf of the leg by bands of self-material or by elastic knit cuffs.

Knit articles other than hosiery: Knit articles other than hosiery are cotton articles knitted or made from knit fabrics, except hosiery.

Knit fabric: Knit fabric is a cotton fabric composed of one or more systems of yarns interlacing with self, or with each other, forming rows of loops, but not tied.

Lace: Lace is a cotton fabric composed of cotton yarn or thread intertwined at intervals forming open-mesh and/or closed patterns.

Laps: Laps are layers of carded or combed cotton fibers wound on a roller.

Picker laps: Picker laps are laps consisting of cotton which has been partially cleaned by one or more picking processes and formed into a lap.

Ribbon laps: Ribbon laps are laps formed from sliver laps.

Sliver laps: Sliver laps are laps formed from card slivers.

Laundry nets and dye nets: Laundry nets and dye nets are open-mesh cotton containers woven or cut and sewn into tubular form and closed on one end.

Lawn: Lawn is a thin, sheer, plain woven cotton fabric, usually lightly dressed.

Marquissette: See "Scrim, curtain, or marquissette."

Matched patterns: Matched patterns is a term meaning an article in which figures or colors have been pieced and fitted so that the symmetrical pattern scheme is preserved.

Mattress felt: Mattress felt is several layers of cotton batting arranged in tiers and cut to mattress size.

Mattress ticks: Mattress ticks are cotton articles of bedding, cut and sewn into a container for felt, springs, or stuffing. They are usually made from cotton ticking, or mattress damask, and tufted.

Mercerized yarns and fabrics: Mercerized yarns and fabrics are cotton yarns and fabrics chemically treated under tension for the purpose of adding luster to the product.

Moleskin: Moleskin is a strong, heavy-weight cotton fabric, napped on the back, generally with a weft faced twill or modified satin weave.

Mosquito nettings: Mosquito nettings are—

- (1) Cotton cheesecloth, heavily sized.
- (2) Leno woven cotton gauze, heavily sized.
- (3) Light-weight cheesecloth having several warp and weft yarns placed closely to each other at regular intervals, being about 180 meshes per square inch.
- (4) Machine-made cotton netting of yarns twisted around each other so as to produce hexagonal meshes, called bobbinette.

Mufflers: See "Scarfs or mufflers."

Napkins: Napkins are cotton household articles, usually damask, cut square and hemmed, or fringed on two or four sides.

Napped fabric: Napped fabric is a cotton fabric which has been scratched and/or brushed, in order to raise the loose fibers into a nap, on one or both sides.

Narrow fabric, 12 inches or under, elastic or nonelastic: Narrow fabric, 12 inches or under, elastic or nonelastic, is a woven, knit, or braided web, tape, or tube with fast selvages and/or cut edges. When fabricated with the introduction of rubber thread it becomes elastic.

Net: Net is a cotton fabric made of yarn or twine knotted into open meshes of uniform size and shape.

Noncotton content: Noncotton content is any material other than cotton contained in or attached to cotton articles as a part thereof, such as sizing or buttons, or rayon, silk, or any other textile fibers. However—except as to "rugs and mats, other than cotton weft"—the "noncotton content" figures given in the table of conversion factors herein established contain no allowance for rayon, silk, or other textile fibers.

Novelty yarn: Novelty yarn is a cotton yarn having an unusual appearance, such as loops, knobs, or corkscrew effects.

Oilcloth: Oilcloth is a cotton fabric spread or coated with enamel, or with vegetable oil, or animal oil, or other oils mixed with pigments and/or minerals.

Oilcloth, table and shelf: Table and shelf oilcloth is oilcloth with a muslin or other light cotton fabric base.

Osnaburg: Osnaburg is a plain woven, strong, coarse fabric made of carded cotton and/or carded cotton waste yarns.

Outerwear, knit: Knit outerwear is a knit cotton garment for outerwear of any type whatsoever, but does not include hosiery.

Overalls: Overalls is a work garment, usually made from denim, either sleeveless with a bib and straps over the shoulders or with sleeves and a long, open front.

Pajama checks or nainsook checks: Pajama checks or nainsook checks are medium-weight cotton fabrics with a distinctive cross-bar pattern.

Pajamas: Pajamas are garments of night wear, either in one piece with pants effect, or in two pieces consisting of blouse and pants.

Pants, infants': Infants' pants are knit pants for infants' underwear.

Pants, knit: Knit pants are close-fitting knit cotton articles of underclothing without elastic at the bottoms.

Pants, work: Work pants are men's outer garments, including dungarees, usually made of coarse cotton fabrics such as denims,

cottonades, or trouserings, and duck, for covering the lower part of the torso and legs.

Pile fabric: Pile fabric is a cotton fabric having a surface made of upright loops, which may be cut or uncut.

Pillow cases: Pillow cases are cotton articles of bedding, woven or sewn into tubular form, closed on one end, and hemmed, for use as coverings for bed pillows.

Pin checks: Pin checks is a medium-weight cotton fabric, plain weave, with ingrain small checked or striped patterns.

Pique: Pique is a heavy, stout cotton fabric having a raised surface of transverse cords or welts.

Plush: Plush is a cotton fabric having a deep cut pile.

Polished: See "Glazed or polished cotton products."

Poplin: Poplin is a medium-weight cotton fabric, plain weave, with fine cross-rib effect, warp yarns predominating.

Powder puffs: Powder puffs are cosmetic accessories quilted from cut-pile cotton fabrics.

Print cloth: Print cloth is a plain woven, medium-weight cotton fabric made with single carded yarns.

Printed fabrics: Printed fabrics are cotton fabrics decorated by printing with dyes, chemicals, or other substances.

Pull-over sweaters and jerseys: Pull-over sweaters and jerseys are knit cotton outer garments with no fastenings, with or without sleeves, to be put on by pulling over the head.

Quilting: See "Bedspreads and quilting."

Rep: Rep is a heavy cotton fabric having a transverse corded surface.

Roving: Roving is a slightly twisted, soft, and thick rope of cotton fibers.

Rubber coated and rubberized: Rubber coated or rubberized fabrics are cotton fabrics spread, coated, and/or impregnated with rubber.

Rugs or mats: Rugs or mats are cotton floor coverings, cut from fabrics woven and defined for cutting, hemming, and/or fringing, and sometimes made with a weft other than a cotton-yarn weft.

Sateen: Sateen is a closely woven cotton cloth, the face of which is formed either by the warp or the weft in satin weave.

Scarfs or mufflers: Scarfs or mufflers are outerwear accessories cut to specified lengths from cotton fabric and faced, hemmed, and/or fringed.

Scrim, curtain or marquissette: Curtain scrim or marquissette is a light-weight cotton fabric with leno open weave.

Second-hand article: Second-hand articles are cotton articles that have been actually used for some clothing, or industrial, or household or other purpose, and which have been reclaimed and held for sale.

Seersucker: Seersucker is a light-weight cotton fabric, plain weave, with puckered and ingrain stripes alternating.

Sewing thread: See "Thread."

Shade cloth: Shade cloth is a light-weight, plain-woven cotton fabric, heavily filled, usually with clay, and designed for use on window shade rollers.

Sheetings: Sheetings are plain-woven, heavy or medium-weight cotton fabrics made with single carded yarns.

Shirting, madras: Madras shirting is a medium weight cotton fabric, woven with plain white or colored narrow stripes or small checks ingrain.

Shirts, other than work: Shirts, other than work, are cotton articles of men's wearing apparel for covering the torso and arms, with or without collar attached, usually with full-button front, but sometimes buttoned in back for evening wear, made from light to medium weight woven cotton fabrics, plain, or with matched patterns.

Shirts, work: Work shirts are cotton outer garments of male attire for covering the torso and arms, usually with soft attached collar, half-open or full-buttoned in front, made of medium to heavy weight cotton fabrics, which are usually chambrays, coverts, or khakis.

Shorts: Shorts are articles of underwear, similar in style to thigh-length drawers, fabricated from a woven cotton fabric.

Size or sizing: Size or sizing is a preparation applied to cotton warp yarns to facilitate weaving and/or add weight.

Sleepers: Sleepers are one-piece sleeping garments for children, covering the entire body with the exception of head, neck, hands, and sometimes the feet, fabricated from a knit cotton fabric.

Slips: Slips are articles of women's and girls' underwear, with skirt and bodice in one piece, sleeveless and with built-up strap shoulders.

Sliver: Sliver is a continuous rope of loose, untwisted cotton fibers.

Smocks: Smocks are loose, one-piece, protective outer garments, usually with full length front opening.

Step-ins: Step-ins, an article of women's underwear, are thigh-length drawers, fabricated from a cotton fabric.

Suits, seersucker: Seersucker suits are two-piece summer-outfit garments for male attire, consisting of coat and pants, and made of seersucker.

Supercarded yarns: Supercarded yarns are yarns in which the cotton fibers have been carded twice, or have received an extra amount of carding, through which an additional amount of card strips and other waste are removed.

Sweat shirts: See "Pull-over sweaters and jerseys."

Sweater, coat: Coat sweater is a full length, front-opening, knit cotton sweater which buttons from neck to bottom.

Table cloths: Table cloths are cotton household articles, cut and hemmed or fringed on both ends, or hemmed on all sides, and are usually made from damask.

Tapestries: Tapestries are medium- and heavy-weight cotton fabrics, usually woven with elaborate pictorial or verdure all-over designs, and generally woven ingrained.

Terry fabric: Terry fabric is a cotton pile fabric in which the back and face pile loops are uncut.

Terry towels: Terry towels are cotton household articles made from terry fabric, cut and hemmed or fringed.

Thread: Thread is a cotton line composed of two or more converted cotton yarns, usually used for sewing purposes.

Ticking: Ticking is (1) a heavy, stout cotton fabric, warp face twill or sateen, woven ingrain with colored warp yarns; or (2) a cotton damask, all-over designs, in mattress size, usually woven ingrain with colored yarns.

Tire fabrics, cord: Cord tire fabrics are cotton fabrics woven with cabled cord warp and an occasional weft pick sufficient to hold fabric together.

Tire fabrics, square-woven: Square-woven tire fabrics are strong, stout, heavy, woven cotton cloth, plain or leno weave, made with plied yarns.

Tire cord, weftless: Weftless tire cord is a plurality of cabled cotton cords without interlacing weft yarns.

Tobacco cloth: See "Cheesecloth."

Tracing cloth: Tracing cloth is a fine, plain-woven cotton fabric, heavily dressed, glazed, and transparent enough to permit tracing with ink and copying.

Training pants: Training pants are heavy-weight knit athletic or gymnasium cotton pants, usually with ankle length, loose-fitting legs, and with drawstring or elastic top and bottoms.

Trousing: Trousing is a heavy, coarse cotton fabric, twill weave, ingrain checks and stripes, sometimes with back napped.

Trunks: Trunks are an article of underwear, covering the lower part of the torso and thighs, fabricated from a knit cotton fabric.

Twine: Twine is a line or a cord made up of one or more yarns of medium or hard cabled twist, used for tying, making nets, and other purposes.

Tubular knit fabric: Tubular knit fabric is seamless fabric, composed of looped and interlaced cotton yarns, produced on a circular knitting machine.

Undershirts, athletic: Athletic undershirts are a pull-over type undershirt cut deep at the neck and armholes, fabricated from a light-weight knit cotton fabric.

Undershirts, bands, and wrappers, infants': Infants' undershirts, bands, and wrappers are articles of underwear for covering the upper part of the torso, with full open front and double-breasted, fastening with either ties or buttons, fabricated from a knit cotton fabric.

Undershirts, other than athletic and infants': Undershirts, other than infants' and athletic, are articles of underwear covering the torso, with or without sleeves, either pull-over style or half-open, fabricated from a knit cotton fabric.

Underwear: Underwear is a collective term including cotton garments of any type whatsoever worn under the visible apparel, hosiery excepted.

Uniforms, maids', nurses', etc.: Maids', nurses', and other kinds of women's uniforms are one-piece or two-piece suits, consisting

of blouse and skirt, made of cotton woven fabrics, generally having distinctive characteristics of servitude or profession.

Uniforms, men's two-piece: Men's uniforms, two-piece, are suits consisting of jacket or coat and trousers, made of woven cotton fabrics, generally bearing distinctive characteristics of servitude, profession or fraternalism.

Union suits: Union suits are one-piece articles of cotton underwear, knit or woven, usually full-buttoned, with or without sleeves, and either long or short legs.

Velour or cotton velvet: Velour or cotton velvet is a cut cotton warp pile fabric.

Velveteen: Velveteen is a cut cotton weft pile fabric.

Vests, women's: Women's vests are articles of underwear, generally for covering only the torso, sometimes having sleeves, and fabricated from knit cotton fabrics.

Voile: Voile is a light-weight low-count cotton dress fabric, plain weave, made with hard or slack twisted yarns, usually gassed.

Waistsuits, children's and infants': Children's and infants' waistsuits are articles of underwear, torso length, buttoned front or back, reinforced by tape or other fabric, and having a number of extra buttons usually sewed on with tape to support outer garments, fabricated from knit cotton fabrics.

Warps: Warps are cotton yarns forming the lateral basis of fabrics.

Waste: Waste is motes and fly, card strips, comber noils, slasher waste, cuttings, clippings, rags, and similar materials (not including substandard products and short-length piece goods) incident to the processing, manufacturing, or fabricating of cotton or of cotton products.

Weft: Weft is the system of yarns in woven cotton fabrics which interlaces with the warp yarns.

Woven fabrics: Woven fabrics are fabrics composed of different systems of yarn which interlace with each other.

Yarn: Yarn is a continuous strand, single or plied, spun from cotton fibers.

II. CONVERSION FACTORS

In lieu of and in revision of the third paragraph of the above-mentioned Cotton Regulations, series 2, supplement 1 (which said paragraph was adopted in lieu of and in revision of the fourth paragraph of the above-mentioned Cotton Regulations, series 2), I do hereby establish that the conversion factors for articles processed from cotton, effective on and after December 1, 1933, to determine the amount of tax imposed or refunds to be made with respect thereto, are as follows:

The following table fixes (1) the conversion factors, being the percentage of the per pound processing tax on cotton, with respect to each pound of the cotton content of the following articles processed from cotton, which cotton content is found by deducting from the total weight of such articles the percentage of the total weight thereof represented by the weight of sizing or buttons, rayon, silk, other textile fibers, or other noncotton content, and (2) the percentage of the total weight of said articles determined to represent, as to "rugs and mats other than cotton weft", the weight of all noncotton content, and, as to all other said articles, the weight of all noncotton content except rayon, silk, and other textile fibers other than cotton:

Articles	Carded						Combed					
	Unbleached not colored		Unbleached colored		Bleached colored or uncolored		Unbleached not colored or mercerized		Unbleached colored and/or mercerized		Bleached colored or uncolored—mercerized or unmercerized	
	Conversion factor	Noncotton content ¹	Conversion factor	Noncotton content ¹	Conversion factor	Noncotton content ¹	Conversion factor	Noncotton content ¹	Conversion factor	Noncotton content ¹	Conversion factor	Noncotton content ¹
Laps:	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>	<i>Percent</i>
Picker (before carding).....	105	0	109	0	112	0						
Ribbon and sliver.....	110	0	113	0	117	0						
Sliver.....	109	0	112	0	116	0	116	0	120	0	124	0
Roving.....	110	0	114	0	117	0	118	0	122	0	126	0
Waste:												
Card strips.....	60	0	60	0	60	0						
Comber waste.....							80	0	80	0	80	0
All other.....	0		0		0		0		0		0	
Yarn:												
Chenille.....	118	0	122	0								
Gassed.....							125	0	129	0	135	0
Novelty.....	113	0	116	0			123	0	127	0		
Supercarded.....	114	0	117	0	122	0						
All other.....	112	0	115	0	120	0	121	0	125	0	131	0
Thread, twine, and cordage:												
Thread:												
Glazed.....	113	4.0	117	4.0	122	4.0	123	4.0	126	4.0	132	4.0
Other than glazed.....	113	2.0	117	2.0	122	2.0	123	2.0	126	2.0	132	2.0
Twine and cordage:												
Polished.....	112	10.0	115	10.0								
Not polished.....	112	0	115	0	117	0						
Woven fabrics—over 12 inches wide:												
Auto slip cover.....			117	5.0								
Awning stripes:												
Ingrain and printed.....			116	5.0								
Painted and stenciled.....			116	15.0								
Bedspreeds and quilting:												
Blanketing.....	118	2.0	122	2.0	129	4.0	135	1.0	139	1.0	142	1.0
Blanketing.....	117	2.5	120	2.5	126	0						
Broadcloth.....	115	7.0	119	5.0	126	4.0	127	7.0	131	3.0	139	1.0
Buckram.....	115	55.0	119	55.0								

¹ No allowance is included for the rayon silk, or other textile fiber content of articles except as to rugs and mats, other than cotton weft.

Articles	Carded						Combed					
	Unbleached not colored		Unbleached colored		Bleached colored or uncolored		Unbleached not colored or mercerized		Unbleached colored and/or mercerized		Bleached colored or uncolored—mercerized or unmercerized	
	Conversion factor	Noncotton content	Conversion factor	Noncotton content	Conversion factor	Noncotton content	Conversion factor	Noncotton content	Conversion factor	Noncotton content	Conversion factor	Noncotton content
	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent
Woven fabrics—over 12 inches wide—Con.												
Canton flannel	117	2.5	120	2.5	128	.5						
Chambray			117	7.5								
Chenille	121	3.0	125	3.0								
Corduroy	118	2.5	122	2.5	127	8.0	129	2.0	133	5.0	139	8.0
Corset cloth							127	5.0	131	4.0	137	4.0
Cottonades and trousering			117	6.0								
Crash toweling	116	2.5			122	1.0						
Crepe	115	5.0	119	5.0	126	3.0	127	5.0	131	3.0	139	3.0
Crinoline	115	38.0	119	38.0	126	38.0						
Damask—table	115	5.0	119	5.0	126	4.0	127	5.0	131	3.0	139	3.0
Denim			118	7.5								
Diaper cloth	115	3.0			126	0						
Drills and twills	116	5.5	120	5.0	123	4.0	127	5.0	131	4.5	139	4.0
Duck:												
Enameling	116	6.5	120	4.0								
Flat	116	6.5	120	5.0	124	6.5						
Plied yarn	114	0	118	0	120	0						
Express stripes or hickory stripes and pin checks			117	7.5								
Flannelette	119	2.5	123	2.5	130	0.5						
Frieze			133	1.0					144	1.0		
Gingham			121	7.0					135	4.0		
Huckaback toweling	116	3.0			126	2.0						
Lawn	116	5.0	120	4.0	126	3.0	127	5.0	131	3.0	139	2.0
Marquisette or curtain scrim							127	3.0	131	3.0	139	3.0
Moleskin	117	2.5	121	2.5	124	1.0						
Mosquito netting	115	8.0	119	8.0	126	8.0						
Osnaburg	118	5.0	122	2.0	125	2.0						
Pajama checks or nainsook checks	115	6.0	119	7.0	126	7.0	127	5.0	131	3.0	139	3.0
Pique	115	5.0	119	5.0	126	5.0	127	5.0	131	3.0	139	3.0
Plush and velour:												
Figured			139	1.0					152	1.0		
Not figured	128	0	132	1.0	138	0	139	0	143	1.0	149	0
Poplin	115	5.0	119	4.0	126	5.0	127	5.0	131	2.0	139	2.0
Print cloth	115	6.5	119	6.0	122	7.0						
Rep.	115	5.0	119	3.0	122	2.0	127	5.0	131	2.0	139	1.0
Sateen	116	6.0	120	5.0	123	4.0	127	6.0	131	4.0	139	3.0
Seersucker			117	5.0								
Sheetings:												
Over 40 inches	115	4.0	119	3.0	126	2.0	127	4.0	131	3.0	139	2.0
40 inches and less	116	5.0	120	5.0	122	6.0						
Shirting—madras	115	6.5	119	4.0	126	4.0	127	5.0	131	3.0	139	2.0
Tapestry			126	1.0					137	1.0		
Terry pile	115	3.0	119	0	124	0	127	2.0	131	0	139	0
Ticking			117	7.5								
Tire fabrics:												
Cord, and weftless cord	114	0					122	0				
Square woven	114	0										
Tobacco cloth and cheesecloth	115	4.0	119	2.0	126	2.0						
Velveteen	118	2.5	122	2.0	127	2.0	129	2.0	133	1.0	139	1.0
Voile	115	4.0	119	2.0	126	3.0	127	2.0	131	2.0	139	2.0
All other:												
Napped	118	2.5	122	1.0	129	0						
Not napped	115	5.0	118	4.0	125	3.0	127	4.0	131	3.0	139	2.0
Narrow fabrics (12 inches and under) woven or braided:												
Nonelastic	115	4.0	119	3.0	123	5.0	125	4.0	129	3.0	133	2.0
Elastic	115	25.0	119	25.0	123	25.0	125	25.0	129	25.0	133	25.0
Knit fabrics	115	0	119	.5	123	0	125	0	128	0.5	133	0
Knit articles other than hosiery:												
Outerwear:												
Bathing suits			150	3.0								
Coat—sweater	125	2.0	129	2.0	134	2.0						
Gloves:												
Jersey work			143	1.0								
Chamois suede							152	1.0	157	1.0	169	1.0
Pull over—sweaters and jerseys	139	0	143	0	148	0						
Scarfs and mufflers	118	0	121	0	126	0						
Sweat shirts	124	0	128	0	132	0						
Training pants	127	0	131	0	135	0						
All other	128	1.0	132	1.0	137	1.0	142	1.0	146	1.0	151	1.0
Underwear:												
Bands and wrappers, infants'	129	0	131	0	133	0	140	0	144	0	145	0
Drawers, bloomers, step-ins, and pants, except infants'	129	1.0	131	1.0	133	1.0	140	1.0	144	1.0	145	1.0
Pants, infants'	138	.5	144	.5	149	.5	150	.5	155	.5	162	.5
Sleepers	132	2.0	136	2.0	140	2.0	143	2.0	147	2.0	152	2.0
Undershirts:												
Athletic	138	0	144	0	149	0	150	0	155	0	162	0
Infants'	133	.5	135	.5	138	.5	145	.5	149	.5	150	.5
Other	129	1.0	131	1.0	133	1.0	140	1.0	144	1.0	145	1.0
Vests	129	0	131	0	133	0	140	0	144	0	145	0
Union suits	132	1.5	136	1.8	140	2.0	143	2.0	147	2.5	152	3.0
Waist suits, children's	138	4.0	144	4.0	149	4.0	150	5.0	155	5.0	162	5.0
All other	133	1.0	136	1.0	139	1.0	143	1.0	147	1.0	150	1.0
Lace	120	7.0	124	7.0	132	7.0	131	7.0	135	7.0	143	7.0
Articles made from lace:												
In the manufacture of which the lace is cut parallel and/or at right angles to selvage	127	7.0	131	7.0	138	7.0	137	7.0	142	7.0	150	7.0
In the manufacture of which the lace is cut other than parallel and/or at right angles to selvage	142	7.0	146	7.0	155	7.0	154	7.0	158	7.0	168	7.0

Articles	Carded				Combed			
	Unbleached not colored		Colored or bleached		Unbleached not colored or mercerized		Colored, bleached, or mercerized	
	Conversion factor	Non-cotton content	Conversion factor	Non-cotton content	Conversion factor	Non-cotton content	Conversion factor	Non-cotton content
Articles made from fabrics other than knit and lace, in the manufacture of which the cloth is cut or torn parallel to the warp and/or weft:	Percent	Percent	Percent	Percent	Percent	Percent	Percent	Percent
Bags.....	117	5.0	122	12.0				
Bed sheets.....	118	4.0	129	3.0			143	2.0
Bedspreeds.....	123	1.0	135	3.0			150	3.0
Blankets.....			130	2.5				
Conveyor belts and machinery belts.....	115	0						
Diapers.....			128	0				
Gauze.....			126	0				
Handkerchiefs.....			126	5.0			143	2.0
Laundry nets and dye nets.....	116	0						
Mattress ticks.....			121	7.5			143	3.0
Napkins.....			129	4.0			143	3.0
Pillowcases.....	118	4.0	129	3.0			143	2.0
Rugs and mats:								
Chenille.....	121	3.0	125	3.0				
Cut pile:								
Cotton weft.....			144	1.0			156	1.0
Other than cotton weft.....			145	19.0			157	19.0
Frieze.....			133	1.0			144	1.0
Terry.....	119	3.0	125	0			142	0
Other than pile.....	122	3.0	126	1.0	132	3.0	137	1.0
Tablecloths.....			129	4.0			143	3.0
Towels:								
Crash.....	119	2.5	125	1.0				
Huck.....			129	2.0				
Terry.....			127	0			142	0
All other:								
Not colored.....	118	3.0	127	4.0	135	3.0	143	2.0
Colored.....			125	4.0			139	2.0

Articles	Carded		Combed		Articles	Carded		Combed	
	Conversion factor	Non-cotton content ¹	Conversion factor	Non-cotton content ¹		Conversion factor	Non-cotton content	Conversion factor	Non-cotton content
Articles made from fabrics other than knit and lace, in the manufacture of which the cloth is cut or torn parallel to the warp and/or weft:	Percent	Percent	Percent	Percent	Coated products—Continued	Percent	Percent	Percent	Percent
Bathrobes.....	136	2.0			Adhesive tape.....	142	50.0		
Breeches, riding.....	131	5.0	150	4.0	Artificial leather.....	122	50.0		
Coats:					Tracing cloth.....			140	40.0
Work.....	131	6.5			Book cloth.....	127	50.0	139	50.0
Hunting.....	134	6.0			Shade cloth.....	122	50.0		
Dresses, house:					Rubber-coated and rubberized, except pneumatic casings.....	126	60.0		
Matched pattern.....	139	5.0	153	4.0	All other.....	124	50.0	140	50.0
Other than matched pattern.....	133	4.0	151	3.0	Pneumatic casings.....	120	80.0	128	80
Gloves.....	138	2.5			Absorbent cotton.....	125	0		
Gowns, night.....	137	3.0	151	2.0	Batting and mattress felts.....	105	0		
Knickers.....	127	5.0			Second-hand articles.....	0		0	
Overalls and work pants.....	128	8.5			Articles processed in whole from comber waste ²				
Pajamas:					Articles processed in part from comber waste ³				
Matched pattern.....	138	5.0	158	4.0	Articles processed in whole from card strips ⁴				
Other than matched pattern.....	133	5.0	151	4.0	Articles processed in part from card strips ⁵				
Powder puffs.....	159	0	171	0	Articles processed in whole from second-hand articles or from waste other than card strips or comber waste.....	0		0	
Shirts:					Articles processed in part from second-hand articles or from waste other than card strips or comber waste ⁶				
Other than work:									
Matched pattern.....	143	7.0	158	5.0					
Other than matched pattern.....	136	7.0	151	5.0					
Work.....	126	7.0							
Shorts.....	139	6.0	154	4.0					
Slips.....	134	5.0	149	3.0					
Smocks.....	127	6.0							
Suits, seersucker.....	133	6.0							
Uniforms:									
Men's, 2-piece.....	132	7.0							
Maids', nurses', etc.....	136	7.0							
Union suits.....	139	8.0	154	5.0					
Vests—hunting, etc.....	131	8.0							
All others:									
Bleached:									
Other than matched pattern.....	136	5.0	151	4.0					
Matched pattern.....	142	5.0	158	4.0					
Unbleached:									
Other than matched pattern.....	128	7.0	142	5.0					
Matched pattern.....	134	7.0	149	5.0					
Hosiery:									
Flat knit—circular:									
144 needles and less.....	121	0	131	0					
145 to 200 needles.....	124	0	135	0					
Over 200 needles.....	128	0	139	0					
Ribbed knit—circular, basis size, 9 inches:									
Less than 300 needles.....	121	0	131	0					
300 needles and over.....	124	0	135	0					
Full fashioned.....	128	0	139	0					
Coated products:									
Oilcloth:									
Table and shelf.....	122	83.0							
Enameled:									
Drill.....	122	60.0							
Duck.....	122	55.0							

¹ No allowance is included for the rayon silk, or other textile fiber content of articles except as to rugs and mats, other than cotton weft.

² The conversion factor for such articles shall be 85 percent of the above-established conversion factor for like articles processed from raw cotton.

³ The conversion factor for such part of such articles shall be 85 percent of the above-established conversion factor for like articles processed from raw cotton.

⁴ The conversion factor for such articles shall be 65 percent of the above-established conversion factor for like articles processed from raw cotton.

⁵ The conversion factor for such part of such articles shall be 65 percent of the above-established conversion factor for like articles processed from raw cotton.

⁶ The conversion factor for such part of such articles shall be 0 percent.

A. As to any article for which no conversion factor is assigned, I hereby establish (1) that, if such article is made, directly or indirectly, in some part from another article for which a conversion factor is assigned, then as to each pound of the cotton content of such part the conversion factor shall be the conversion factor for such other article, and (2) that, if such article is made, directly or indirectly, in some part from cotton, but not as to such part from another article for which a conversion factor is assigned, then as to such part, the tax or refund shall be computed at the rate of the processing tax, upon the basis of the amount of cotton established to have been actually used in the production of such part.

B. In the event that any taxpayer or person entitled to a refund establishes that any article processed from cotton, with respect to which a tax is imposed, or which may be the subject of a claim for refund, which is included in the above list, contains more or less cotton than represented by the listed conversion factor, then the amount of the tax or of the refund shall be computed at the rate of the processing tax, upon the basis of the amount of cotton established to have been actually used in the production of the article,

with proper allowances for card strips and comber waste based on conversion factors hereinabove established therefor.

C. In the event that any taxpayer or person entitled to a refund establishes that any article processed from cotton, with respect to which a tax is imposed, or which may be the subject of a claim for refund, which is included in the above list, has more or less non-cotton content of the kind for which provision has been made hereinabove, than that represented by the percentage of total weight of the article deductible for noncotton content to determine the cotton content of the article, then the amount of the noncotton content to be deducted from the total weight of the article shall be the amount of noncotton content established to be actually contained in the particular article. The noncotton content to which this election refers does not include rayon, silk, or other textile fiber content of articles (except as to "rugs and mats, other than cotton weft").

In witness whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, this 29th day of November 1933.

[SEAL]

R. G. TUGWELL,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

NOVEMBER 29, 1933.

[C.-H.-4. F. C. R.-A. A. A. Series 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Field Corn Regulation, Series 1.) (Marketing year, rate of processing tax, definitions and conversion factors with respect to field corn.) Issued October 1933]

FIELD CORN REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE, WITH THE APPROVAL OF THE PRESIDENT, UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, Henry A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for field corn shall begin November 5, 1933.

I do hereby determine as of November 5, 1933, that the processing tax on the first domestic processing of field corn shall be at the rate of 28 cents per bushel of 56 pounds, which rate equals the difference between the current average farm price for field corn and the fair exchange value of field corn, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture.

I. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing: The first domestic processing of field corn is the milling or other processing of field corn for market (except cleaning and drying), including cutting, grinding, cracking, breaking, by mechanical or other means, and custom milling for toll as well as commercial milling, but does not include cutting, grinding, cracking, or breaking, not in the form of flour, for feed purposes only.

Cracked corn, corn chop, or ground corn: Cracked corn, corn chop, or ground corn is the entire product made by cutting, grinding, cracking, or breaking corn.

Screened cracked corn, screened corn chop, or screened ground corn: Screened cracked corn, screened corn chop, or screened ground corn is the coarse portion of the corn chop, ground corn, or cracked corn from which most of the fine particles have been removed.

Corn bran or hulls: Corn bran or hulls is the outer coating of the corn kernels, with little or none of the starchy part or germ.

Corn feed meal: Corn feed meal is the fine siftings obtained in the manufacture of screened corn chop, screened ground corn, or screened cracked corn, with or without its aspiration products added.

Bolting: Bolting is the sifting of any meal through wire screens or cloths.

Corn meal, maize meal, or Indian-corn meal: Corn meal, maize meal, or Indian-corn meal is meal made by grinding corn, with or without bolting, or with or without the extraction of the corn germ.

Degermed and nondegermed corn meals: Corn meal, maize meal, or Indian-corn meal may be classified according to the process of manufacture as degermed or nondegermed meals.

(a) Degermed corn meal: Degermed corn meal is bolted or unbolted corn meal from which the corn germ has been removed in whole or in part by a degerming process and is sometimes branded for sale as cream meal, standard meal, or pearl meal. Degermed meal contains not more than 1½ percent of fat by ether extraction.

(b) Nondegermed corn meal: Nondegermed corn meal is bolted or unbolted corn meal from which the corn germ has not been removed. Nondegermed meal may be treated by a blast of air to remove chaff and or bran, and is sometimes branded for sale as old-fashioned meal, water-ground meal, or stone-ground meal.

Nondegermed meal contains more than 1½ percent of fat by ether extraction.

Hominy grits, corn grits, or brewers' grits: Hominy grits, corn grits, or brewers' grits are the hard, flinty portions of the corn kernels, containing little or none of the bran or the germ. Hominy grits, corn grits, or brewers' grits may be classified as coarse, medium, or fine. The granular particles of fine grits average larger than those of coarse corn meal.

Corn flour or brewers' flour: Corn flour or brewers' flour is the residue from the manufacture of corn grits and/or corn meal. To be so classified it must be of a texture fine enough so that not less than 75 percent will sift through a no. 9XX bolting silk and the balance sift through a no. 72 grits gauze.

White hominy feed, white hominy meal, or white hominy chop: White hominy feed, white hominy meal, or white hominy chop is the kiln-dried mixture of the mill-run bran coating, the mill-run germ, with or without a partial extraction of the oil, and a part of the starchy portion of the white corn kernel obtained in the manufacture of hominy, hominy grits, and corn meal by the degerming process.

Yellow hominy feed, yellow hominy meal, or yellow hominy chop: Yellow hominy feed, yellow hominy meal, or yellow hominy chop is the kiln-dried mixture of the mill-run bran coating, the mill-run germ, with or without a partial extraction of the oil, and a part of the starch portion of the yellow corn kernel obtained in the manufacture of yellow hominy grits and yellow corn meal by the degerming process.

Brewers' corn flakes: Brewers' corn flakes are flakes produced by passing corn grits through rolls.

Corn flakes (breakfast-food type): Corn flakes of the breakfast-food type are corn grits which have been treated with malt and/or sugar, sirups, and salt, and subsequently flaked by rolls. The flakes are then dried and toasted.

Pearl or table hominy: Pearl or table hominy is degermed hulled corn.

Pastes, adhesives, or binders: Pastes, adhesives, or binders are flours, starches, or other starchy materials that have been partially gelatinized and/or dextrinized so as to increase their power of absorption and/or adhesiveness without further treatment.

Cornstarch (not modified): Cornstarch (not modified) is the white, odorless, tasteless, carbohydrate obtained from corn after the bran, gluten, and germ have been separated from soaked and cracked corn, and includes products commercially known as "pearl, powdered, crystal, and lump cornstarch."

Corn gluten: Corn gluten is that portion of the endosperm of the corn kernel which can be separated from cornstarch and other soluble matter in a current of water.

Corn germ: Corn germ is the embryo of the corn kernel. The commercial product contains some bran and endosperm.

Cornstarch (modified): Cornstarch (modified) is cornstarch the fluidity of which has been increased by treatment with heat and/or chemicals, and includes products commercially known as "thin boiling starches."

Dextrine: Dextrine is a powdery product formed by treating cornstarch with heat and/or chemicals. Dextrines with water form a viscous gum having adhesive properties.

Glucose, mixing glucose, confectioners' glucose, or sirup: Glucose, mixing glucose, confectioners' glucose, or sirup is a thick, viscous colorless product made by incompletely hydrolyzing cornstarch, and decolorizing and evaporating the product.

Corn sugar, crude, "70": Corn sugar, crude, "70" is hydrous starch containing between 68 and 72 percent of dextrose.

Corn sugar, crude, "80": Corn sugar, crude, "80" is hydrous starch sugar containing between 79 and 81 percent of dextrose.

Dextrose: Dextrose is the product chiefly made by the hydrolysis of cornstarch followed by refining and crystallization. Dextrose is known commercially as "refined corn sugar."

Anhydrous dextrose: Anhydrous dextrose is dextrose containing not less than 99.5 percent of dextrose and not more than 0.5 percent of moisture.

Hydrated dextrose: Hydrated dextrose is dextrose containing not less than 92 percent of dextrose and not more than 8 percent of moisture, including water of crystallization.

Corn molasses or hydrol: Corn molasses or hydrol is a byproduct in the manufacture of dextrose from cornstarch.

Corn oil, crude: Corn oil, crude, is the oil obtained from the pressing of corn germs.

Corn oil, refined: Corn oil, refined, is the oil resulting from the purification of the crude corn oil.

Soap stock or foots: Soap stock or foots is the residue resulting from the purification of crude corn oil.

Corn-oil cake: Corn-oil cake consists of the corn germ from which part of the oil has been removed.

Corn-oil cake meal: Corn-oil cake meal is ground corn-oil cake.

Corn germ cake: Corn germ cake meal is ground corn-oil cake. Other parts of the corn kernel from which part of the oil has been removed.

Corn germ meal: Corn germ meal is ground corn germ cake.

Corn gluten feed: Corn gluten feed is that part of the corn kernel that remains after the separation of the larger part of the starch and the oil. It may or may not contain corn solubles and the germ.

Corn gluten meal: Corn gluten meal is that part of the corn kernel that remains after the separation of the larger part of the starch, oil, and bran. It may or may not contain corn solubles and the germ.

Distillers' dried grains: Distillers' dried grains are the dried residue obtained in the manufacture of alcohol and other distilled spirits from corn.

Distillers' corn solubles: Distillers' corn solubles is a byproduct from the manufacture of alcohol from corn solids obtained by the evaporation of the mash liquor after the removal of the alcohol and wet grains.

Mash: Mash is materials, of which corn is the product of chief value, assembled and combined in such manner as to produce distilled spirits.

Distilled spirits: Distilled spirits are alcoholic liquors made by the distillation of mash, and include alcohol and whisky.

II. CONVERSION FACTORS

I do hereby establish the following conversion factors for articles processed wholly or in chief value from corn to determine the amount of tax imposed or refunds to be made with respect thereto.

The following tables of conversion factors fix the percentage of the per bushel processing tax on corn with respect to 100 pounds or proof gallon of the following articles processed from corn.

Article	Unit	Conversion factor
	Pounds	Percent
Cracked corn, corn chop, or ground corn (except for feed ¹).....	100	178.57
Screened cracked corn, screened corn chop, or screened ground corn (except for feed ¹).....	100	185.19
Corn bran or hulls.....	100	0
Corn feed meal.....	100	0
Cornmeal, maize meal, or Indian cornmeal:		
Degermed.....	100	300.00
Nondegermed.....	100	200.00
Hominy grits, corn grits, or brewers' grits (coarse, medium, and/or fine).....	100	300.00
Corn flour or brewers' flour.....	100	200.00
Hominy feed, white or yellow, resulting from manufacture of hominy, hominy grits, or cornmeal by the degerming process.....	100	0
Brewers' corn flakes.....	100	350.00
Corn flakes (breakfast-food type).....	100	450.00
Pearl or table hominy.....	100	300.00
Pastes, adhesives, or binders.....	100	350.00
Cornstarch (not modified):		
Cornstarch, standard powdered (less than 11% moisture).....	100	281.39
Cornstarch, standard pearl (11 to 13% moisture).....	100	275.11
Cornstarch, lump (more than 13% moisture).....	100	265.80
Cornstarch (modified):		
Starch, laundry.....	100	281.39
Starch used as brewers' materials.....	100	275.11
Dextrines (4% or less moisture).....	100	300.19
Dextrines (more than 4% moisture).....	100	293.87
Glucose, mixing glucose, confectioners' glucose or syrup and sugars:		
Sirup or glucose 41° Baumé.....	100	237.50
Sirup or glucose 42° Baumé.....	100	243.60
Sirup or glucose 43° Baumé.....	100	249.05
Sirup or glucose 44° Baumé.....	100	253.84
Sirup or glucose 45° Baumé.....	100	258.68
Sugar, crude, "70".....	100	233.01
Sugar, crude, "80".....	100	260.46
Dextrose, anhydrous.....	100	187.27
Dextrose, hydrous.....	100	203.56
Corn molasses, hydrol.....	100	128.46
Corn oil:		
Corn oil, crude.....	100	311.52
Corn oil, refined.....	100	331.61
Soap stock or foots.....	100	0
Corn oil cake or corn oil-cake meal.....	100	0
Corn germ cake or corn germ meal.....	100	0
Corn gluten feed.....	100	0
Corn gluten meal.....	100	0
Corn in secondary processing, including mash ²	100	178.57
Distilled spirits ³	(³)	20.00
Distillers' dried grains.....	100	0
Distillers' corn solubles.....	100	0

¹ To be exempt from the floor-stocks tax, cracked corn, corn chop, or ground corn, screened or not screened, must be the product of field corn processed for feed purposes only.

² The above conversion factors for mash and distilled spirits are based upon a mash containing only corn. The conversion factors for mash and distilled spirits, in chief value of field corn, shall be the proportion of the above conversion factor which the weight of the field corn in the mash bears to the total weight of grains and grain products in the mash.

³ Per gallon 100 proof.

Field-corn products for which no specific conversion factor is prescribed in these regulations are not excluded from the payment of the compensating or floor-stock taxes.

As to any article for which no conversion factor is specifically assigned, I hereby establish (1) that if such article is made, directly or indirectly, in some part from another article to which a conversion factor is assigned, then as to each 100 pounds of such part the conversion factor shall be the conversion factor for such other article, and (2) if such article is made, directly or indirectly, in some part from field corn but not (as to such part) from another article to which a conversion factor is assigned, then as to each 100 pounds of such part the conversion factor shall be 178.57 percent of the per bushel processing tax on field corn.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 21st day of October 1933.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
President of the United States.

OCTOBER 23, 1933.

[C.-H.-6, F. C. R.—A. A. A., Series 1, Supplement 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Field Corn Regulations, Series 1, Supplement 1.) (Rate of processing tax and conversion factors with respect to field corn.) Issued November 1933]

SUPPLEMENTARY FIELD CORN REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE, WITH THE APPROVAL OF THE PRESIDENT, UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,

OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, Rexford G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a supplement to and in part a revision of Field Corn Regulations, Series 1, and to the extent of such revision, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

In lieu of and in revision of the third paragraph of the above-mentioned Field Corn Regulations, Series 1, I do hereby find, after investigation and due notice and opportunity for hearing to interested parties and due consideration having been given to all of the facts, that the rate of tax as of November 5, 1933, which equals the difference between the current average farm price for field corn and the fair exchange value of field corn, which price and value both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture, will cause such reduction in the quantity of field corn, or products thereof, domestically consumed as to result in the accumulation of surplus stocks of field corn, or products thereof, or in the depression of the farm price of field corn. I do hereby, accordingly, determine: as of November 5, 1933, that the rate of the processing tax on the first domestic processing of field corn shall be five (5) cents per bushel of fifty-six (56) pounds; and that, as of December 1, 1933, the rate of the processing tax on the first domestic processing of field corn shall be twenty (20) cents per bushel of fifty-six (56) pounds, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks and depression of the farm price of field corn.

In lieu of and in revision of the table of conversion factors contained in the above-mentioned Field Corn Regulations, Series 1, I do hereby establish that the conversion factors for articles processed wholly or in chief value from corn, to determine the amount of tax imposed or refunds to be made with respect thereto are as follows:

The following table of conversion factors fix the percentage of the per bushel processing tax on corn with respect to 100 pounds net weight, or proof gallon, of the following articles processed from corn:

Article	Unit	Conversion factor
	Pounds	Percent
Cracked corn, corn chop, or ground corn (except for feed ¹).....	100	178.57
Screened cracked corn, screened corn chop, or screened ground corn (except for feed ¹).....	100	185.19
Corn bran or hulls.....	100	0
Corn feed meal.....	100	0
Corn meal, maize meal, or Indian-corn meal:		
Degermed.....	100	300.00
Nondegermed.....	100	200.00
Hominy grits, corn grits, or brewers' grits (coarse medium, and/or fine).....	100	300.00
Corn flour or brewers' flour.....	100	300.00
Hominy feed, white or yellow, resulting from manufacture of hominy, hominy grits, or corn meal by the degerming process.....	100	0
Brewers' corn flakes.....	100	325.00
Corn flakes (breakfast-food type).....	100	350.00
Pearl or table hominy.....	100	300.00
Pastes, adhesives, or binders.....	100	350.00
Cornstarch (not modified):		
Cornstarch, standard powdered (less than 11% moisture).....	100	281.39
Cornstarch, standard pearl (11% to 13% moisture).....	100	275.11
Cornstarch, lump (more than 13% moisture).....	100	265.80
Cornstarch used as brewers' materials.....	100	275.11
Cornstarch (modified):		
Starch, laundry.....	100	281.39
Dextrines (4% or less moisture).....	100	300.19
Dextrines (more than 4% moisture).....	100	293.87
Glucose, mixing glucose, confectioners' glucose or sirup and sugars:		
Sirup or glucose 41° Baumé.....	100	237.50
Sirup or glucose 42° Baumé.....	100	243.60
Sirup or glucose 43° Baumé.....	100	249.05
Sirup or glucose 44° Baumé.....	100	253.84
Sirup or glucose 45° Baumé.....	100	258.68
Sugar, crude, "70".....	100	233.01
Sugar, crude, "80".....	100	260.46
Dextrose, anhydrous.....	100	187.27
Dextrose, hydrous.....	100	203.56
Corn molasses, hydrol.....	100	128.46
Corn oil:		
Corn oil, crude.....	100	311.52
Corn oil, refined.....	100	331.61
Soap stock or foots.....	100	0
Corn oil cake or corn oil-cake meal.....	100	0
Corn germ cake or corn germ meal.....	100	0

¹ To be exempt from the floor-stocks tax, cracked corn, corn chop, or ground corn, screened or not screened, must be the product of field corn processed for feed purposes only.

Article	Unit		Conversion factor
	Pounds	Percent	
Corn gluten feed.....	100	0	
Corn gluten meal.....	100	0	
Corn in secondary processing, including mash ²	100	178.57	
Distilled spirits ²	(³)	20.00	
Distillers' dried grains.....	100	0	
Distillers' corn solubles.....	100	0	
Canned field corn.....	100	23.00	
Canned hominy.....	100	60.00	

² The above conversion factors for mash and distilled spirits are based upon a mash containing only corn. The conversion factors for mash and distilled spirits, in chief value of field corn, shall be the proportion of the above conversion factor which the weight of the field corn in the mash bears to the total weight of grains and grain products in the mash.

³ Per gallon 100 proof.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 4th day of November 1933.

[SEAL] REXFORD G. TUGWELL,
Acting Secretary of Agriculture.

Approved: FRANKLIN D. ROOSEVELT,
The President of the United States.

NOVEMBER 4, 1933.

[A-10. F. C. R.—A. A. A. Series 1, Supplement 1, Revision 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Field Corn Regulations, Series 1, Supplement 1, Revision 1.) (Rate of processing tax with respect to field corn.) Issued November 1933]

REVISION OF FIELD CORN REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, R. G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a revision of Field Corn Regulations, Series 1, Supplement 1, and to the extent of such revision, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

I do hereby determine that, in order to effectuate the declared policy of said act, an adjustment of the rate of the processing tax on the first domestic processing of field corn, as of December 1, 1933, is necessary. Accordingly, in part revision of the second paragraph of Field Corn Regulations, Series 1, Supplement 1, I do hereby determine that the rate of the processing tax on the first domestic processing of field corn, as of December 1, 1933, shall be 5 cents per bushel of 56 pounds which said rate will prevent the accumulation of surplus stocks and depression in the farm price of field corn.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 29th day of November 1933.

[SEAL] R. G. TUGWELL,
Acting Secretary of Agriculture.

Approved: FRANKLIN D. ROOSEVELT,
The President of the United States.

NOVEMBER 29, 1933.

[R-9. F. C. R.—A. A. A. Series 1, Supplement 2. United States Department of Agriculture, Agricultural Adjustment Administration. (Field Corn Regulations, Series 1, Supplement 2.) (Exemption under section 15 (b) with respect to field corn processed by community grist mills.) Issued November 1933]

SECOND SUPPLEMENTARY FIELD CORN REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act approved May 12, 1933, as amended, I, R. G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a supplement to, and in part a revision of, Field Corn Regulations, Series 1, and Field Corn Regulations, Series 1, Supplement 1), with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

EXEMPTION

In my judgment, the imposition of the processing tax upon field corn processed by, or for a producer, who, together with his own family, employees, or household, processes, or has processed for him, less than one (1) bushel of field corn, in any calendar week, is unnecessary to effectuate the declared policy of the act.

Accordingly, I do hereby exempt from the processing tax field corn processed by or for the producer who, together with his own family, employees, or household, processes, or has processed for him, less than one (1) bushel of field corn in any calendar week. Included in computing this amount of field corn, shall be any field corn with respect to which the payment of the processing tax is not required to be made. If a producer processes, or has processed for him, field corn, not in the form of flour, for feed purposes only, or for consumption by his family, employees, or household, the amount so processed shall be taken into account in computing the amount with respect to which this exemption is permitted, and only the balance, if any, will be subject to exemption hereunder.

In the case of community grist mills for toll, in order to entitle the miller to the foregoing exemption, it will be sufficient for the miller to make a statement under oath, monthly, that he has not knowingly milled more than one (1) bushel of corn, during any calendar week during that month for any producer and his own family, employees, or household, without securing the affidavit or witnessed statement required by the Bureau of Internal Revenue; that he has ascertained by inquiry from the person delivering the field corn to be milled that no further amount of field corn is being, or has been, milled by or for that producer, his own family, employees, or household, during that calendar week than the amount ground by the miller making affidavit; and that, if the contrary has been ascertained, he has not milled field corn for the producer and his own family, employees, or household, without securing the affidavit or witnessed statement required by the Bureau of Internal Revenue. The said affidavit shall be transmitted, during the calendar month following the month for which made, to the Collector of Internal Revenue.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 29th day of November 1933.

[SEAL] R. G. TUGWELL,
Acting Secretary of Agriculture.

Approved: FRANKLIN D. ROOSEVELT,
The President of the United States.

NOVEMBER 29, 1933.

[R-15. F. C. R.—A. A. A. Series 1, Supplement 3. United States Department of Agriculture, Agricultural Adjustment Administration. (Field Corn Regulations, Series 1, Supplement 3.) Issued February 1934]

THIRD SUPPLEMENTARY FIELD CORN REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a supplement to, and in part a revision of, Field Corn Regulations, Series 1; Field Corn Regulations, Series 1, Supplement 1; Field Corn Regulations, Series 1, Supplement 2; and Field Corn Regulations, Series 1, Supplement 3) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

The term "field corn", as used in the field corn regulations, means shelled corn, commonly known as "field corn", which may be white or yellow or mixed in color, the equivalent of 56 pounds per bushel adjusted to a 15½ percent moisture basis.

Field Corn Regulations, Series 1, Supplement 1, Revision 1, are hereby revised by inserting a comma after the word "bushel", in line 8 of paragraph 2, followed by the words "the equivalent", and by striking out the comma which follows the word "pounds", in line 8 of paragraph 2, and adding the words "adjusted to a 15½ percent moisture basis", followed by a comma.

The foregoing supplement to, and revision of, the field corn regulations shall be effective as of 12:01 a. m. February 1, 1934, and shall be applicable only upon the processing of field corn on and after that date.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 23d day of February 1934.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved: FRANKLIN D. ROOSEVELT,
The President of the United States.

FEBRUARY 24, 1934.

[H. R., Series 1, No. 1. United States Department of Agriculture, Agricultural Adjustment Administration, Washington, D. C. (Hog Regulations, Series 1, No. 1.) (Marketing year, rate of processing tax, definitions, conversion factors, and exemptions with respect to hogs.) Issued Oct. 29, 1934]

HOG REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act approved May 12, 1933, as amended, I, M. L. Wilson, Acting Secretary of Agriculture, do

make, prescribe publish, and give public notice of these regulations (being a reprint, revision, and supplementation of Hog Regulations, Series 1; Hog Regulations, Series 1, Supplement 1; Hog Regulations, Series 1, Revision 1; Hog Regulations, Series 1, Supplement 2; Hog Regulations, Series 1, Supplement 3; and Hog Regulations, Series 1, Revision 2, and to the extent of such revision and supplementation, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.¹

I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for hogs shall begin November 5, 1933.²

I do hereby find that the rate of tax as of November 5, 1933, which equals the difference between the current average farm price for hogs and the fair exchange value of hogs, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture, will cause such reduction in the quantity of hogs, or products thereof, domestically consumed as to result in the accumulation of surplus stocks of hogs, or products thereof, or in the depression of the farm price of hogs.³

I do hereby determine that, in order to effectuate the declared policy of said act, an adjustment of the rate of the processing tax on the first domestic processing of hogs, as of January 1, 1934, February 1, 1934, and March 1, 1934, is necessary. Accordingly, I do hereby determine: As of January 1, 1934, that the rate of the processing tax on the first domestic processing of hogs shall be one (1) dollar per hundred (100) weight, live weight; as of February 1, 1934, that the rate of the processing tax on the first domestic processing of hogs shall be one (1) dollar fifty (50) cents per hundred (100) weight, live weight; as of March 1, 1934, that the rate of the processing tax on the first domestic processing of hogs shall be two (2) dollars twenty-five (25) cents per hundred (100) weight, live weight, which said rate, as of the effective date thereof, will prevent the accumulation of surplus stocks and depression of the farm price of hogs.³

I. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:⁴

First domestic processing: The term "first domestic processing" means the slaughter of hogs for market; except that (a) in the case of a producer or feeder who shall distribute the carcass or any edible hog product directly to a consumer, the term "first domestic processing" means the preparation of the carcass or any edible hog product for sale, transfer, or exchange or for use by the consumer, and only the edible product or products so sold, transferred, exchanged, or distributed by or for the producer or feeder shall be deemed to have been processed, and (b) in the case of a producer or feeder who shall sell, transfer, or exchange any carcass or edible hog product (1) to any person engaged in reselling, rehandling, cutting, trimming, rendering, or otherwise

¹ The within regulations (Hog Regulations, Series 1, No. 1) partially revise and supplement Hog Regulations, Series 1, and the regulations which have heretofore been issued to revise and supplement the same. For convenience, there is also reprinted herein all portions of the prior hog regulations which are now applicable, with references in the footnotes to the regulations from which they were taken and the dates they took effect. The footnotes show the superseded portions of the prior hog regulations, the dates such portions took effect, and the dates upon which they were superseded. All portions which are herewith issued for the first time are written in italics.

² Hog Regulations, Series 1, effective Nov. 5, 1933.

³ At the beginning of the second sentence in this paragraph, the words "in part revision of the third paragraph of Hog Regulations, Series 1" after the word "Accordingly" have been eliminated herein, but in other respects the paragraph is taken, verbatim, from Hog Regulations, Series 1, Revision 1, effective December 21, 1933, which superseded the following provisions contained in Hog Regulations, Series 1:

"I do hereby find that the rate of tax as of November 5, 1933, which equals the difference between the current average farm price for hogs and the fair exchange value of hogs, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture, will cause such reduction in the quantity of hogs, or produce thereof, domestically consumed as to result in the accumulation of surplus stocks of hogs, or produce thereof, or in the depression of the farm price of hogs. I do accordingly hereby determine: As of November 5, 1933, that the rate of processing tax on the first domestic processing of hogs shall be fifty (50) cents per hundred (100) weight, live weight; as of December 1, 1933, that the rate of the processing tax on the first domestic processing of hogs shall be one (1) dollar per hundred (100) weight, live weight; as of January 1, 1934, that the rate of the processing tax on the first domestic processing of hogs shall be one (1) dollar fifty (50) cents per hundred (100) weight, live weight; as of February 1, 1934, that the rate of the processing tax on the first domestic processing of hogs shall be two (2) dollars per hundred (100) weight, live weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks and depression of the farm price of hogs."

⁴ Except where the contrary is noted, all definitions herein are taken from the Hog Regulations, Series 1, effective November 5, 1933.

preparing such products for market (including, but not limited to, retailers, wholesalers, distributors, butchers, packers, factors, or commission merchants), or (2) to any restaurant, hotel, club, hospital, institution, or establishment of similar kind or character, the term "first domestic processing" means the initial act of such person, restaurant, hotel, club, hospital, institution, or establishment which involves the preparation of the carcass or any edible hog product for further distribution or use.⁵

Live weight: Live weight is the weight of the live animal at the time of slaughter. However, the actual weight at the time of purchase may be used as the live weight in the meaning of these regulations, provided the hogs are slaughtered within 3 days after the date of such weighing. When any primal part or edible portion of the viscera has been condemned as a result of the first post-mortem inspection made prior to the cutting of the carcass into parts, by any Federal, State, county, or municipal authority, as being unfit for human food, the equivalent live weight of such condemned part shall not be included in the live weight subject to the processing tax: Provided, however, that the processor of such condemned part shall show by his affidavit the actual weight thereof; the actual weight so shown shall be restored to a live-weight basis by using the conversion factor prescribed for such part in the tables of conversion factors herein, except that the conversion factor for the edible portion of condemned viscera sets shall be 50 percent.⁶

Carcass: Carcass is the animal body after the blood, hair, toes, and viscera have been removed.

Wiltshire: A Wiltshire is half of a hog carcass with head, feet, and part of jowl removed, consisting of the ham, side, and shoulder in one piece.

Cumberland: A Cumberland is similar to a Wiltshire except that the ham is removed.

Cuts: Cuts are the various parts into which the hog carcass is divided in the operation of converting the carcass into products which go into commercial trade.

Ham: A ham is that part of the hog carcass which consists of the hind leg extending from the foot to the backbone (not inclusive). It may include part or all of the hock and part or all of the pelvic bone.

Regular ham: A regular ham is a ham, either long cut or short cut, from which skin has not been removed. This classification includes such styles as American, English, Italian, and all other varieties of unskinned hams.

Skinned ham: A skinned ham is a ham, either long cut or short cut, of any description from which all or part of the skin has been removed.

Boneless ham: A boneless ham is a ham of any description from which all of the bone has been removed.

Rough shoulder: A rough shoulder is that part of the hog carcass extending from near the third rib to but not including the jowl, with the foot removed.

Regular shoulder: A regular shoulder is a rough shoulder with neck and rib bones removed. This classification includes such styles as English, New York, New Orleans, and all other varieties of unskinned shoulders.

Skinned shoulder: A skinned shoulder is a regular shoulder from which part or all of the skin has been removed.

Picnic: A picnic is a cut comprising about the lower two-thirds of the shoulder. This classification includes regular shank, short shank, shankless, and skinned or unskinned picnics; and also shanks (sometimes called "hocks") which may have been previously separated.

Boneless picnic: A boneless picnic is a picnic of any description from which all of the bone has been removed.

Shoulder butt: A shoulder butt is the top portion of the shoulder which is removed from the shoulder in making a picnic.

⁵ The definition herein of "first domestic processing" supercedes the definition thereof contained in Hog Regulations, Series 1, effective November 5, 1933, which reads as follows:

"First domestic processing: The first domestic processing is the slaughtering of hogs for market."

Slaughtering: Slaughtering is the actual killing of hogs. Hogs condemned by an authorized Federal, State, county, or municipal inspector as being totally unfit for human food shall not be considered hogs slaughtered for market within the meaning of these regulations.

⁶ The first two sentences of the definition herein are reproduced, verbatim, from the first two sentences of the definition of "live weight" contained in Hog Regulations, Series 1, Revision 2, effective Apr. 1, 1934; the last sentence herein (printed in italics) has been substituted for the following two sentences contained in Hog Regulations, Series 1, Revision 2:

"When any part of a hog has been condemned by any Federal, State, county, or municipal authority as being unfit for human food, the equivalent live weight of such condemned part shall not be included in the live weight subject to the processing tax. The actual weight of the condemned part shall be restored to a live-weight basis by using the conversion factor 132 percent."

The definition contained in Hog Regulations, Series 1, Revision 2, superseded the definition of "live weight" contained in Hog Regulations, Series 1, effective Nov. 5, 1933, which read as follows:

"Live weight: Live weight is the weight of the live animal at the time of slaughter. However, the actual weight at the time of purchase may be used as live weight in the meaning of these regulations, provided the hogs are shipped direct to the slaughterhouse for immediate slaughter within 3 days after purchase is made."

Butt: The butt is the portion of the shoulder butt after removal of plate. This classification includes such styles as Boston, Milwaukee, Buffalo, and all other types of butts except boneless butts.

Boneless butt: A boneless butt is a Boston or other style butt with bone removed.

Plate: A plate is the fat portion of the shoulder butt.

Rough short ribs: Rough short ribs are the middle portion of the hog carcass after removal of the hams and shoulders.

Short ribs: Short ribs are the rough short ribs with the backbone and tenderloin removed.

Extra short ribs: Extra short ribs are the rough short ribs with the loin removed.

Short clears: Short clears are the rough short ribs with the backbone, spareribs, and tenderloin removed.

Extra short clears: Extra short clears are the rough short ribs with the loin and spareribs removed.

Rib back: The rib back is the upper half of the rough side with the tenderloin removed.

Pork loin: Pork loin is that portion of the side of the carcass from which the belly and fat back have been removed; it usually contains the backbone, back ribs, and tenderloin and has but a small amount of fat on the outside. This classification, however, includes bladeless loin, tenderloin, and boneless loin, either domestic trim or Canadian style.

Fat back: Fat back is that portion of the side which remains after removal of the pork loin and belly. This classification includes skinned, unskinned, and long-cut and short-cut fat backs.

Spareribs: Spareribs are the meaty ribs taken from the side in half or whole sheets.

Belly (when cured and smoked, commonly known as "bacon"): Dry salt trim (commonly known as "belly D. S. trim"): The roughly trimmed portion of the rough side remaining after removal of loin and fat backs and including or excluding spareribs, whether or not put down in dry salt.

Pickle trim (commonly known as "belly S. P. trim"): Same as above except trimmed reasonably square. This classification includes English style bellies and all belly cuts not otherwise described, including fancy trimmed bellies and briskets.

Briskets: Briskets are pieces removed from the shoulder ends of bellies.

Jowl: A jowl is the cheek and part of the neck. This classification includes jowl butts and bacon squares.

Head: The head is the hog skull and jaw bones with attached organs and fleshy covering, except the jowls.

Trimnings: The trimnings are the boneless meat of all degrees of lean and fat derived from any portion of the hog carcass which has lost its identity as a major cut.

Foot: The foot is that part of the front or hind leg from approximately the knee joint downward.

Neckbones: Neckbones are bones of the neck with adhering flesh after removal from the rough shoulder.

Cheek meat and temple meat: Cheek meat and temple meat consist of the fleshy covering of the upper jaw bone and fore part of skull.

Lard: Lard is edible hog fat after rendering. This includes refined and unrefined lard, neutral lard, and leaf lard. Unrendered fats should be converted to a lard-yield basis.

Viscera: Viscera are the intestines, with their contents, and vital organs of the body cavities, with their attached fats.

Edible offal: Edible offal are the various edible products obtained from hog viscera and hog heads; also the hog feet and tails.

Inedible offal: Inedible offal are the various inedible products obtained in the slaughter of hogs, consisting largely of blood, hair, bristles, parts of the viscera and their contents, and skin.

Tankage: Tankage is the residue from rendering or cooking operations in the production of lard or grease from hog products.

Fresh, chilled, or green meat: Fresh, chilled, or green meat is meat which has not been subjected to any preservative treatment, such as cooking, drying, freezing, or the use of curing agents.

Frozen meat: Frozen meat is fresh meat held below the freezing temperature of such meat.

In cure: In cure (usually called by the trade "in process of cure") is meat under treatment of curing or preservative agents. This includes all meat packed as barreled pork.

Cured meat: Cured meat is meat which has gone through a complete curing or preservative process.

Put down or pack: To place meat in cure.

Smoked meat: Smoked meat is meat exposed to a smoking treatment.

Cooked meat: Cooked meat is meat exposed to a cooking treatment.

Canned meat: Canned meat is meat cooked and packed in hermetically sealed metal or glass containers.

Dried meat: Dried meat is meat preserved by a drying treatment.

General: Barreled pork is to be classified according to the cut from which derived, and reported on basis of put-down green weight.

Sausage: Sausage is chopped or ground meat composed wholly or in chief value from pork and seasoned. It may be in bulk, or stuffed in animal casings, or packed in other containers.

Fresh sausage: Fresh sausage is sausage made of fresh or frozen meat and not subjected to a treatment of smoking, cooking, or drying.

Smoked and/or cooked sausage: Smoked and/or cooked sausage is sausage made from fresh, frozen, or cured meat and further treated by smoking or cooking, or both, but not treated by drying.

Dried sausage: Dried sausage is sausage made from fresh, frozen, or cured meat and further treated by drying. It may be further

treated by smoking or cooking, or both. It includes all cervelats, salamis, and mettwursts of Italian, German, Polish, or other styles.

Luncheon meats: Luncheon meats are mixtures prepared for eating without further cooking, and include such articles as pork loaf, sandwich meat, headcheese, souse, and similar combinations. This classification does not include canned loins or canned tongue; whole or part pieces of canned ham, which are derived from hams; canned deviled ham, canned spiced ham, and canned spiced luncheon meats which are derived from trimmings. They are to be considered as cooked products of the cuts from which derived, and are subject to the conversion factor prescribed therefor.

Feeder: The term "feeder" means any individual or individuals, actively and regularly engaged in the fattening of hogs for market, or in farming operations, a part of which is the fattening of hogs, except retailers, wholesalers, or distributors of meat, butchers, abattoirs, slaughter houses, packers, factors, or commission merchants.

Producer: The term "producer" means the individual or individuals who own the hog at the time of farrowing.

Preparation of the carcass or any edible hog product: The term "preparation of the carcass or any edible hog product" means the preparation, conversion and/or delivery of any hog carcass or any edible hog product, including, but not limited to, any operation connected with receiving, handling, storing, wrapping, cutting, trimming, and/or rendering any hog carcass or any edible hog product.

Primal parts: The term "primal parts" means the commercially so-designated sections, cuts, or parts of the dressed carcass (including, but not limited to, such parts as shoulders, hams, bellies, tongues, livers, and heads) before they have been cut, shredded, or otherwise subdivided as a preliminary to use in the manufacture of meat products.

Green weight: The term "green weight" means the weight of any hog product in its fresh state, after chilling and before any manufacturing operation (including, but not limited to, such operations as freezing, curing, cooking, or drying) has been performed.

II. CONVERSION FACTORS

I do hereby establish the following conversion factors for articles processed from hogs, to determine the amount of tax imposed or refunds to be made with respect thereto.

A. The following table of conversion factors fixes the percentage of the per pound processing tax on hogs with respect to a pound of the following articles processed wholly or in chief value from hogs:

Article	Conversion factor				
	Fresh, frozen, in cure, or barreled pork	Cured		Smoked	Cooked, dried, or canned
		Dry salt	Pickle		
Carcass:	Percent	Percent	Percent	Percent	Percent
Head and leaf included	132	132	125	140	173
Head included, leaf removed	134	134	127	142	181
Head removed, leaf included	138	138	131	146	186
Head and leaf removed	139	139	132	147	188
Wiltshire side	145	145	138	154	195
Cumberland side	132	132	125	140	178
Regular ham	194	194	184	205	242
Skinned ham	219	219	205	229	292
Boneless ham	252	252	239	267	340
Rough shoulder	85	85	81	90	115
Regular shoulder	89	89	85	94	120
Skinned shoulder	94	94	89	100	127
Picnic	76	76	72	81	103
Boneless picnic	99	99	95	105	129
Shoulder butt and butt	123	123	116	130	166
Boneless butt	179	179	170	190	242
Plate	80	80	76	85	108

The terms "Feeder", "Preparation of the Carcass or any Edible Hog Product", "Primal Parts", and "Green Weight" have not been heretofore defined.

The definition herein of "producer" supersedes the definition thereof contained in Hog Regulations, Series 1, Supplement 3, effective January 27, 1934, which reads as follows:

"The term 'producer' means the owner of the hog at the time of farrowing."

The conversion factors in this table are taken from Hog Regulations, Series 1, effective November 5, 1933, and Hog Regulations, Series 1, Supplement 1, effective November 14, 1933. The only change made by Hog Regulations, Series 1, Supplement 1, was to add to the conversion factors for "carcass", which were set forth in Hog Regulations, Series 1, as follows:

ARTICLE	Conversion factor, percent
Carcass:	
Head and leaf included	132
Head included, leaf removed	134
Head removed, leaf included	138
Head and leaf removed	139
Wiltshire Side	145
Cumberland Side	132

Article	Conversion factor				
	Fresh, frozen, in cure, or barreled pork	Cured		Smoked	Cooked, dried, or canned
		Dry salt	Pickle		
Rough short ribs.....					
Short ribs.....					
Extra short ribs.....					
Short clears.....					
Extra short clears.....					
Rib back.....					
Pork loin.....	216	216	205	229	292
Fat back.....	87	87	83	92	117
Spareribs.....	66	66	63	70	89
Belly D. S. trim.....	124	124	118	131	167
Belly S. P. trim.....					
Briskets.....	180	180	171	191	243
Jowl.....	80	80	76	85	108
Head.....	60	60	58	63	81
Trimnings.....	80	80	76	85	108
Neck bones.....	19	19	18	20	26
Feet.....	19	19	18	20	26
Tails.....	44	44	42	47	59
Livers, hearts, and kidneys.....	44	44	42	47	59
Snouts, ears, lips, and miscellaneous edible offal.....	22	22	21	23	30
Cheek meat.....	88	88	84	94	118
Brains.....	44	44	42	47	59
Tongues.....	166	166	157	176	224
Lard.....	110				
Pork sausage.....	80	80	76	85	112
Dried sausage (including cervelats and salamis).....	60	60	57	63.75	84
Luncheon meats (including pork loaf, headcheese, souse, and sandwich meat).....	76	76	72.20	81.75	106.40
Inedible offal.....	0	0	0	0	0

B. In the event that any taxpayer or person entitled to a refund establishes that any or all of the types of sausages, processed wholly or in chief value from hogs, on which a tax is imposed, or which may be the subject of a claim for refund, which are included in the above list, contain more or less pork, green weight, than represented by the listed conversion factor, then the conversion factor, for each pound of pork which said sausages are established to contain, shall be the following percentage of the per pound processing tax on hogs:

- If fresh meat, 80 percent.
- If cured, dry-salt meat, 80 percent.
- If cured, sweet-pickle meat, 76 percent.
- If smoked meat, 85 percent.
- If cooked, dried, or canned meat, 112 percent.¹⁰

C. The following table of conversion factors fixes the percentage of the per pound processing tax on hogs with respect to a pound of the following hog products sold directly to the consumer by the producer or feeder of the hogs:¹¹

ARTICLE	Conversion factor, percent
Dressed carcass.....	132
Lard.....	110
All fresh, frozen, in cure or barreled pork, dry-salt cured pork.....	132
All pickle-cured pork.....	125
All smoked pork.....	140
All cooked, dried, or canned pork.....	178

D. When any edible product for which no specific conversion factor is prescribed in these regulations (1) is wholly or partly of pork and is subject to the payment of a compensating tax or with respect to which a refund of tax is allowable upon exportation or with respect to which a credit or refund of tax is allowable by reason of the delivery thereof for charitable distribution or use, or (2) is wholly or in chief value of pork and is subject to the payment of a floor-stocks tax or with respect to which a credit or refund of tax upon floor stocks is allowable, such tax shall be paid or such credit or refund shall be allowed with respect to the said product on the amount of the pork content thereof, according to the conversion factor prescribed for each cut from which the pork contained in such product was derived.¹²

¹⁰ This paragraph is taken from Hog Regulations, Series 1, effective Nov. 5, 1933, except that the words "green weight" following the words "for each pound of pork" have been eliminated.

¹¹ The conversion factors in this table are taken from Hog Regulations, Series 1, Supp. 2, effective Jan. 9, 1934. The table is revised herein only to the extent that the words "directly to the consumer" (in italics) and "or feeder" (in italics) have been added.

¹² This paragraph replaces and supersedes the following paragraph contained in Hog Regulations, Series 1, effective Nov. 5, 1933:

"Edible products, wholly or in chief value of pork, for which no specific conversion factor is prescribed in these regulations, are not excluded from the payment of the compensating or floor-stocks taxes. They shall be subject, with respect to the amount of their pork content, to the conversion factor prescribed for the cut from which they are derived in whole or in chief part."

III. EXEMPTIONS

In my judgment, the imposition of the processing tax upon hogs processed by the producer thereof who sells directly to or exchanges directly with the consumer not more than three hundred (300) pounds of the products derived therefrom, during any marketing year, is unnecessary to effectuate the declared policy of the act. Accordingly, I do hereby exempt from the processing tax, hogs processed by the producer thereof who sells directly to or exchanges directly with the consumer not more than three hundred (300) pounds of the products derived therefrom, during any marketing year: Provided, however, That is the producer processes hogs produced by him and sells directly to or exchanges directly with the consumer during any marketing year, products derived therefrom in excess of three hundred (300) pounds, but does not sell or exchange in excess of one thousand (1,000) pounds, he shall be entitled to the foregoing exemption, but shall pay the processing tax on the excess above three hundred (300) pounds, restored to a live-weight basis by use of the conversion factors prescribed as provided herein in paragraphs C and D under the heading "II. Conversion Factors." Provided further, That if the producer processes hogs produced by him and sells or exchanges more than one thousand (1,000) pounds of the products derived therefrom, during any marketing year, he shall not be entitled to the foregoing exemption.¹³

When hogs are owned on a share basis, the foregoing exemption shall be apportioned between the joint owners thereof on the basis of their respective shares.¹⁴

When a producer has processed hogs produced by him and has sold, during the marketing year, products derived therefrom in excess of one thousand (1,000) pounds, and has failed to pay the processing tax on hogs for the month in which the said hogs were processed, due to a reliance on the foregoing exemption, then he shall be liable for the processing tax upon all of the hogs, live weight, theretofore processed, with respect to which no processing tax has been paid, as for the month in which the hog products sold exceeded one thousand (1,000) pounds, at the rate of tax in effect on the date of processing. To restore the hog products sold to a live-weight basis, the producer shall use the conversion factors prescribed as provided herein in paragraphs C and D under the heading "II. Conversion Factors."¹⁵

When the hogs are processed by the producer, it will not be necessary for the producer to furnish an affidavit, or witnessed statement, upon the processing of hogs for sale or exchange by him, of the hog products sold or exchanged, to the extent of the foregoing exemption and tolerance allowance, and/or upon the processing of hogs by or for the producer thereof for consumption by his own family, employees, or household, of the hogs slaughtered for that purpose, provided the producer keeps a written record showing: The date on which the hogs were slaughtered; the number of hogs slaughtered; the live weight of the hogs slaughtered (or where not practicable, an estimate of the live weight of the hogs and the basis used in arriving at this estimate); the hog products sold, the weight thereof, the price paid therefor, the date of the sale, and (where practicable) the name and address of the person to whom sold; the hog products consumed by his own family, employees, or household and the actual or estimated weight thereof; and the live weight of hogs processed by or for the producer thereof, his own family, employees, or

¹³ This paragraph supersedes the following paragraph contained in Hog Regulations, Series 1, Supplement 3, made effective as of Nov. 5, 1933:

"In my judgment, the imposition of the processing tax upon hogs processed by the producer thereof who, together with his own family, employees, or household, sells or exchanges not more than three hundred (300) pounds of the products derived therefrom, during any marketing year, is unnecessary to effectuate the declared policy of the act. Accordingly, I do hereby exempt from the processing tax, hogs processed by the producer thereof who, together with his own family, employees, or household, sells or exchanges not more than three hundred (300) pounds of the products derived therefrom, during any marketing year: Provided, however, That if the producer processes hogs produced by him and, together with his own family, employees, or household, sells or exchanges, during any marketing year, products derived therefrom in excess of three hundred (300) pounds, but not in excess of one thousand (1,000) pounds, he shall be entitled to the foregoing exemption, but shall pay the processing tax on the excess above three hundred (300) pounds, restored to a live-weight basis by use of the conversion factors prescribed in Hog Regulations, Series 1, Supplement 2: Provided further, That if the producer, together with his own family, employees, or household, processes hogs produced by him and sells or exchanges more than one thousand (1,000) pounds of the products derived therefrom, during any marketing year, he shall not be entitled to the foregoing exemption."

¹⁴ Hog Regulations, Series 1, Supplement 3, made effective as of Nov. 5, 1933.

¹⁵ This paragraph is taken from Hog Regulations, Series 1, Supplement 3, made effective as of Nov. 5, 1933, except that the words "processed", "processing", and "as provided herein in paragraphs C and D under the heading 'II. Conversion Factors'" (in italics) have been substituted for the words, respectively, "slaughter", "slaughter of the hogs", and "by Hog Regulations, Series 1, Supplement 2", contained in Hog Regulations, Series 1, Supplement 3.

household, together with the name and address of the processor thereof.¹⁸

The provisions of these regulations shall take effect as of November 1, 1934.

In testimony whereof, I have hereto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 29th day of October 1934.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

OCTOBER 29, 1934.

[Peanut Reg. Series 1, No. 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Peanut Regulations, Series 1, No. 1.) (Marketing year, rate of processing tax, definitions, and conversion factors with respect to peanuts.) Issued Sept. 25, 1934.]

PEANUT REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE, WITH THE APPROVAL OF THE PRESIDENT, UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for peanuts shall begin October 1, 1934.

I do hereby find, after investigation and due notice and opportunity for hearing to interested parties and due consideration having been given to all of the facts, that the rate of processing tax on the first domestic processing of peanuts as of October 1, 1934, which equals the difference between the current average farm price for peanuts and the fair exchange value of peanuts, which price and value both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture, will cause such reduction in the quantity of peanuts, or products thereof, domestically consumed as to result in the accumulation of surplus stocks of peanuts, or products thereof, or in the depression of the farm price of peanuts. I do hereby, accordingly, determine as of October 1, 1934, that the rate of the processing tax on the first domestic processing of peanuts shall be one (1) cent per pound, farmers' stock weight, which rate will prevent such accumulation of surplus stocks and depression of the farm price of peanuts.

I. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing of peanuts is the cleaning, polishing, grading, shelling, crushing, or other processing thereof.

Farmers' stock weight is the weight of peanuts in the shell, not including unattached foreign materials, which have been removed from the vine and are in that condition which is usual and customary when delivered by the grower.

Cleaned peanuts are peanuts in the shell which have been cleaned and which may or may not have been treated for obtaining uniformity of size and color.

Shelled peanuts are peanut kernels, either whole or split, from which the shells, but not the skins, have been removed.

Blanched peanuts are peanut kernels, either whole or split, from which the skins, or skins and seed germs, have been removed.

Salted peanuts are shelled peanuts which have been cooked and to which salt has been added.

Blanched salted peanuts are blanched peanuts which have been cooked and to which salt has been added.

Roasted shelled peanuts are shelled or blanched peanuts which have been roasted.

Roasted cleaned peanuts are cleaned peanuts which have been roasted.

Peanut butter is the product of grinding roasted shelled peanuts with salt.

Peanut confections and bakery goods are confections and bakery goods which contain peanuts or any peanut products as an ingredient.

II. CONVERSION FACTORS

I do hereby establish conversion factors for articles processed wholly, in chief value, or partly from peanuts to determine the amount of tax imposed or refunds to be made with respect thereto as follows:

¹⁸ This paragraph is taken from Hog Regulations, Series 1, Supplement 3, made effective as of Nov. 5, 1933, except that the words "by or for the producer thereof for consumption by his own family" (in italics) have been substituted for the words "for consumption by himself, his family", the words "by his own family" (in italics) have been substituted for the words "by himself, his family" and the words "or", "by or", "thereof", and "own" (in italics) have been added.

The following table of conversion factors fixes the percentage of the per pound processing tax on peanuts, farmers' stock weight, with respect to each pound of the following articles processed wholly, in chief value, or partly from peanuts:

Article	Conversion factors, per pound (percent)
Cleaned peanuts.....	105
Shelled peanuts.....	150
Blanched peanuts.....	172
Salted peanuts.....	148
Blanched salted peanuts.....	168
Roasted shelled peanuts.....	175
Roasted cleaned peanuts.....	116
Peanut butter.....	173

As to any article for which no conversion factor is assigned, I hereby establish (1) that if such article is made, directly or indirectly, in some part from another article for which a conversion factor is assigned, then as to each pound of the peanut content of such part the conversion factor shall be the conversion factor for such other article, and (2) that if such article is made, directly or indirectly, in some part from peanuts but not as to such part from another article for which a conversion factor is assigned, then as to such part the tax or refund shall be computed at the rate of the processing tax upon the basis of the amount of peanuts, farmers' stock weight, established to have been actually used in the production of such part.

In the event that the Commissioner of Internal Revenue, any taxpayer, or any person entitled to a refund establishes that any article processed from peanuts, with respect to which a tax is imposed, or which may be the subject of a claim for refund, which is included in the above list, contains more or less peanut content than represented by the listed conversion factor, then the amount of the tax or of the refund shall be computed at the rate of the processing tax upon the basis of the amount of peanuts, farmers' stock weight, established to have been actually used in the production of the article.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 24th day of September 1934.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
President of the United States.

SEPTEMBER 25, 1934.

[T. R. Series, No. 1. U. S. Department of Agriculture, Agricultural Adjustment Administration. (Tobacco Regulations, Series 1, No. 1.) Marketing year, rates of processing taxes, and conversion factors. Issued October 1934]

TOBACCO REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a revision of, and reprinting in combined form, Tobacco Regulations, Series 1, Tobacco Regulations, Series 2, and Tobacco Regulations, Series 2, Revision 1, and to the extent of such revision, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.¹⁷

I. MARKETING YEAR

I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for cigar-leaf, Maryland, burley, flue-cured, fire-cured, and dark air-cured tobacco shall begin October 1, 1933.¹⁸

¹⁷ The within regulations (Tobacco Regulations, Series 1, No. 1) partially revise Tobacco Regulations, Series 1, Tobacco Regulations, Series 2, and Tobacco Regulations, Series 2, Revision 1. For convenience, there are also reprinted herein all portions of the prior tobacco regulations which are now applicable, with references in the footnotes to the regulations from which they were taken and the dates they took effect. The footnotes show the superseded portions of the prior tobacco regulations, the dates such portions took effect, and the dates upon which they were superseded. All portions of these regulations which are written for the first time are written in italics.

¹⁸ The paragraph herein which prescribes the marketing year for all types of tobacco is a combination of the paragraphs performing that function in Tobacco Regulations, Series 1, and Tobacco Regulations, Series 2, both effective Oct. 1, 1933. T. R., Series 1, provides as follows:

"I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for cigar-leaf tobacco shall begin Oct. 1, 1933."

T. R., Series 2, provides as follows:

"I do hereby ascertain and prescribe that for the purposes of said act the first marketing year for Maryland, burley, flue-cured, fire-cured, and dark air-cured tobacco shall begin Oct. 1, 1933."

II. RATES OF TAX

A. Cigar-leaf tobacco: I do hereby find that the rate of tax as of October 1, 1933, which equals the difference between the current average farm price for cigar-leaf tobacco, farm sales weight, and the fair exchange value of cigar-leaf tobacco, farm sales weight, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture, will cause such reduction in the quantity of cigar-leaf tobacco, or products thereof, domestically consumed as to result in the accumulation of surplus stocks of cigar-leaf tobacco, or products thereof, or in the depression of the farm price of cigar-leaf tobacco. I do accordingly hereby determine, as of October 1, 1933, that the rate of the processing tax on the first domestic processing of cigar-leaf tobacco shall be 3 cents per pound, unsweated, farm sales weight, which rate will prevent such accumulation of surplus stocks and depression of the farm price of cigar-leaf tobacco. Whenever sweated cigar-leaf tobacco from which stem has not been removed is processed, the measure of tax to be paid by the processor in respect of each pound of such tobacco processed shall be 3.75 cents; whenever sweated cigar-leaf tobacco from which stem has been removed is processed, the measure of tax to be paid by the processor in respect of each pound of such tobacco processed shall be 5 cents; these amounts being in accordance with the respective weight relationships determined to exist between cigar-leaf tobacco in such States and the farm sales weight of unsweated cigar-leaf tobacco.¹⁹

B. Maryland tobacco: *In order to effectuate the declared policy of the act, I find it necessary to adjust the rate of the processing tax on Maryland tobacco to conform to such rate as will equal the difference between the current average farm price and the fair exchange value of Maryland tobacco as of October 1, 1934. I do accordingly determine as of October 1, 1934, that the processing tax on the first domestic processing of Maryland tobacco shall be at the rate of zero (0) cents per pound, farm sales weight, which rate equals the difference between the current average farm price for Maryland tobacco and the fair exchange value of Maryland tobacco, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture.*²⁰

C. Burley tobacco: *In order to effectuate the declared policy of the act, I find it necessary to adjust the rate of the processing tax on burley tobacco to conform to such rate as will equal the difference between the current average farm price and the fair exchange value of burley tobacco as of October 1, 1934. I do accordingly determine, as of October 1, 1934, that the processing tax on the first domestic processing of burley tobacco shall be at the rate of six and one-tenth (6.1) cents per pound, farm sales weight, which rate equals the difference between the current average farm price for burley tobacco and the fair exchange value of burley tobacco, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture. Whenever burley tobacco in processing order from which stem has not been removed is processed, the measure of tax shall be seven (7) cents per pound of such tobacco; whenever burley tobacco in processing order from which stem has been removed is processed, the measure of tax shall be nine and five-tenths (9.5) cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between burley tobacco in such States and the farm sales weight of burley tobacco.*²¹

¹⁹ This paragraph is taken from Tobacco Regulations, series 1, effective Oct. 1, 1933, except that the heading "A. Cigar-leaf tobacco" has been added herein.

²⁰ This paragraph is taken from the first sentence of the paragraph in Tobacco Regulations, series 2, effective Oct. 1, 1933, which fixes the rate of the tax on Maryland tobacco; however, the words "B. Maryland tobacco—in order to effectuate the declared policy of the act, I find it necessary to adjust the rate of the processing tax on Maryland tobacco to conform to such rate as will equal the difference between the current average farm price and the fair exchange value of Maryland tobacco as of Oct. 1, 1934. I do accordingly determine as of Oct. 1, 1934, that" (in italics) have been substituted for the words "A. That"; the word and figure zero (0)" (in italics) have been substituted for the words and figures "one and seven-tenths (1.7)." The second sentence of the paragraph in Tobacco Regulations, series 2, effective Oct. 1, 1933, which fixes the rate of tax on Maryland tobacco, is entirely superseded by these Regulations and is therefore omitted.

²¹ This paragraph is taken from the paragraph in Tobacco Regulations, Series 2, effective Oct. 1, 1933, which fixes the rate of the tax on burley tobacco; however, the words "C. Burley tobacco: In order to effectuate the declared policy of the act, I find it necessary to adjust the rate of the processing tax on burley tobacco to conform to such rate as will equal the difference between the current average farm price and the fair exchange value of burley tobacco as of Oct. 1, 1934. I do accordingly determine, as of Oct. 1, 1934, that" (in italics) have been substituted for the words "B. That"; the words and figures "six and one-tenth (6.1)" (in italics) have been substituted for the word and figure "two (2)"; the word and figure "seven (7)" (in italics) have been substituted for the words and figures "two and three-tenths (2.3)"; and the words and figures "nine and five-tenths (9.5)" (in italics) have been substituted for the words and figures "three and one-tenth (3.1)"; to the extent of the changes mentioned, the paragraph of T. R., Series 2, above referred to, is superseded.

I do hereby find, as of October 1, 1934, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, that in the first domestic processing of burley tobacco the rate of processing tax as hereinabove determined will cause such reduction in the quantity of burley tobacco, manufactured into plug chewing tobacco and twist, domestically consumed, as to result in the accumulation of surplus stocks of burley tobacco, or of plug chewing tobacco and twist produced therefrom, or in the depression of the farm price of burley tobacco. I do hereby, accordingly, determine, as of October 1, 1934, that the processing tax on the first domestic processing of burley tobacco used in the manufacture of plug chewing tobacco and twist shall be at the rate of four and one-tenth (4.1) cents per pound, farm sales weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of burley tobacco, plug chewing tobacco and twist produced therefrom, and the depression of the farm price of burley tobacco; whenever burley tobacco in processing order, from which stem has not been removed, is processed in the manufacture of plug chewing tobacco or twist, the measure of tax shall be four and seven-tenths (4.7) cents per pound of such tobacco; whenever burley tobacco in processing order, from which stem has been removed, is processed in the manufacture of plug chewing tobacco or twist, the measure of tax shall be six and four-tenths (6.4) cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between burley tobacco in such States and the farm sales weight of burley tobacco.²²

D. Flue-cured tobacco: I do hereby determine as of October 1, 1933, that the processing tax on the first domestic processing of flue-cured tobacco shall be at the rate of 4.2 cents per pound, farm sales weight, which rate equals the difference between the current average farm price for flue-cured tobacco and the fair exchange value of flue-cured tobacco, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture. Whenever flue-cured tobacco in processing order from which stem has not been removed is processed, the measure of tax shall be 4.7 cents per pound of such tobacco; whenever flue-cured tobacco in processing order from which stem has been removed is processed, the measure of tax shall be 6.1 cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between flue-cured tobacco in such States and the farm sales weight of flue-cured tobacco.²³

I do hereby find as of August 1, 1934, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, that in the first domestic processing of flue-cured tobacco the rate of processing tax, as determined by the Secretary of Agriculture, with the approval of the President, in Tobacco Regulations, series 2, paragraph C, is causing and will cause such reduction in the quantity of flue-cured tobacco, manufactured into plug chewing tobacco and twist, domestically consumed, as to result in the accumulation of surplus stocks of flue-cured tobacco, or of plug chewing tobacco and twist produced therefrom, or in the depression of the farm price of flue-cured tobacco. I do hereby, accordingly, determine, as of August 1, 1934, that the processing tax on the first domestic processing of flue-cured tobacco used in the manufacture of plug chewing tobacco and twist, shall be at the rate of 3.3 cents per pound, farm sales weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of flue-cured tobacco, plug chewing tobacco and twist produced therefrom, and the depression of the farm price of flue-cured tobacco; whenever flue-cured tobacco in processing order from which stem has not been removed, is processed in the manufacture of plug chewing tobacco or twist, the measure of tax shall be 3.7 cents per pound of such tobacco; whenever flue-cured tobacco in processing order from which stem has been removed, is processed in the manufacture of plug chewing tobacco or twist, the measure of tax shall be 4.8 cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between flue-cured tobacco in such states and the farm sales weight of flue-cured tobacco.²⁴

E. Fire-cured tobacco: I do hereby determine as of October 1, 1933, that the processing tax on the first domestic processing of fire-cured tobacco shall be at the rate of two and nine-tenths (2.9) cents per pound, farm sales weight, which rate equals the difference between the current average farm price for fire-cured tobacco and the fair exchange value of fire-cured tobacco, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture. Whenever fire-cured tobacco in processing order from which stem has not been removed is processed, the measure of tax shall be three and two-tenths (3.2) cents per pound of such tobacco; whenever fire-cured tobacco in processing order from which stem has been removed is processed, the measure of tax shall be four and one-tenth (4.1) cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships.

²² The terms of this paragraph are new.

²³ This paragraph is taken from Tobacco Regulations, Series 2, effective Oct. 1, 1933, except that the heading "D. Flue-Cured Tobacco" and the words "I do hereby determine as of Oct. 1, 1933, that" (in italics) have been substituted for the words "C. That."

²⁴ The contents of this paragraph have been taken, verbatim, from Tobacco Regulations, Series 2, Revision 1, effective Aug. 1, 1934.

ships determined to exist between fire-cured tobacco in such States and the farm sales weight of fire-cured tobacco.²⁵

F. Dark air-cured tobacco: *I do hereby determine as of October 1, 1933, that the processing tax on the first domestic processing of dark air-cured tobacco shall be at the rate of three and three-tenths (3.3) cents per pound, farm sales weight, which rate equals the difference between the current average farm price for dark air-cured tobacco and the fair exchange value of dark air-cured tobacco, which price and value, both as defined in said act, have been ascertained by me from available statistics of the Department of Agriculture. Whenever dark air-cured tobacco in processing order from which stem has not been removed is processed, the measure of tax shall be three and eight tenths (3.8) cents per pound of such tobacco; whenever dark air-cured tobacco in processing order from which stem has been removed is processed, the measure of tax shall be five and one-tenth (5.1) cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between dark air-cured tobacco in such States and the farm sales weight of dark air-cured tobacco.*²⁶

III. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing.—The first domestic processing of cigar-leaf tobacco is the fabricating of the product to be used by the consumer. The acts of stemming, sweating or fermenting and conditioning shall not be deemed processing.²⁷

(a) In the case of cigars, stogies, cheroots or small cigars, it is the fabricating of cigar-leaf tobacco into the form to which no tobacco is added and from which no tobacco is subtracted; all scrap, cuttings and clippings not left in such products shall be deemed not to have been processed.²⁷

(b) In the case of a scrap chewing and/or smoking tobacco, it is the preparing of any form of cigar-leaf tobacco for consumption as scrap chewing and/or smoking tobacco.²⁷

The first domestic processing of Maryland, burley, flue-cured, fire-cured, or dark air-cured tobacco is the fabricating of the product to be used by the consumer. In the case of cigarettes, smoking tobacco, chewing tobacco, and snuff, it is the fabricating of any one or more of the above kinds of tobacco into the articles to be consumed.²⁸

Cigar-leaf tobacco: *Cigar-leaf tobacco is leaf tobacco, classified in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements No. 118, in classes 4, 5, 6, and 8, and any tobacco of other grades or types of leaf tobacco (including, but not limited to, Maryland, burley, flue-cured, fire-cured and dark air-cured tobacco), used in the manufacture or fabrication of cigars, stogies, cheroots, small cigars, scrap chewing tobacco and/or scrap smoking tobacco.*²⁹

Maryland: Maryland tobacco is the kind of air-cured tobacco classified as type 32 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements No. 118, *except such tobacco so classified as is specifically included in the above definition of cigar-leaf tobacco.* It shall be deemed to include also all the other domestic light air-cured tobacco excepting burley when processed in the manufacture of cigarettes, smoking tobacco, chewing tobacco, and/or snuff.³⁰

Burley: Burley tobacco is the kind of air-cured tobacco classified as type 31, in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements No. 118, *except such tobacco so classified as is specifically included in the above definition of cigar-leaf tobacco.*³⁰

²⁵ This paragraph is taken from Tobacco Regulations, Series 2, effective Oct. 1, 1933, except that the heading "E. Fire-cured tobacco" and the words "I do hereby determine as of Oct. 1, 1933, that" (in italics) have been substituted for the words "D. That."

²⁶ This paragraph is taken from Tobacco Regulations, Series 2, effective Oct. 1, 1933, except that the heading "F. Dark air-cured tobacco" and the words "I do hereby determine as of Oct. 1, 1933, that" (in italics) have been substituted for the words "E. That."

²⁷ Tobacco Regulations, Series 1, effective Oct. 1, 1933.

²⁸ Tobacco Regulations, Series 2, effective Oct. 1, 1933.

²⁹ The definition herein of "Cigar-Leaf Tobacco" is a combination and rewording of the definitions of "Cigar-Leaf Tobacco" contained in Tobacco Regulations, Series 1, and Tobacco Regulations, Series 2, both effective Oct. 1, 1933, superseding both of the definitions. The definition in T. R. Series 1 read as follows:

"Cigar-leaf tobacco: Cigar-leaf tobacco is leaf tobacco, classified in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements No. 118 in classes 4, 5, 6, and 8; and other types and/or grades of leaf tobacco, when used in the fabrication of cigars, stogies, cheroots, small cigars, or scrap chewing and/or smoking tobacco."

The definition in T. R. Series 2 read as follows:

"Cigar-leaf tobacco: When any of the above kinds of tobacco is used in the manufacture of cigars, stogies, cheroots, small cigars, or scrap chewing and/or smoking tobacco, that part so used shall be deemed not to be included in the above commodities. Such tobacco when so used is defined as cigar-leaf tobacco by Tobacco Regulations, Series 1."

³⁰ From Tobacco Regulations, Series 2, effective Oct. 1, 1933, except that the words "except such tobacco so classified as is specifically included in the above definition of cigar-leaf tobacco" (in italics) have been added.

Flue-cured: Flue-cured tobacco is the kind of tobacco classified as types 11, 12, 13, 14, and 90 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements No. 118, *except such tobacco so classified as is specifically included in the above definition of cigar-leaf tobacco.* It shall be deemed to include also all other flue-cured tobacco when processed in the manufacture of cigarettes, smoking tobacco, chewing tobacco, and/or snuff.³⁰

Fire-cured: Fire-cured tobacco is the kind of tobacco classified as types 21, 22, 23, and 24 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements No. 118, *except such tobacco so classified as is specifically included in the above definition of cigar-leaf tobacco.* It shall be deemed to include also all other domestic fire-cured tobacco when processed in the manufacture of cigarettes, smoking tobacco, chewing tobacco, and/or snuff.³⁰

Dark air-cured: Dark air-cured tobacco is the kind of tobacco classified as types 35, 36, and 37 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements No. 118, *except such tobacco so classified as is specifically included in the above definition of cigar-leaf tobacco.* It shall be deemed to include also all other domestic dark air-cured tobacco when processed in the manufacture of cigarettes, smoking tobacco, chewing tobacco, and/or snuff.³⁰

Processing order: Processing order is the State of Maryland, burley, flue-cured, fire-cured, and/or dark air-cured tobacco at the time of processing thereof.³¹

Cigarettes: Cigarettes are rolls of tobacco wrapped in paper.³¹

Snuff: Snuff is tobacco that has been cut, ground, or pulverized into small particles for use in sniffing, dipping, or chewing.³¹

Smoking tobacco: Smoking tobacco is tobacco of different kinds prepared for use principally for smoking purposes.³¹

(a) Granulated smoking tobacco: Granulated smoking tobacco is tobacco that is cut, threshed or broken into small particles suitable particularly for pipe smoking or hand-rolled cigarettes.³¹

(b) Other smoking tobacco: Other smoking tobacco is tobacco not granulated which is prepared for use principally for pipe smoking.³¹

Chewing tobacco: Chewing tobacco is tobacco of different kinds prepared for use principally for chewing purposes.³¹

(a) Plug chewing tobacco: Plug chewing tobacco is chewing tobacco manufactured and pressed into flat cakes.³²

(b) Twist: Twist is the type of chewing tobacco manufactured in the form of a twist.³²

(c) Other chewing tobacco: Other chewing tobacco is tobacco prepared for use principally for chewing.³²

Leaf tobacco: Leaf tobacco is tobacco in the forms in which it appears between the time it is stripped from the stalk, or primed and cured, and the time it enters into a manufacturing process.³³

Leaf tobacco from which stem has not been removed:

Unstemmed: Unstemmed leaf tobacco is leaf tobacco from which stem or mid-rib has not been removed, including both whole leaf and leaf-scrap.³⁵

Leaf-scrap: Leaf-scrap is leaf tobacco consisting of loose and tangled whole and/or broken leaves.³⁵

Leaf tobacco from which stem has been removed:

Stemmed or strips: Stemmed or strips are leaf tobacco from which stem or mid-rib has been removed.³⁶

Strip-scrap: Strip-scrap is leaf tobacco consisting of loose and tangled portions of stemmed or strips.³⁶

Shredded filler: Shredded filler is leaf tobacco commonly known as such and usually consisting of strip scrap of two or more types of tobacco.³⁷

Cuttings: Cuttings are portions of cigar wrapper and/or cigar binder strips.³⁷

Clippings: Clippings are small portions of strips, frequently including small portions of wrapper, binder, and filler strips.³⁷

By-products:

Siftings: Siftings are particles of leaf tobacco salvaged from the residue of tobacco after processing.³⁸

³¹ Tobacco Regulations, Series 2, Oct. 1, 1933.

³² The definition herein of "plug chewing tobacco" is taken from Tobacco Regulations, Series 2, revision 1, effective Aug. 1, 1934. This definition superseded the definition in Tobacco Regulations, Series 2, effective Oct. 1, 1933, which read as follows: "Plug tobacco is tobacco which is manufactured and pressed into flat cakes."

³³ Tobacco Regulations, Series 2, revision 1, effective Aug. 1, 1934.

³⁴ Tobacco Regulations, Series 2, effective Oct. 1, 1933. The same definition appears in Tobacco Regulations, Series 1, effective Oct. 1, 1933.

³⁵ Tobacco Regulations, Series 2, effective Oct. 1, 1933. Similar definitions for "cigar-leaf tobacco from which stem has not been removed" appear in Tobacco Regulations, Series 1, but, in view of the above definitions, need not be reprinted herein.

³⁶ Tobacco Regulations, Series 2, effective Oct. 1, 1933. Similar definitions for "cigar-leaf tobacco from which stem has been removed" appear in Tobacco Regulations, Series 1, but, in view of the above definitions, need not be reprinted herein.

³⁷ Tobacco Regulations, Series 1, effective Oct. 1, 1933. These definitions, as originally issued, appear under the heading "Cigar-leaf tobacco from which stem has been removed", which heading it has not been considered necessary to reprint herein.

³⁸ Tobacco Regulations, Series 2, effective Oct. 1, 1933. The same definitions appear in Tobacco Regulations, Series 1, effective Oct. 1, 1933.

Dust: Dust is the residue of tobacco resulting from processing after siftings have been salvaged.³⁸

Sweating: Sweating is the handling of leaf tobacco as it passes through one or more fermentations.³⁹

Order: Order is the state of tobacco with respect to its moisture content.³⁸

Sweated: Sweated is the condition of cigar-leaf tobacco which has passed through one or more seasonal fermentations or which has reached a corresponding degree of fermentation.⁴⁰

Fermenting: See Sweating.⁴⁰

Conditioning: Conditioning is the preparing of cigar-leaf tobacco for storage.⁴⁰

Unsweeted: Unsweeted is the condition of unfermented cigar-leaf tobacco.⁴⁰

Cigars, stogies, cheroots: Cigars, stogies, and cheroots are rolls of tobacco wrapped with tobacco.⁴⁰

Small cigars: Small cigars are cigars weighing not more than 3 pounds per 1,000.⁴⁰

Farm sales weight: The farm sales weight of leaf tobacco is the weight of leaf tobacco in its unstemmed form and in the order it is usually delivered by the grower.⁴¹

IV. CONVERSION FACTORS

A.⁴² I do hereby establish the following conversion factors for articles processed from cigar-leaf tobacco to determine the amount of tax imposed or refunds to be made with respect thereto.

The following table of conversion factors fixes the percentage of the per pound processing tax on cigar-leaf tobacco with respect to a pound of the following articles processed wholly, partly, or in chief value from cigar-leaf tobacco:

	Percent
Cigars, stogies, cheroots, small cigars.....	167
Scrap chewing and/or smoking tobacco.....	110
Siftings and/or dust.....	0

In the computation of the weight of cigars, stogies, cheroots, or small cigars for the purposes of the application of the above table of conversion factors, in order to compute the tax adjustment on floor stocks, 1,000 cigars, stogies, or cheroots shall be deemed to weigh 17½ pounds, if the taxpayer so elects, and 1,000 small cigars shall be deemed to weigh 2.75 pounds, if the taxpayer so elects.

B.⁴³ I do hereby establish the following conversion factors for articles processed from Maryland, burley, flue-cured, fire-cured, and/or dark air-cured tobacco to determine the amount of tax imposed or refunds to be made with respect thereto, except taxes and refunds on floor stocks:

Article	Unit	Conversion factor
Cigarettes.....	1,000	183 percent of the per pound processing tax on flue-cured tobacco, plus 122 percent of the per pound processing tax on burley tobacco, plus 3 percent of the per pound processing tax on Maryland tobacco.
Smoking tobacco: (1) Granulated smoking tobacco.	Pound	88 percent of the per pound processing tax on flue-cured tobacco, plus 29 percent of the per pound processing tax on burley tobacco.
(2) Smoking tobacco other than granulated.	---do---	59 percent of the per pound processing tax on burley tobacco, plus 7 percent of the per pound processing tax on dark air-cured tobacco, plus 6 percent of the per pound processing tax on flue-cured tobacco, plus 1 percent of the per pound processing tax on fire-cured tobacco.
Chewing tobacco: (1) Plug chewing tobacco.....	---do---	45 percent of the per pound processing tax on burley tobacco used in the manufacture of plug chewing tobacco and twist, plus 33 percent of the per pound processing tax on flue-cured tobacco used in the manufacture of plug chewing tobacco and twist, plus 21 percent of the per pound processing tax on dark air-cured tobacco.

³⁸ Tobacco Regulations, Series 2, effective Oct. 1, 1933. The same definitions appear in Tobacco Regulations, Series 1, effective Oct. 1, 1933.

³⁹ Tobacco Regulations, Series 2, effective Oct. 1, 1933. The same definition appears in Tobacco Regulations, Series 1, effective Oct. 1, 1933, except that in T. R., Series 1, the word "cigar-leaf" appears where the word "leaf" appears herein.

⁴⁰ Tobacco Regulations, Series 1, effective Oct. 1, 1933.

⁴¹ Tobacco Regulations, Series 2, effective Oct. 1, 1933. A similar definition of "Farm Sales Weight", appearing in Tobacco Regulations, Series 1, effective Oct. 1, 1933, which it is not considered necessary to reprint herein, reads as follows:

"Farm sales weight: The farm sales weight of cigar-leaf tobacco is the weight of such tobacco in its unstemmed form, unsweated and in the order in which it is usually delivered by the grower."

⁴² The portion within the designation "A", under the heading "Conversion factors", is taken, verbatim, from Tobacco Regulations, Series 1, effective Oct. 1, 1933, except that the word "partly" (in italics) has been added herein.

⁴³ The portion within the designation "B", under the heading "Conversion Factors" is new herein.

Article	Unit	Conversion factor
Chewing tobacco—Cont. (2) Twist chewing tobacco.....	Pound	70 percent of the per pound processing tax on dark air-cured tobacco, plus 61 percent of the per pound processing tax on burley tobacco used in the manufacture of plug chewing tobacco and twist, plus 5 percent of the per pound processing tax on fire-cured tobacco.
(3) Other chewing tobacco.....	---do---	50 percent of the per pound processing tax on burley tobacco, plus 23 percent of the per pound processing tax on dark air-cured tobacco, plus 10 percent of the per pound processing tax on fire-cured tobacco.
Snuff.....	---do---	102 percent of the per pound processing tax on fire-cured tobacco, plus 5 percent of the per pound processing tax on dark air-cured tobacco, plus 1 percent of the per pound processing tax on burley tobacco.
Siftings and dust.....	---do---	0

In any event that any taxpayer, the Commissioner of Internal Revenue, or any person entitled to a refund establishes that any article processed wholly or partly from Maryland, burley, flue-cured, fire-cured, and/or dark air-cured tobacco on which a tax is imposed (other than a tax on floor stocks), or which may be the subject of a claim for refund (other than a refund on floor stocks), which is included in the above list is processed wholly or partly from a kind or kinds of tobacco other than those listed above for such article, or contains more or less of the kinds of tobacco so listed than represented by the listed conversion factors, the conversion factor shall be:

(a) One hundred and forty-four percent of the per pound processing tax on Maryland tobacco for each pound of Maryland tobacco said article is established to contain, plus

(b) One hundred and fifty-five percent of the per pound processing tax applicable to the burley tobacco used in the manufacture of said product for each pound of burley tobacco said article is established to contain, plus

(c) One hundred and forty-five percent of the per pound processing tax applicable to the flue-cured tobacco used in the manufacture of the said product for each pound of flue-cured tobacco said article is established to contain, plus

(d) One hundred and forty-three percent of the per pound processing tax on fire-cured tobacco for each pound of fire-cured tobacco said article is established to contain, plus

(e) One hundred and fifty-six percent of the per pound processing tax on dark air-cured tobacco for each pound of dark air-cured tobacco said article is established to contain.

C.⁴⁴ I do hereby establish the following conversion factors for articles processed from Maryland, burley, flue-cured, fire-cured, and/or dark air-cured tobacco to determine the amount of tax imposed on floor stocks or refunds to be made with respect to floor stocks:

Article	Unit	Conversion factor
Cigarettes.....	1,000	183 percent of the per pound processing tax on flue-cured tobacco.
Smoking tobacco: (1) Granulated smoking tobacco.	Pound	88 percent of the per pound processing tax on flue-cured tobacco.
(2) Smoking tobacco other than granulated.	---do---	59 percent of the per pound processing tax on burley tobacco.
Chewing tobacco: (1) Plug chewing tobacco.....	---do---	45 percent of the per pound processing tax on burley tobacco used in the manufacture of plug chewing tobacco and twist.
(2) Twist chewing tobacco.....	---do---	70 percent of the per pound processing tax on dark air-cured tobacco.
(3) Other chewing tobacco.....	---do---	50 percent of the per pound processing tax on burley tobacco.
Snuff.....	---do---	102 percent of the per pound processing tax on fire-cured tobacco.
Siftings and dust.....	---do---	0.

"The portion within the designation "C", under the heading "Conversion Factors" is taken verbatim from Tobacco Regulations, Series 2, effective Oct. 1, 1933, with the exception of the following additions and substitutions (appearing in italics): The words "on floor stocks" wherever they appear to have been added; the words "to floor stocks", have been substituted for the word "thereto"; the words "the Commissioner of Internal Revenue" have been added; in the table, the words and figures "(2) twist chewing tobacco: Pound: 70 percent of the per pound processing tax on dark air-cured tobacco", and "(3) Other chewing tobacco: Pound: 50 percent of the per pound processing tax on burley tobacco." have been substituted for "(2) chewing tobacco other than plug: Pound: 81 percent of the per pound processing tax on dark air-cured tobacco"; in the conversion factor for plug chewing tobacco the words "used in the manufacture of plug chewing tobacco and twist" have been added; in subdivisions (b) and (c) the words "applicable to the" have been substituted for the word "on" and the words "used in the manufacture of said product" have been added.

In the event that any taxpayer, *the Commissioner of Internal Revenue*, or any person entitled to a refund establishes that any article processed wholly or in chief value from Maryland, burley, flue-cured, fire-cured, or dark air-cured tobacco, on which a tax on floor stocks is imposed or which may be the subject of a claim for refund on floor stocks, which is included in the above list is processed wholly or in chief value from a kind of tobacco other than that listed above for such article, or contains more or less of the kind of tobacco so listed than represented by the listed conversion factor, the conversion factor for such article shall be:

(a) If processed wholly or in chief value from Maryland tobacco, 144 percent of the per pound processing tax on Maryland tobacco for each pound of Maryland tobacco said article is established to contain.

(b) If processed wholly or in chief value from burley tobacco, 155 percent of the per pound processing tax applicable to the burley tobacco used in the manufacture of said product for each pound of burley tobacco said article is established to contain.

(c) If processed wholly or in chief value from flue-cured tobacco, 145 percent of the per pound processing tax applicable to the flue-cured tobacco used in the manufacture of the said product for each pound of flue-cured tobacco which said article is established to contain.

(d) If processed wholly or in chief value from fire-cured tobacco, 143 percent of the per pound processing tax on fire-cured tobacco for each pound of fire-cured tobacco which said article is established to contain.

(e) If processed wholly or in chief value from dark air-cured tobacco, 156 percent of the per pound processing tax on dark air-cured tobacco for each pound of dark air-cured tobacco which said article is established to contain.⁴⁵

The provisions of these regulations shall take effect as of October 1, 1934.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 26th day of September 1934.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

SEPTEMBER 27, 1934.

[T. R. Series 1, No. 2. United States Department of Agriculture, Agricultural Adjustment Administration, Washington, D. C. (Tobacco Regulations, Series 1, No. 2.) Rates of processing taxes, with respect to the processing of cigar-leaf tobacco used in the manufacture of scrap chewing and/or smoking tobacco; burley, flue-cured, fire-cured, and dark air-cured tobacco used in the manufacture of chewing tobacco; and definition and conversion factors. Issued Jan. 19, 1935]

REVISION OF TOBACCO REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a revision and supplementation of Tobacco Regulations, Series 1, No. 1, and to the extent of such revision and supplementation, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

RATES OF TAX

A. Cigar-leaf tobacco: In lieu of and in revision of the last sentence of the first paragraph contained in Tobacco Regulations, Series 1, No. 1, under the heading "II Rates of Tax", which sentence fixes the measures of tax for sweated cigar-leaf tobacco, I do hereby establish the following measures of tax for sweated cigar-leaf tobacco, to be effective on and after February 1, 1935:

"Whenever sweated cigar-leaf tobacco from which stem has not been removed is processed the measure of tax to be paid by the processor in respect of each pound of such tobacco processed shall be 3.75 cents, except that when the cigar-leaf tobacco so processed is of the kind classified in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements, No. 118, as fire-cured tobacco, the measure of tax shall be 3.25 cents; whenever sweated cigar-leaf tobacco from which stem has been removed is processed, the measure of tax to be paid by the processor in respect of each pound of such tobacco processed shall be 5 cents, except that when the cigar-leaf tobacco so processed is of the kind classified in the United States Department of Agriculture, Bureau of Agri-

⁴⁵ The words "for each pound of dark air-cured tobacco" (in italics) were erroneously omitted in the paragraph of Tobacco Regulations, Series 2, from which this paragraph is taken. To the extent of the added words Tobacco Regulations, Series 2, are superseded.

cultural Economics, Service and Regulatory Announcements, No. 118, as fire-cured tobacco, the measure of tax shall be 4.3 cents. The above amounts are in accordance with the respective weight relationships determined to exist between cigar-leaf tobacco in such States and the farm sales weight of unsweated cigar-leaf tobacco.

I do hereby find, as of February 1, 1935, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, that the processing tax at the rate determined by the Secretary of Agriculture as of October 1, 1933, to equal the difference between the current average farm price and the fair-exchange value of cigar-leaf tobacco, on the processing of cigar-leaf tobacco manufactured into scrap chewing and/or smoking tobacco, will cause such reduction in the quantity of cigar-leaf tobacco manufactured into scrap chewing and/or smoking tobacco, domestically consumed, as to result in the accumulation of surplus stocks of cigar-leaf tobacco, or of scrap chewing and/or smoking tobacco produced therefrom, or in the depression of the farm price of cigar-leaf tobacco. I do hereby, accordingly, determine, as of February 1, 1935, that the processing tax on the first domestic processing of cigar-leaf tobacco used in the manufacture of scrap chewing and/or smoking tobacco shall be at the rate of 2 cents per pound, unsweated, farm sales weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of cigar-leaf tobacco, scrap chewing and/or smoking tobacco produced therefrom, and depression of the farm price of cigar-leaf tobacco. Whenever sweated cigar-leaf tobacco from which stem has not been removed is processed in the manufacture of scrap chewing and/or smoking tobacco, the measure of tax to be paid by the processor in respect of each pound of such tobacco processed shall be 2.5 cents; whenever sweated cigar-leaf tobacco from which stem has been removed is processed in the manufacture of scrap chewing and/or smoking tobacco, the measure of tax to be paid by the processor in respect of each pound of such tobacco processed shall be 3.3 cents; these amounts being in accordance with the respective weight relationships determined to exist between cigar-leaf tobacco in such States and the farm-sales weight of unsweated cigar-leaf tobacco.

B. Burley tobacco: I do hereby find, as of February 1, 1935, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, that the processing tax at the rate determined by the Secretary of Agriculture as of October 1, 1934, to equal the difference between the current average farm price and the fair exchange value of burley tobacco, on the processing of burley tobacco manufactured into chewing tobacco, will cause such reduction in the quantity of burley tobacco manufactured into chewing tobacco, domestically consumed, as to result in the accumulation of surplus stocks of burley tobacco, or of chewing tobacco produced therefrom, or in the depression of the farm price of burley tobacco. I do hereby, accordingly, determine, as of February 1, 1935, that the processing tax on the first domestic processing of burley tobacco used in the manufacture of chewing tobacco shall be at the rate of 2.5 cents per pound, farm sales weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of burley tobacco, chewing tobacco produced therefrom, and depression of the farm price of burley tobacco; whenever burley tobacco in processing order, from which stem has not been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be 2.9 cents per pound of such tobacco; whenever burley tobacco in processing order, from which stem has been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be 3.9 cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between burley tobacco in such States and the farm sales weight of burley tobacco.

C. Flue-cured tobacco: I do hereby find, as of February 1, 1935, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, that the processing tax at the rate determined by the Secretary of Agriculture as of October 1, 1933, to equal the difference between the current average farm price and the fair exchange value of flue-cured tobacco, on the processing of flue-cured tobacco manufactured into chewing tobacco, will cause such reduction in the quantity of flue-cured tobacco manufactured into chewing tobacco, domestically consumed, as to result in the accumulation of surplus stocks of flue-cured tobacco, or of chewing tobacco produced therefrom, or in the depression of the farm price of flue-cured tobacco. I do hereby, accordingly, determine, as of February 1, 1935, that the processing tax on the first domestic processing of flue-cured tobacco used in the manufacture of chewing tobacco shall be at the rate of 2 cents per pound, farm sales weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of flue-cured tobacco, chewing tobacco produced therefrom, and depression of the farm price of flue-cured tobacco; whenever flue-cured tobacco in processing order, from which stem has not been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be 2.3 cents per pound of such tobacco; whenever flue-cured tobacco in processing order, from which stem has been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be 2.9 cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to

exist between flue-cured tobacco in such States and the farm sales weight of flue-cured tobacco.

D. Fire-cured tobacco: I do hereby find, as of February 1, 1935, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, that the processing tax at the rate determined by the Secretary of Agriculture as of October 1, 1933, to equal the difference between the current average farm price and the fair exchange value of fire-cured tobacco, on the processing of fire-cured tobacco manufactured into chewing tobacco, will cause such reduction in the quantity of fire-cured tobacco manufactured into chewing tobacco, domestically consumed, as to result in the accumulation of surplus stocks of fire-cured tobacco, or of chewing tobacco produced therefrom, or in the depression of the farm price of fire-cured tobacco. I do hereby, accordingly, determine, as of February 1, 1935, that the processing tax on the first domestic processing of fire-cured tobacco used in the manufacture of chewing tobacco shall be at the rate of 2 cents per pound, farm sales weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of fire-cured tobacco, chewing tobacco produced therefrom, and depression of the farm price of fire-cured tobacco; whenever fire-cured tobacco in processing order, from which stem has not been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be 2.2 cents per pound of such tobacco; whenever fire-cured tobacco in processing order, from which stem has been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be 2.9 cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between fire-cured tobacco in such States and the farm sales weight of fire-cured tobacco.

E. Dark air-cured tobacco: I do hereby find, as of February 1, 1935, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, that the processing tax at the rate determined by the Secretary of Agriculture as of October 1, 1933, to equal the difference between the current average farm price and the fair exchange value of dark air-cured tobacco, on the processing of dark air-cured tobacco manufactured into chewing tobacco, will cause such reduction in the quantity of dark air-cured tobacco manufactured into chewing tobacco, domestically consumed, as to result in the accumulation of surplus stocks of dark air-cured tobacco, or of chewing tobacco produced therefrom, or in the depression of the farm price of dark air-cured tobacco. I do hereby, accordingly, determine, as of February 1, 1935, that the processing tax on the first domestic processing of dark air-cured tobacco used in the manufacture of chewing tobacco shall be at the rate of two (2) cents per pound, farm sales weight, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of dark air-cured tobacco, chewing tobacco produced therefrom, and depression of the farm price of dark air-cured tobacco; whenever dark air-cured tobacco in processing order, from which stem has not been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be two and three-tenths (2.3) cents per pound of such tobacco; whenever dark air-cured tobacco in processing order, from which stem has been removed, is processed in the manufacture of chewing tobacco, the measure of tax shall be three and one-tenth (3.1) cents per pound of such tobacco; these amounts being in accordance with the respective weight relationships determined to exist between dark air-cured tobacco in such states and the farm sales weight of dark air-cured tobacco.

DEFINITION

Scrap chewing and/or smoking tobacco: Scrap chewing and/or smoking tobacco is tobacco prepared for chewing or smoking purposes from scraps, cuttings, or clippings resulting from the manufacture of cigars, or from tobacco leaves primarily of the types classified in classes 4, 5, 6, and 8 in the United States Bureau of Agricultural Economics, Service and Regulatory Announcements, No. 118, cut or broken into small pieces but not shredded or granulated, to which flavoring or sweetening may or may not have been added.

CONVERSION FACTORS

A. I do hereby establish the following conversion factor for scrap chewing and/or smoking tobacco processed wholly, partly, or in chief value, from cigar-leaf tobacco, to determine the amount of tax imposed or refunds to be made with respect thereto:

Article	Unit	Conversion factor
Scrap chewing and/or smoking tobacco.	Pound	110 percent of the per pound processing tax on cigar-leaf tobacco used in the manufacture of scrap chewing and/or smoking tobacco.

B. I do hereby establish the following conversion factors for chewing tobacco processed from burley, flue-cured, fire-cured and/or dark air-cured tobacco to determine the amount of tax imposed or refunds to be made with respect thereto, except taxes and refunds on floor stocks:

Article	Unit	Conversion factor
Chewing tobacco:		
(1) Plug chewing tobacco--	Pound	45 percent of the per pound processing tax on burley tobacco used in the manufacture of chewing tobacco, plus 33 percent of the per pound processing tax on flue-cured tobacco used in the manufacture of chewing tobacco, plus 21 percent of the per pound processing tax on dark air-cured tobacco used in the manufacture of chewing tobacco.
(2) Twist chewing tobacco--	--do--	70 percent of the per pound processing tax on dark air-cured tobacco used in the manufacture of chewing tobacco, plus 61 percent of the per pound processing tax on burley tobacco used in the manufacture of chewing tobacco, plus 5 percent of the per pound processing tax on fire-cured tobacco used in the manufacture of chewing tobacco.
(3) Other chewing tobacco--	--do--	50 percent of the per pound processing tax on burley tobacco used in the manufacture of chewing tobacco, plus 23 percent of the per pound processing tax on dark air-cured tobacco used in the manufacture of chewing tobacco, plus 10 percent of the per pound processing tax on fire-cured tobacco used in the manufacture of chewing tobacco.

In the event that any taxpayer, the Commissioner of Internal Revenue, or any person entitled to a refund establishes that any chewing tobacco processed wholly or partly from Maryland, burley, flue-cured, fire-cured, and/or dark air-cured tobacco on which a tax is imposed (other than a tax on floor stocks), or which may be the subject of a claim for refund (other than a refund on floor stocks), which is included in the preceding list is processed wholly or partly from a kind or kinds of tobacco other than those listed herein for such chewing tobacco, or contains more or less of the kinds of tobacco so listed than represented by the listed conversion factors, the conversion factor shall be:

"(a) 144 percent of the per pound processing tax on Maryland tobacco for each pound of Maryland tobacco said chewing tobacco is established to contain, plus

"(b) 155 percent of the per pound processing tax on burley tobacco used in the manufacture of chewing tobacco for each pound of burley tobacco said chewing tobacco is established to contain, plus

"(c) 145 percent of the per pound processing tax on flue-cured tobacco used in the manufacture of chewing tobacco for each pound of flue-cured tobacco said chewing tobacco is established to contain, plus

"(d) 143 percent of the per pound processing tax on fire-cured tobacco used in the manufacture of chewing tobacco for each pound of fire-cured tobacco said chewing tobacco is established to contain, plus

"(e) 156 percent of the per pound processing tax on dark air-cured tobacco used in the manufacture of chewing tobacco for each pound of dark air-cured tobacco said chewing tobacco is established to contain."

C. I do hereby establish the following conversion factors for chewing tobacco processed from burley, flue-cured, fire-cured, and/or dark air-cured tobacco to determine the amount of tax imposed on floor stocks or refunds to be made with respect to floor stocks:

Article	Unit	Conversion factor
Chewing tobacco:		
(1) Plug chewing tobacco--	Pound	45 percent of the per pound processing tax on burley tobacco used in the manufacture of chewing tobacco.
(2) Twist chewing tobacco--	--do--	70 percent of the per pound processing tax on dark air-cured tobacco used in the manufacture of chewing tobacco.
(3) Other chewing tobacco--	--do--	50 percent of the per pound processing tax on burley tobacco used in the manufacture of chewing tobacco.

In the event that any taxpayer, the Commissioner of Internal Revenue, or any person entitled to a refund establishes that any chewing tobacco processed wholly or in chief value from Maryland, burley, flue-cured, fire-cured, or dark air-cured tobacco, on which a tax on floor stocks is imposed or which may be the subject of a claim for refund on floor stocks, which is included in the preceding list is processed wholly or in chief value from a kind of tobacco other than that listed herein for such chewing tobacco, or contains more or less of the kind of tobacco so listed than represented by the listed conversion factor, the conversion factor for such article shall be:

(a) If processed wholly or in chief value from Maryland tobacco, 144 percent of the per pound processing tax on Maryland tobacco

for each pound of Maryland tobacco said chewing tobacco is established to contain.

(b) If processed wholly or in chief value from burley tobacco, 155 percent of the per pound processing tax on burley tobacco used in the manufacture of chewing tobacco for each pound of burley tobacco said chewing tobacco is established to contain.

(c) If processed wholly or in chief value from flue-cured tobacco, 145 percent of the per pound processing tax on flue-cured tobacco used in the manufacture of chewing tobacco for each pound of flue-cured tobacco said chewing tobacco is established to contain.

(d) If processed wholly or in chief value from fire-cured tobacco, 143 percent of the per pound processing tax on fire-cured tobacco used in the manufacture of chewing tobacco for each pound of fire-cured tobacco said chewing tobacco is established to contain.

(e) If processed wholly or in chief value from dark air-cured tobacco, 156 percent of the per pound processing tax on dark air-cured tobacco used in the manufacture of chewing tobacco for each pound of dark air-cured tobacco said chewing tobacco is established to contain.

The provisions of these regulations shall take effect as of February 1, 1935.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 18th day of January 1935.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

JANUARY 19, 1935.

[R-7. P. R.—A. A. A. Series 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Paper Regulations, Series 1.) (Definitions and conversion factors with respect to paper and the products thereof in competition with cotton and the products thereof.) Issued December 1933]

PAPER REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish and give public notice of these regulations with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

The following proclamation is hereby incorporated in these regulations:

"I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to an act of Congress, known as the 'Agricultural Adjustment Act', approved May 12, 1933, as amended, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, hereby find, and do hereby proclaim, that the payment of the processing tax upon cotton is causing, and will cause, to the processors thereof disadvantages in competition from paper, by reason of excessive shifts in consumption between such commodities or products thereof. I do accordingly hereby specify that the compensating rate of tax on the processing of paper, necessary to prevent such disadvantages in competition, is 2.04 cents per pound weight of paper, on the first domestic processing of paper into multi-wall paper bags; 3.36 cents per pound weight of paper, on the first domestic processing of coated paper into coated paper bags; 2.14 cents per pound weight of open-mesh paper fabric, on the first domestic processing of open-mesh paper fabric into open-mesh paper bags; 0.715 cent per pound weight of paper, on the first domestic processing of paper into paper towels; 4.06 cents per pound weight of paper, on the first domestic processing of paper into gummed paper tape. Hereafter there shall be levied, assessed, and collected, upon the first domestic processing of paper into multi-wall paper bags, coated paper into coated paper bags, open-mesh paper fabric into open-mesh paper bags, paper into paper towels, or paper into gummed paper tape, as aforesaid, a tax, to be paid by the processor thereof, at the rates hereinabove specified, until such rates are altered pursuant to a further finding under section 15 (d) of said act, or the tax or the rate thereof on cotton is altered or terminated.

"In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 1st day of December 1933, 12:01 a. m.

"[SEAL]

H. A. WALLACE,
"Secretary of Agriculture."

I. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing: The first domestic processing of paper is

(a) the manufacture or fabrication of paper into multi-wall paper bags, or paper towels, or gummed paper tape; or

(b) the manufacture of coated paper into coated paper bags; or
(c) the manufacture of open-mesh paper fabric into open-mesh paper bags.

Paper: Paper is a compacted web of cellulose fibers, sized, or unsized, filled or unfilled, coated or uncoated, gummed or ungummed, in the form of a sheet and made from an aqueous suspension.

Weight of paper: Weight of paper includes the fiber, and any filler, sizing, coating, adhesive, gum, or other material, composing the finished sheet or web, as used in any processing herein defined.

Multi-wall paper bags: Multi-wall paper bags are bags having more than one wall and weighing more than 200 pounds per thousand bags.

Coated paper bags: Coated paper bags are bags of the type usually made from so-called "coated rope paper" or "coated kraft paper", or similar material.

Open-mesh paper fabric: Open-mesh paper fabric is fabric woven in open-mesh form from spun paper, or twisted paper, or paper yarn, or paper filament.

Open-mesh paper bags: Open-mesh paper bags are bags made from open-mesh paper fabric.

Paper towel: Paper towel is any paper toweling, but does not include tissues of the type commonly known as "cleansing tissues" or "facial tissues."

Gummed paper tape: Gummed paper tape is paper, one surface of which is covered with gum or other adhesive material, processed for distribution in ribbon form, and less than 2 inches in width.

Second-hand articles: Second-hand articles are multi-wall paper bags, coated paper bags, or open-mesh paper bags which have been used one or more times for the purpose for which processed.

II. CONVERSION FACTORS

I hereby establish the following conversion factors for articles processed wholly or in chief value from paper, coated paper, or open-mesh paper fabric, as aforesaid, to determine the amount of tax imposed or refunds to be made with respect thereto:

The following table fixes the percentage of the per pound processing tax on paper, coated paper, or open-mesh paper fabric, determined for the respective processings set forth hereinabove, with respect to each pound of the following articles:

Conversion factor for finished weight of article	
Article	Percent
Multi-wall paper bags.....	102.06
Coated paper bags.....	104.71
Open-mesh paper bags.....	100.50
Paper towels.....	102.04
Gummed-paper tape.....	103.80
Second-hand articles.....	0.00

In the event that any taxpayer or person entitled to a refund establishes that a greater or lesser amount of paper, or coated paper, or open-mesh paper fabric was used in the production of multi-wall paper bags, coated paper bags, open-mesh paper bags, paper towels, or gummed-paper tape, respectively, included in the above list, processed wholly or in chief value from paper, or coated paper, or open-mesh paper fabric, on which a tax is imposed or which may be the subject of a claim for refund, than the amount represented by the listed conversion factors, then the amount of the tax, or of the refund, shall be computed at the rate of the processing tax upon the basis of the amount of paper, or coated paper, or open-mesh paper fabric established to have been actually used in the production of the particular article.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, this 1st day of December 1933.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

DECEMBER 5, 1933.

[R-19. P. R.—A. A. A. Series 1, Revision 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Paper Regulations, Series 1, Revision 1.) Definitions with respect to paper.) Issued June 1934]

REVISION OF PAPER REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL DEPARTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, R. G. Tugwell, Acting Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting a revision of Paper Regulations, Series 1, and to the extent of such revision but not otherwise, superseding such said regulations) with the force and effect of law, to be in force and effect as of December 1, 1933, and until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

DEFINITIONS

The following term, as used in Paper Regulations, Series 1, shall have the meaning hereby assigned to it:

Gummed paper tape: Gummed paper tape is paper tape, commonly known as "parcel" (or "package") sealing tape, one surface of which is covered with gum or other adhesive material; made from paper of more than 25 pounds weight basis and not more than 80 pounds weight basis (24 by 36 inches, 480 sheets to the ream before gumming); having a tensile strength of more than 25 pounds pull to the finished width; processed for ultimate distribution in ribbon form, more than one-half inch but less than 2 inches in width, in rolls from 2 inches to 9 inches in diameter, including cores; with perforations or couponing, if any, not less than 12 inches apart. The reduction of any gummed paper or gummed paper tape, by mechanical means or otherwise, at the time of or at any time prior to use, into gummed paper tape, as herein defined, shall be considered a part of the manufacture or fabrication of paper into gummed paper tape.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 31st day of May 1934.

[SEAL]

R. G. TUGWELL,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
President of the United States.

JUNE 4, 1934.

[R-24. P. R.—A. A. A. Series 1, Revision 2. United States Department of Agriculture, Agricultural Adjustment Administration (Paper Regulations Series 1, Revision 2.) (Definitions and conversion factors with respect to paper.) Issued June 1934]

REVISION OF PAPER REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations, constituting a revision of Paper Regulations Series 1, and superseding said regulations (but not revising or superseding Paper Regulations Series 1, Revision 1) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

The following proclamation is hereby incorporated in these regulations:

"Whereas by subsection (d) of section 15 of the act of Congress approved May 12, 1933, as amended, known as the "Agricultural Adjustment Act", it is provided that the Secretary of Agriculture shall 'ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor at the rate specified until such rate is altered pursuant to a further finding under this section or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity'; and

"Whereas by subsection (c) of section 10 of said act the Secretary of Agriculture is authorized, 'with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by this title, including regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto. Any violation of any regulation shall be subject to such penalty, not in excess of \$100, as may be provided therein'; and

"Whereas on December 1, 1933, the Secretary of Agriculture of the United States of America, acting under and pursuant to and by virtue of the authority contained in said act, made the following proclamation:

"I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to an act of Congress known as the "Agricultural Adjustment Act", approved May 12, 1933, as amended, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, hereby find, and do hereby proclaim, that the payment of the processing tax upon cotton is causing, and will cause, to the processors thereof disadvantages in competition from paper by reason of excessive shifts in consumption between such commodities or products thereof. I do accordingly hereby specify that the compensating rate of tax on the proc-

essing of paper necessary to prevent such disadvantages in competition is 2.04 cents per pound weight of paper on the first domestic processing of paper into multi-wall paper bags; 3.36 cents per pound weight of paper on the first domestic processing of coated paper into coated paper bags; 2.14 cents per pound weight of open-mesh paper fabric on the first domestic processing of open-mesh paper fabric into open-mesh paper bags; 0.715 cent per pound weight of paper on the first domestic processing of paper into paper towels; 4.06 cents per pound weight of paper on the first domestic processing of paper into gummed paper tape. Hereafter there shall be levied, assessed, and collected upon the first domestic processing of paper into multi-wall paper bags, coated paper into coated paper bags, open-mesh paper fabric into open-mesh paper bags, paper into paper towels, or paper into gummed paper tape, as aforesaid, a tax, to be paid by the processor thereof, at the rates hereinabove specified, until such rates are altered pursuant to a further finding under section 15 (d) of said act, or the tax or the rate thereof on cotton is altered or terminated'; and

"Whereas on December 1, 1933, the Secretary of Agriculture made Paper Regulations Series 1, which were approved by the President on December 5, 1933; and

"Whereas, acting under section 15 (a) of said act, I have certified to the Secretary of the Treasury that 'large cotton bags, a class of products of cotton, are of such low value compared with the quantity of cotton used in the manufacture thereof that the imposition of the processing tax on cotton used in the manufacture of such products would prevent in large part the use of cotton in the manufacture of such class of products and thereby substantially reduce consumption and increase the surplus of cotton'; and

"Whereas, after investigation and due notice and opportunity for hearing to interested parties, and after due consideration of all the facts, I find that further findings of fact with respect to the disadvantages in competition found and proclaimed in the proclamation of December 1, 1933, and with respect to the competitive situation between cotton and its products on the one hand, and paper and its products, on the other hand, as affected by the payment of the processing tax on cotton, and as affected by the payment of the processing tax on paper, must be made; and

"Whereas, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all the facts, I find that an alteration of the compensating rate of tax on the processing of paper necessary to prevent the disadvantages in competition found and proclaimed on December 1, 1933, must be specified; and

"Whereas I find, after such investigation and after such hearing of interested parties, that the competitive situation between cotton and its products, on the one hand, and paper and its products, on the other hand, is such that, unless there exists a compensatory rate of tax on the first domestic processing in certain forms of paper, the payment of the processing tax on cotton will cause to the processors thereof disadvantages in competition from paper by reason of excessive shifts in consumption from cotton and its products to:

"(a) Paper when processed into paper towels;

"(b) Paper (open-mesh paper fabric) when processed into open-mesh paper bags as hereinafter defined;

"(c) Paper when processed into all paper bags, of a sacking capacity of 4½ pounds and over, and less than 75 pounds (including coated paper bags and multiwall paper bags, but not including open-mesh paper bags), printed, labeled, or otherwise identified as bags designed and in form for use in the packing of grain flours, corn meal, sugar, salt, fertilizers, feeds, or potatoes; and

"Whereas I find, after such investigation and after such hearing of interested parties, that the payment of the processing tax on cotton is causing and will cause to the processors thereof disadvantages in competition from paper by reason of excessive shifts in consumption between cotton and paper when processed into other bags, in addition to coated paper bags, and in addition to multiwall paper bags, printed, labeled, or otherwise identified, as bags designed and in form for use in the packaging of grain flours, corn meal, sugar, salt, fertilizers, feeds, or potatoes; the processing of paper into such other bags not having been within the terms of the proclamation of December 1, 1933, and the present finding being, therefore, effective as of the date of the present proclamation; and

"Whereas the proclamation of December 1, 1933, finds such disadvantages in competition existed and would exist with respect to paper (coated paper) when processed into coated paper bags, and paper when processed into multiwall paper bags (both as defined in Paper Regulations, Series 1); and

"Whereas, with respect to all paper bags not included in the findings of December 1, 1933, but included in the present finding, the present finding is effective only as of the date of this proclamation; and

"Whereas I find, in view of the physical characteristics of paper, as a commodity in competition with cotton, as contrasted with the physical characteristics of cotton, that a compensating rate of tax on the processing of paper necessary to prevent the disadvantages in competition found and proclaimed on December 1, 1933, and found and proclaimed in this proclamation, with respect to the processing of paper into bags (other than open-mesh paper bags) should hereafter be computed and measured by the product of the first domestic processing, rather than by the weight of material entering processing; and

"Whereas I find that, with respect to the processing of paper into all paper bags (other than open-mesh paper bags) the compensat-

ing rate of tax, and the rate of tax necessary to prevent the disadvantages in competition in said proclamation found, and the disadvantages found in the present proclamation, should hereafter be specified as a compensating rate of tax on the processing of paper into paper bags of a sacking capacity of $4\frac{1}{2}$ pounds and over, and less than 75 pounds, printed, labeled, or otherwise identified, as bags designed and in form for use in the packaging of grain flours, corn meal, sugar, salt, fertilizers, feeds, or potatoes:

"Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority vested in me by an act of Congress known as the "Agricultural Adjustment Act", approved May 12, 1933, as amended, after due consideration of all the facts, do hereby proclaim all my findings as above set out, which are further findings under section 15 (d) of said act, and do hereby specify that hereafter the compensating rate of tax on the processing of paper necessary to prevent such disadvantages in competition is:

"(a) With respect to the processing of paper into paper towels, 0.346 cent per pound weight of paper on the first domestic processing of paper into paper towels.

"(b) With respect to the processing of paper into all paper bags, including coated paper bags and multiwall paper bags, but not open-mesh paper bags, on the first domestic processing of paper into paper bags, printed, labeled, or otherwise identified as bags designed and in form for use in the packaging of grain flours, corn meal, sugar, salt, fertilizers, feeds, or potatoes, of a sacking capacity of $4\frac{1}{2}$ pounds and over, and less than 75 pounds:

"4.5- to 5.4-pound size bags, inclusive, \$1.24 per thousand bags produced;

"5.5- to 7.9-pound size bags, inclusive, \$1.47 per thousand bags produced;

"8- to 10.9-pound size bags, inclusive, \$2.02 per thousand bags produced;

"11- to 12.9-pound size bags, inclusive, \$2.25 per thousand bags produced;

"13- to 16.9-pound size bags, inclusive, \$3.11 per thousand bags produced;

"17- to 29.9-pound size bags, inclusive, \$3.96 per thousand bags produced;

"30 to 74.9 pounds size bags, inclusive, \$7.91 per thousand bags produced.

"(c) With respect to the processing of paper (open-mesh paper fabric) into open-mesh paper bags, no further findings are made, and no alteration is specified of the compensating rate of tax specified in said proclamation of December 1, 1933, except that such bags are hereby defined as follows:

"Open-mesh paper bags are bags made from open-mesh paper fabric, and having a cut area (area of fabric before sewing or folding) of less than 950 square inches per bag; or having a basis weight of less than 369 pounds of paper content per thousand bags; and bags having a basis weight greater than 369 pounds but less than 825 pounds of paper content per thousand bags provided that for each pound decrease in basis weight from 825 pounds per thousand bags the cut area per bag be not more than 1.15 square inches greater than 950 square inches.

"(d) With respect to the processing of paper into gummed paper tape, this proclamation makes no further findings or specifications whatsoever, in view of the terms and nature of the proclamation of the Acting Secretary of Agriculture, dated May 31, 1934.

"(e) Insofar as the compensating rate of tax above specified affects the processing of coated paper into coated paper bags, and paper into multi-wall paper bags weighing more than 200 pounds per thousand, and paper into paper towels, it is a specification, effective as of the date of this proclamation, of the altered rate of tax necessary to prevent the disadvantages in competition found; insofar as such specified rate affects the processing of paper into bags, as to which no findings and no specifications of rate were made in the proclamation of December 1, 1933, it is a specification effective as of date of this proclamation of the compensating rate of tax on the processing of paper necessary to prevent the disadvantages in competition found herein to be caused to processors of cotton by the payment of the processing tax on cotton as a result of excessive shifts in consumption from cotton to paper when processed into such bags.

"In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 12th day of June 1934, 12: 01 a. m.

[SEAL] "H. A. WALLACE,
"Secretary of Agriculture."

I. DEFINITIONS

The following terms as used in these regulations shall have the meanings hereby assigned to them:

First domestic processing: The first domestic processing of paper is—

(a) The manufacture or fabrication of paper into paper towels, or gummed paper tape; or

(b) The manufacture of paper (open-mesh paper fabric) into open-mesh paper bags; or

(c) The manufacture of paper, including coated paper, into bags, of a sacking capacity of $4\frac{1}{2}$ pounds or over, and less than 75 pounds, printed, labelled, or otherwise identified, as bags designed and in form for use in the packaging of grain flours, corn meal, sugar, salt, fertilizers, feeds, or potatoes, and includes the printing labeling, or otherwise identifying of such bags as containers for the named commodities.

Paper: Paper is a compacted web of cellulose fibers, sized or unsized, filled or unfilled, coated or uncoated, gummed or ungummed,

in the form of a sheet and made from an aqueous suspension, or in the form of a tube, or in the form of an open-mesh paper fabric.

Weight of paper: Weight of paper includes the fiber, and any filler, sizing, coating, adhesive, gum, or other material, composing the finished sheet, web or fabric, as used in any processing herein defined.

Sacking capacity: Sacking capacity means the normal content bags are designed to hold when packed and closed for distribution. Open-mesh paper fabric: Open-mesh paper fabric is fabric woven in open-mesh form from spun paper, or twisted paper, or paper yarn, or paper filament.

Open-mesh paper bags: Open-mesh paper bags are bags made from open-mesh paper fabric and having a cut area (area of fabric before sewing or folding) of less than 950 square inches per bag; or having a basis weight of less than 369 pounds of paper content per thousand bags; and bags having a basis weight greater than 369 pounds but less than 825 pounds of paper content per thousand bags, provided that for each pound decrease in basis weight from 825 pounds per thousand bags the cut area per bag be not more than 1.15 square inches greater than 950 square inches.

Paper towel: Paper towel is any paper toweling, but does not include tissues of the type commonly known as "cleansing tissues" or "facial tissues."

Paper bags: Paper bags are all paper bags, including coated paper bags, and multi-wall paper bags (but not including open-mesh paper bags), of a sacking capacity of $4\frac{1}{2}$ pounds and over, and less than 75 pounds, printed, labeled, or otherwise identified as bags designed and in form for use in the packaging of grain flours, corn meal, sugar, salt, fertilizers, feeds, or potatoes.

Gummed paper tape: Gummed paper tape is paper tape, commonly known as "parcel" or "package" sealing tape, one surface of which is covered with gum or other adhesive material; made from paper of more than 25 pounds weight basis and not more than 80 pounds weight basis (24 inches×36 inches—480 sheets to the ream before gumming); having a tensile strength of more than 25 pounds pull to the finished width; processed for ultimate distribution in ribbon form, more than one-half inch but less than 2 inches in width, in rolls from 2 inches to 9 inches in diameter, including cores; with perforations or couponings, if any, not less than 12 inches apart. The reduction of any gummed paper or gummed paper tape, by mechanical means or otherwise, at the time of, or at any time prior to use, into gummed paper tape, as herein defined, shall be considered a part of the manufacture or fabrication of paper into gummed paper tape.

Second-hand articles.—Second-hand articles are paper bags, or open-mesh paper bags, which have been used one or more times for the purpose for which processed.

II. CONVERSION FACTORS

I hereby establish the following conversion factors for articles processed from paper to determine the amount of tax imposed or refunds to be made with respect thereto:

The following table fixes the percentage of the per pound processing tax on paper (including open-mesh paper fabric), determined for the respective processings set forth hereinabove, with respect to each pound of paper towels, gummed paper tape, and open-mesh paper bags, and establishes the conversion factor with respect to each thousand paper bags, and with respect to second-hand articles:

Article	Conversion factor, percent
Paper towels.....	102.04
Gummed paper tape.....	103.80
Open-mesh paper bags.....	100.50
Paper bags (per thousand).....	100.00
Second-hand articles.....	0

In the event that any taxpayer or person entitled to a refund establishes that a greater or lesser amount of paper was used in the production of paper towels, gummed paper tape, or open-mesh paper bags, respectively, included in the above list, processed from paper, on which a tax is imposed, or which may be the subject of a claim for refund, than the amount represented by the listed conversion factors, then the amount of the tax, or of the refund, shall be computed at the rate of the processing tax upon the basis of the amount of paper established to have been actually used in the production of the particular article.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, this 12th day of June 1934.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

Approved: FRANKLIN D. ROOSEVELT,
The President of the United States.

JUNE 13, 1934.

[R.—8. J. R.—A. A. A. Series 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Jute Regulations, Series 1.) (Definitions and conversion factors with respect to jute and the products thereof in competition with cotton and the products thereof.) Issued December 1933]

JUTE REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act approved May 12, 1933, as

amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

The following proclamation is hereby incorporated in these regulations:

"I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to an act of Congress, known as the Agricultural Adjustment Act, approved May 12, 1933, as amended, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, hereby find, and do hereby proclaim, that the payment of the processing tax upon cotton is causing, and will cause, to the processors thereof disadvantages in competition from jute fabric and jute yarn, by reason of excessive shifts in consumption between such commodities or products thereof. I do accordingly hereby specify that the compensating rate of tax on the processing of jute fabric necessary to prevent such disadvantages in competition, is 2.9 cents per pound of jute fabric, on the first domestic processing of jute fabric into bags, and that the compensating rate of tax on the processing of jute yarn, necessary to prevent such disadvantages in competition, is 2.9 cents per pound of jute yarn, on the first domestic processing of jute yarn into twine of a length 275 feet per pound, or over, finished weight of twine. Hereafter, there shall be levied, assessed, and collected upon the first domestic processing of jute fabric into bags and jute yarn into twine, as aforesaid, a tax, to be paid by the processor thereof, at the rates hereinabove specified, until such rates are altered, pursuant to a further finding under section 15 (d) of said act, or the tax or rate thereof on cotton is altered or terminated.

"In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 1st day of December 1933, 12:01 a. m.

H. A. WALLACE,
"Secretary of Agriculture."

I. DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing:

(a) The first domestic processing of jute fabric is the manufacture of jute fabric into bags.

(b) The first domestic processing of jute yarn is the manufacture or preparation in any form of said yarn into twine, and includes the twisting, or polishing, or sizing, or the putting up of said yarn into balls, cones, tubes, reels, skeins, or other forms of put-ups of twine, or any other preparation for market of said yarn as twine.

Jute fabric: Jute fabric is fabric or cloth, woven or otherwise manufactured, wholly or in chief value from jute or jute yarn.

Jute yarn: Jute yarn is material, spun or otherwise prepared, wholly or in chief value from jute, in form for use in weaving or twisting or other manufacturing.

Bags: Bags are all bags less than 6 feet in length and less than 3 feet in width, made from jute fabric.

Twine: Twine is line, cord, string, or other tying material made from jute yarn, of a length not less than 275 feet per pound, finished weight of twine, and includes polished twine and unpolished twine, and twine made from a single ply or more than one ply of jute yarn.

Polished jute twine: Polished jute twine is jute twine that has been specially treated with sizing or other nonjute material to improve its strength, quality, or appearance.

Unpolished jute twine: Unpolished jute twine is twine other than polished jute twine.

Finished weight of twine: Finished weight of twine means the weight of the jute yarn and any filler, or sizing, or any other nonjute material composing the finished twine.

Second-hand articles: Second-hand articles are jute bags or jute twine which have been used one or more times for the purpose for which processed.

II. CONVERSION FACTORS

I hereby establish the following conversion factors for articles processed wholly or in chief value from jute fabric or jute yarn, as aforesaid, to determine the amount of tax imposed or refunds to be made with respect thereto:

The following tables fixes the percentage of the per pound processing tax on jute fabric or jute yarn, determined for the respective processings set forth hereinabove, with respect to each pound of the following articles:

	Conversion factor, finished weight of articles, percent
Bags-----	100.5
Twine:	
Unpolished-----	100.1
Polished-----	91.0
Second-hand articles-----	0

In the event that any taxpayer or person entitled to a refund establishes that a greater or lesser amount of jute fabric or jute yarn was used in the production of jute bags or jute twine, respectively, included in the above list, processed wholly or in chief value from jute fabric or jute yarn, on which a tax is imposed or which may be the subject of a claim for refund, than the amount represented by the listed conversion factors, then the amount of the tax, or of the refund, shall be computed at the

rate of the processing tax upon the basis of the amount of jute fabric or jute yarn established to have been actually used in the production of the particular article.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, this 1st day of December 1933.

[SEAL]
H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

DECEMBER 5, 1933.

[R-23. J. R.—A. A. Series 1, Revision 1. United States Department of Agriculture, Agricultural Adjustment Administration. (Jute Regulations, Series 1, Revision 1.) (Definitions with respect to jute fabric, a commodity in competition with cotton.) Issued June 1934]

JUTE REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE, WITH THE APPROVAL OF THE PRESIDENT, UNDER THE AGRICULTURAL ADJUSTMENT ACT

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give public notice of these regulations (constituting in part a revision of Jute Regulations, Series 1, and to the extent of such revision, but not otherwise, superseding said regulations), with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

DEFINITION

The following term as used in these regulations shall have the meaning hereby assigned to it:

Bags: Bags are small jute bags having a cut area (area of fabric before sewing or folding) of less than 950 square inches per bag, or jute bags having a basis weight of less than 393 pounds of jute content per thousand bags, or jute bags having a basis weight greater than 393 pounds but less than 879 pounds of jute content per thousand bags, provided that for each pound decrease in basis weight from 879 pounds per thousand bags the cut area per bag be not more than 1.08 square inches greater than 950 square inches. The reduction of large jute bags into small jute bags, as hereinabove defined, by cutting or dividing, shall be considered a part of the processing of jute fabric into small bags.

In testimony whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 12th day of June 1934 at 12:01 a. m.

[SEAL]
H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

JUNE 13, 1934.

BY THE SECRETARY OF AGRICULTURE OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas by subsection (d) of section 15 of the act of Congress approved May 12, 1933, as amended, known as the "Agricultural Adjustment Act", it is provided that the Secretary of Agriculture shall "ascertain from time to time whether the payment of the processing tax upon any basic agricultural commodity is causing, or will cause, to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities or products thereof. If the Secretary of Agriculture finds, after investigation and due notice and opportunity for hearing to interested parties, that such disadvantages in competition exist, or will exist, he shall proclaim such finding. The Secretary shall specify in this proclamation the competing commodity and the compensating rate of tax on the processing thereof necessary to prevent such disadvantages in competition. Thereafter there shall be levied, assessed, and collected upon the first domestic processing of such competing commodity a tax, to be paid by the processor, at the rate specified, until such rate is altered pursuant to a further finding under this section, or the tax or rate thereof on the basic agricultural commodity is altered or terminated. In no case shall the tax imposed upon such competing commodity exceed that imposed per equivalent unit, as determined by the Secretary, upon the basic agricultural commodity"; and

Whereas on December 1, 1933, the Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of, the authority contained in said act, made the following proclamation:

"I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to an act of Congress, known as the Agricultural Adjustment Act", approved May 12, 1933, as amended, after investigation and due notice and opportunity for hearing to interested parties, and due consideration having been given to all of the facts, hereby find, and do hereby proclaim, that the payment of the processing tax upon cotton is causing, and will cause, to the processors thereof disadvantages in competition from jute fabric and jute yarn, by reason of exces-

sive shifts in consumption between such commodities or products thereof. I do accordingly hereby specify that the compensating rate of tax on the processing of jute fabric necessary to prevent such disadvantages in competition, is 2.9 cents per pound of jute fabric, on the first domestic processing of jute fabric into bags, and that the compensating rate of tax on the processing of jute yarn necessary to prevent such disadvantages in competition is 2.9 cents per pound of jute yarn on the first domestic processing of jute yarn into twine of a length 275 feet per pound or over, finished weight of twine. Hereafter there shall be levied, assessed, and collected upon the first domestic processing of jute fabric into bags and jute yarn into twine, as aforesaid, a tax to be paid by the processor thereof, at the rates hereinabove specified, until such rates are altered, pursuant to a further finding under section 15 (d) of said act, or the tax or rate thereof on cotton is altered or terminated."

Whereas I have certified to the Secretary of the Treasury that "large cotton bags, a class of products of cotton, are of such low value compared with the quantity of cotton used in the manufacture thereof that the imposition of the processing tax on cotton used in the manufacture of such products would prevent in large part the use of cotton in the manufacture of such class of products and thereby substantially reduce consumption and increase the surplus of cotton"; and

Whereas section 15 (a) of the Agricultural Adjustment Act provides that following such certification the "Secretary of the Treasury shall abate or refund any processing tax assessed or paid after the date of such certification with respect to such amount of the commodity (cotton) as is used in the manufacture of such products"

Now, therefore, be it known that I, H. A. Wallace, Secretary of Agriculture of the United States of America, acting under and pursuant to, and by virtue of the authority vested in me by an act of Congress known as the "Agricultural Adjustment Act", approved May 12, 1933, as amended, on due consideration of all the facts, do hereby find, specify, and proclaim that hereafter the compensating rate of tax on the processing of jute fabric necessary to prevent the disadvantages in competition set out in proclamation of December 1, 1933, is 2.1 cents per pound of jute fabric on the first domestic processing of jute fabric into small jute bags, which such bags are hereby defined as follows:

Small jute bags are jute bags having a cut area (area of fabric before sewing or folding) of less than 950 square inches per bag; or jute bags having a basis weight of less than 393 pounds of jute content per thousand bags; or jute bags having a basis weight greater than 393 pounds but less than 879 pounds of jute content per thousand bags, provided that for each pound decrease in basis weight from 879 pounds per thousand bags the cut area per bag be not more than 1.08 square inches greater than 950 square inches.

Other than as hereinabove set out, this proclamation does not alter or change in any way the findings and specifications contained in the proclamation of December 1, 1933.

In witness whereof I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 12th day of June 1934, at 12:01 a. m.

[SEAL]

H. A. WALLACE,

Secretary of Agriculture.

[S. R. Series 1, No. 1.—U. S. Department of Agriculture, Agricultural Adjustment Administration, Washington, D. C. (Sugar Regulations, Series 1, No. 1.) (Rate of processing tax, definitions, conversion factors, and exemptions with respect to sugar beets and sugarcane.) Issued February 1935]

SUGAR REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT

**UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY.**

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, H. A. Wallace, Secretary of Agriculture, do make, prescribe, publish, and give notice of these regulations (being a reprint, revision and supplementation of Sugar Regulations, Series 1, and Sugar Regulations, Series 1, Revision 1, and to the extent of such revision and supplementation, but not otherwise, superseding said regulations) with the force and effect of law, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.¹

I find (1) that the difference between the current average farm price and the fair exchange value of a ton of sugar beets divided by the average extraction of sugar therefrom, in terms of pounds of raw value, gives a quotient of 0.4077 cent per pound of sugar raw value, and (2) that the difference between the current average farm

¹ The within regulations (Sugar Regulations, Series 1, No. 1) partially revise and supplement Sugar Regulations, Series 1, and Sugar Regulations, Series 1, Revision 1, both effective on June 8, 1934. All portions which are herewith issued for the first time are written in italics. For convenience, there is also reprinted herein all portions of Sugar Regulations, Series 1, and Sugar Regulations, Series 1, Revision 1, which have not been superseded. All portions which are not italicized herein are taken from Sugar Regulations, Series 1, unless otherwise noted in the footnotes. The footnotes also show all portions of the prior sugar regulations which are superseded hereby.

price and the fair exchange value of a ton of sugarcane divided by the average extraction of sugar therefrom, in terms of pounds of raw value, gives a quotient of 0.7939 cent per pound of sugar raw value (which current average farm prices, fair exchange values, and average extractions of sugar, for both sugar beets and sugarcane, have been ascertained and determined by me from available statistics of the Department of Agriculture). I further find that, if the amount of 0.7939 cent (the higher of the two quotients resulting as hereinabove determined) be applied as the rate of tax to the direct-consumption sugar resulting from the first domestic processing of sugar beets or sugarcane, translated into terms of pounds of raw value, such rate will exceed the amount of 0.5 cent, by which amount the President, by proclamation issued May 9, 1934, reduced the rate of duty on a pound of sugar raw value, in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the act of December 17, 1903, chapter I. I do accordingly determine as of June 8, 1934, that the processing tax, upon the direct-consumption sugar resulting from the first domestic processing of sugar beets and sugarcane, shall be at the rate of 0.5 cent per pound of sugar raw value, which rate of tax equals, but does not exceed, the amount of the reduction by the President on a pound of sugar raw value, of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the act of December 17, 1903, chapter I.

I do hereby find as of June 8, 1934, after investigation and due notice and opportunity for hearing to interested parties and due consideration having been given to all of the facts, that the processing tax upon the direct-consumption sugar resulting from the first domestic processing of sugar beets and sugarcane, at the rate of 0.5 cent per pound of sugar raw value (which rate, except as limited by the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on Jan. 1, 1934, under par. 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded by the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the act of December 17, 1903, ch. I, equals the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (1) of a ton of sugar beets and (2) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value), if applied as the rate of tax upon sirup of cane juice and edible molasses resulting from the first domestic processing of sugarcane will cause such reduction in the quantity of such sirup of cane juice and edible molasses domestically consumed as to result in the accumulation of surplus stocks of sugarcane, sirup of cane juice, and edible molasses or in the depression of the farm price of sugarcane. I do accordingly determine as of June 8, 1934, that the rate of the processing tax upon sirup of cane juice and edible molasses, resulting from the first domestic processing of sugarcane, shall be 0.125 cent per pound of the total sugar content thereof translated into terms of pounds of raw value, which rate, as of the effective date thereof, will prevent such accumulation of surplus stocks of sugarcane, sirup of cane juice, and edible molasses, or in the depression of the farm price of sugarcane.²

DEFINITIONS

The following terms, as used in these regulations, shall have the meanings hereby assigned to them:

First domestic processing: The term "first domestic processing" means each domestic processing, including each processing of successive domestic processings, of sugar beets, sugarcane, or raw sugar, which directly results in direct-consumption sugar.

Sugar: The term "sugar" means sugar in any form whatsoever, derived from sugar beets or sugarcane, whether raw sugar or direct-consumption sugar, including also edible molasses, sirups, and any mixture containing sugar (except blackstrap molasses and beet molasses).

Blackstrap molasses: The term "blackstrap molasses" means the commercially so-designated by-product of the cane-sugar industry, not used for human consumption or for the extraction of sugar.

Beet molasses: The term "beet molasses" means the commercially so-designated by-product of the beet-sugar industry, not used for human consumption or for the extraction of sugar.

Raw sugar: The term "raw sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States, in any form whatsoever, for the purpose of being, or which shall be, further refined (or improved in quality, or further prepared for distribution or use).

Direct-consumption sugar: The term "direct-consumption sugar" means any sugar, as defined above, manufactured or marketed in, or brought into, the United States in any form whatsoever, for any purpose other than to be further refined (or improved in quality, or further prepared for distribution or use).

Beet sugar: The term "beet sugar" means all direct-consumption sugar resulting from the processing of sugar beets.

Sugar sirup: The term "sugar sirup" means any product made by dissolving to the consistency of a sirup any sucrose sugar which has been at any time wholly or partially crystallized (including also, but not limited to, any intermediate or final molasses [often called

² This paragraph is taken from Sugar Regulations, Series 1, Revision 1.

refiners' sirup] obtained in the process of refining raw sugar which contains more than 90 percent [90%] of the total solids therein in the form of total sugars, when used for human consumption).³

Cane sirup and sirup of cane juice: The terms "cane sirup" and "sirup of cane juice" mean sirup made by the evaporation of the juice of the sugarcane or by the solution of sugarcane concrete.

Granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or any other molded shape and confectioners' sugar: The terms "granulated sugar", "lump sugar", "cube sugar", "powdered sugar", "sugar in the form of blocks, cones, or any other molded shape", and "confectioners' sugar" mean the commercially so-described or so-designated different forms of sugar, testing by the polariscope 99.8 sugar degrees or above.

Washed sugar, clarified sugar, plantation white sugar, turbinado, and centrifugal sugar: The terms "washed sugar", "clarified sugar", "plantation white sugar", "turbinado", and "centrifugal sugar", mean the commercially so-designated or so-described different products produced from sugarcane.⁴

Refiners' soft sugar: The term "refiners' soft sugar" (sometimes called "brown sugar") means the commercially so-designated or so-described product produced in the process of refining raw sugar.

Sugar mixtures: The term "sugar mixtures" means the commercially so-designated or so-described mixtures containing sugar.

Edible molasses: The term "edible molasses" means the commercially so-designated or so-described byproduct of the sugarcane industry, when used for human consumption (including, when used for human consumption, first molasses, second molasses, any intermediate or final molasses [often called refiners' sirup] obtained in the process of refining raw sugar which does not contain more than 90 percent [90%] of the total solids therein in the form of total sugars, and other molasses not included within the terms of any other definition in these regulations).⁵

Raw value: The term "raw value" means a standard unit of sugar testing 96 sugar degrees by the polariscope. All taxes shall be imposed and all quotas shall be established in terms of "raw value" and for the purposes of quota and tax measurements all sugar shall be translated into terms of "raw value" according to regulations to be issued by the Secretary, except that in the case of direct-consumption sugar produced in continental United States from sugar beets, the raw value of such sugar shall be one and seven one-hundredths times the weight thereof.

Invert sugar, invert sirup, or invert mush: The terms "invert sugar", "invert sirup", or "invert mush" mean any product resulting from the complete or partial inversion, whether in one or more stages, of any sucrose sugar which has been at any time wholly or partially crystallized.

Total sugar content: The term "total sugar content" (or "total sugars") means the sum of the sucrose (Clerget) and the reducing sugars contained in any grade or type of sugar as defined in the act.

Refiners' blackstrap: The term "refiners' blackstrap" means the final molasses obtained in the process of refining raw sugar when not used for human consumption.⁶

Converter: The term "converter" means any person who converts into any article, or use in the manufacture of any article, any product or byproduct of sugar beets or sugarcane.

Muscovado sugar: The term "muscovado sugar" means the dark, moist, sticky, impure sugar product obtained by the process of boiling the first cane sirup to a crystal in open kettles and then running the crystallized mass into kegs, hogsheads, molds, or other containers, the bottoms of which are filled with small holes which, when opened, allow the molasses to drain off.⁷

FORMULAS FOR TRANSLATING SUGAR INTO TERMS OF "RAW VALUE"

Section 9 (d) (6) (G) of the Agricultural Adjustment Act, as amended, provides as follows:

"The term 'raw value' means a standard unit of sugar testing 96 sugar degrees by the polariscope. All taxes shall be imposed and all quotas shall be established in terms of 'raw value' and for purposes of quota and tax measurements all sugar shall be translated into terms of 'raw value' according to regulations to be issued by the Secretary, except that in the case of direct-consumption sugar produced in continental United States from

³ The words "(including also, but not limited to, any intermediate or final molasses [often called refiners' sirup] obtained in the process of refining raw sugar which contains more than 90 percent [90%] of the total solids therein in the form of total sugars, when used for human consumption)" (in italics) have been added herein to the definition of sugar sirup contained in Sugar Regulations, Series 1.

⁴ This definition is taken from Sugar Regulations, Series 1, except that the word "and" (in italics) has been added, and the words "and 'muscovado sugar'" have been eliminated herein. The heading of this definition has been changed to conform to these alterations.

⁵ This definition of "edible molasses" replaces and supersedes the definition of "edible molasses" contained in Sugar Regulations, series 1, which reads as follows: "Edible molasses: The term 'edible molasses' means the commercially so-designated or so-described by-product of the sugarcane industry, used for human consumption (including first molasses, second molasses, and other molasses, when used for human consumption)."

⁶ This definition of "refiners' blackstrap" replaces and supersedes the definition of "refiners' sirup" contained in Sugar Regulations, Series 1.

⁷ This definition of "muscovado sugar" is new herein.

sugar beets the raw value of such sugar shall be one and seven one-hundredths times the weight thereof."

I find that, in order to obtain 100 pounds of refined cane sugar, testing by the polariscope 99.8 sugar degrees and above, it is necessary to use 107 pounds of sugar raw value, i. e., sugar testing by the polariscope 96 sugar degrees, and that the raw value of 1 pound of refined sugar testing by the polariscope 99.8 sugar degrees or above is, therefore, 1.07 pounds. I also find that, since there is 1 pound of sugar raw value per pound of sugar testing by the polariscope 96 sugar degrees, the pounds of sugar raw value to be added to 1 pound for each degree (and fractions of a degree in proportion) of polarization, from 96 degrees to 100 degrees, is to

be determined by the formula $\frac{1.07-1.00}{100-96}$ and is 0.0175 pound, and

that, similarly, the pounds of sugar raw value to be subtracted from 1 pound for each degree (and fractions of a degree in proportion) of polarization from 96 degrees to 92 degrees is to be determined by the same formula and is 0.0175 pound.⁸

I find that the most accurate method for translating any quantity of sugar testing by the polariscope less than 92 degrees into terms of raw value is to find what weight of sugar raw value will have the same weight of total sugar content as such quantity of sugar. I further find that the total sugar content per pound of 96-degree sugar (i. e., raw value sugar) is 0.972 pound. I, therefore, find that the raw value of any sugar testing less than 92 degrees by the polariscope is to be determined by dividing the number of pounds of the total sugar content thereof by 0.972 pound.⁹

I do hereby prescribe that, in determining the total sugar content of any sugar, the amount of the sucrose (Clerget) and of the reducing or invert sugars contained therein shall be ascertained in the manner prescribed in paragraphs 758, 759, 762, and 763 of the United States Customs Regulations (1931 edition) or in the manner prescribed on pages 367 to 383, inclusive, of Official and Tentative Methods of the Association of Official Agricultural Chemists (1930 edition).

CONVERSION FACTORS

The following table fixes the amount of sugar, in terms of pounds of sugar raw value, with respect to 1 pound, net weight, or 1 gallon of the following listed articles:¹⁰

	Pounds of sugar raw value per pound of article
A. ¹¹ Beet sugar; other direct-consumption sugar, including granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or any other molded shape, and confectioners' sugar, testing by the polariscope 99.8 sugar degrees or above—	1. 07
B. ¹² Direct-consumption sugar, including washed sugar, centrifugal sugar, clarified sugar, turbinado, plantation white sugar, muscovado sugar, refiners' soft sugar, sugar mixtures, sirups, and molasses (except sirup of cane juice, edible molasses, and refiners' blackstrap), testing by the polariscope:	
99° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 99° but less than 99.8°)-----	1. 0525
98° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 98° but less than 99°)-----	1. 0350
97° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 97° but less than 98°)-----	1. 0175
96° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 96° but less than 97°)-----	1. 0000

⁸ This paragraph is taken from Sugar Regulations, Series 1, except that the words "since there is 1 pound of sugar raw value per pound of sugar testing by the polariscope 96 sugar degrees" (in italics), the words "to 1. pound" (in italics), and the words "and that, similarly, the pounds of sugar raw value to be subtracted from 1 pound for each degree (and fractions of a degree in proportion) of polarization from 96 degrees to 92 degrees is to be determined by the same formula and is 0.0175 pound" (in italics) have been added herein.

⁹ This paragraph is taken from Sugar Regulations, Series 1, except that the figures "92" (in italics) have been substituted herein for the figures "96" appearing in S. R., Series 1.

¹⁰ This paragraph is taken from Sugar Regulations, Series 1, except that the words "or 1 gallon" (in italics) have been added herein.

¹¹ The portion of the table after the designation "A" is taken from Sugar Regulations, Series 1.

¹² The portion of the table after the designation "B" replaces and supersedes the following portion of the table of conversion factors contained in Sugar Regulations, Series 1:

"Direct-consumption sugar, including washed sugar, centrifugal sugar, clarified sugar, turbinado, plantation white sugar, and muscovado sugar, tested by the polariscope:	
Not less than 99°, but less than 99.8°-----	1. 0525
Not less than 98°, but less than 99°-----	1. 0350
Not less than 97°, but less than 98°-----	1. 0175
Not less than 96°, but less than 97°-----	1. 0000 "

	Pounds of sugar raw value per pound of article
95° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 95° but less than 96°)-----	.9825
94° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 94° but less than 95°)-----	.9650
93° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 93° but less than 94°)-----	.9475
92° (plus proportionate part of 0.0175 pound for any additional fraction of a degree above 92° but less than 93°)-----	.9300
C. ¹³ Direct-consumption sugar, including washed sugar, centrifugal sugar, clarified sugar, turbinado, plantation white sugar, muscovado sugar, refiners' soft sugar, sugar mixtures, sirup and molasses (except sirup of cane juice, edible molasses, and refiners' blackstrap), testing by the polariscope less than 92 degrees: the poundage of the total sugar content of each pound of the article divided by 0.972, equals the poundage of sugar raw value per pound of the article.	
D. ¹⁴ Sirup of cane juice-----	7.5600
E. ¹⁴ Edible molasses-----	7.3600
F. ¹⁴ Refiners' blackstrap-----	0

G.¹⁵ In the event that the Commissioner of Internal Revenue, or any taxpayer, or any person entitled to refund, shall establish that any product or by-product, wholly derived from the processing of sugar beets or sugarcane, does not come within any of the above classifications and has had no conversion factor established for it, or does come within any of the above classifications but contains more or less total sugar expressed in terms of raw value than is represented by the listed conversion factor, then the amount of tax or refund with respect to such product or by-product shall be computed at the rate of the processing tax on the basis of the amount of the total sugar content, expressed in terms of raw value, established to be actually contained therein.

H.¹⁵ The amount of tax or refund with respect to any article partly derived from the processing of sugar beets, sugarcane and/or any product or by-product thereof, shall be computed at the rate of the processing tax on the basis of the amount of sugar, expressed in terms of raw value, established to have been used in the processing of the said article.

EXEMPTIONS

In my judgment, the imposition of the processing tax applied to the sirup of cane juice (sometimes called "molasses") resulting from the first domestic processing of sugarcane, by or for the producer thereof, who, together with his family, employees, or household, finally prepares for distribution or use and sells directly to, or exchanges directly with, consumers, or who sells to, or exchanges with, any person for sale to, or exchange with, or who shall sell to, or exchange with, consumers, without further improving in quality or further preparing for distribution or use, not more than 200 gallons, in the aggregate, of sirup of cane juice, produced during any crop year, is unnecessary to effectuate the declared policy of the act. Accordingly, I do hereby exempt from the processing tax sirup of cane juice, resulting from the first domestic processing of sugarcane by or for the producer thereof who, together with his family, employees, or household, finally prepares for distribution or use and sells directly to, or exchanges directly with, consumers, or sells to, or exchanges with, any person for sale to, or exchange with, or who

¹³ The portion of the table after the designation "C" replaces and supersedes the following portion of the table of conversion factors contained in Sugar Regulations, Series 1:

"Direct-consumption sugar, including washed sugar, centrifugal sugar, clarified sugar, turbinado, plantation white sugar, and muscovado sugar, testing by the polariscope less than 96 degrees, and refiners' soft sugar, sugar mixtures, sirups, and edible molasses, having a total sugar content as follows:" followed by a table which gives the equivalent number of pounds of sugar raw value for each one-hundredth of a pound of total sugar content, from 0.97 pound down to 0.01 pound.

¹⁴ The portions of the table after the designations "D", "E", and "F" are new herein.

¹⁵ The paragraphs designated "G" and "H" replace and supersede the following paragraph contained in Sugar Regulations, Series 1:

"In the event that the Commissioner of Internal Revenue, or any taxpayer, or any person entitled to refund shall establish (1) that any product, by-product, or article, derived wholly or partly from the processing of sugar beets, sugarcane, and/or any product or by-product thereof, does not come within any of the above classifications and has had no conversion factor established for it, or (2) that any product, by-product, or article, derived wholly or partly from the processing of sugar beets, sugarcane, and/or any product or by-product thereof, which comes within any of the above classifications contains more or less total sugar expressed in terms of raw value than is represented by the listed conversion factor, then, in either event, the amount of the tax or refund with respect to such product, by-product, or article shall be computed at the rate of the processing tax, on the basis of the amount of total sugar content expressed in terms of raw value established to be actually contained therein."

shall sell to, or exchange with, consumers, without further improving in quality or further preparing for distribution or use, not more than 200 gallons, in the aggregate, of sirup of cane juice, produced during any crop year: *Provided, however*, That if the producer processes or has processed for him sugarcane produced by him, and together with his family, employees, or household, finally prepares for distribution or use and sells directly to, or exchanges with, any person for sale to, or exchange with, or who shall sell to, or exchange with, consumers, without further improving in quality, or further preparing for distribution or use, in excess of 200 gallons, but not in excess of 500 gallons, in the aggregate, of sirup of cane juice, produced during any crop year, such processing shall be exempt to the extent of 200 gallons, but shall be subject to the processing tax on the amount in excess of 200 gallons, sold directly to, or exchanged directly with, consumers, or sold to, or exchanged with, any person for sale to, or exchange with, or sold to, or exchanged with, consumers: *Provided further*, That if the producer processes or has processed for him sugarcane produced by him, and together with his family, employees, or household, finally prepares for distribution or use and sells directly to, or exchanges directly with, consumers, or sells to, or exchanges with, any person for sale to, or exchange with, and who shall sell to, or exchange with, consumers, without further improving in quality or further preparing for distribution or use, more than 500 gallons, in the aggregate, of sirup of cane juice, produced during any crop year, such processing shall not be subject to the foregoing exemption. For the purpose of this exemption the crop year shall be considered to commence with the harvesting of the sugarcane.¹⁶

In my judgment, the payment of the processing tax upon the processing of sugarcane by or for the producer thereof for sale by him, where such processing directly results in muscovado sugar and where such muscovado sugar is sold by the said producer as direct-consumption sugar, is unnecessary to effectuate the declared policy of the act. Accordingly, I do hereby exempt from the payment of the processing tax the processing of sugarcane by or for the producer thereof for sale by him, where such processing directly results in muscovado sugar and where such muscovado sugar is sold by the said producer as direct-consumption sugar.¹⁷

The provisions of these regulations shall take effect as of March 1, 1935.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 18th day of February 1935.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

Approved:

FRANKLIN D. ROOSEVELT,
The President of the United States.

FEBRUARY 19, 1935.

[S. R., Series 1, No. 2, Revised. United States Department of Agriculture, Agricultural Adjustment Administration. (Sugar Regulations, Series 1, No. 2, Revised.) (Exemption under section 15 (b) with respect to the processing of sugar cane into sirup or molasses under any sugar production adjustment contract for use for animal feed or distillation purposes.) Issued — 1935]

SUGAR REGULATIONS MADE BY THE SECRETARY OF AGRICULTURE WITH THE APPROVAL OF THE PRESIDENT UNDER THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY.

By virtue of the authority vested in the Secretary of Agriculture by the Agricultural Adjustment Act, approved May 12, 1933, as amended, I, _____, Secretary of Agriculture, do make, prescribe, publish, and give notice of these regulations (being a revision and supplementation of Sugar Regulations, Series 1, No. 1, and to the extent of such revision and supplementation, but not otherwise superseding said regulation and being a revision of, and superseding, Sugar Regulations, Series 1, No. 2) with the force and effect of law, to be in force and effect until amended, or superseded by regulations hereafter made by the Secretary of Agriculture, with the approval of the President, under said act.

EXEMPTION

In my judgment, the payment of the processing tax upon the processing of sugarcane by or for the producer thereof for sale by him, where such processing has been prescribed, directed, or permitted by the Secretary of Agriculture under the provisions of any sugarcane production adjustment contract and where such processing results in sirup or molasses for use, and which shall be used, for animal feed or for distillation purposes, is unnecessary to effectuate the declared policy of the act. Accordingly, I do hereby exempt from the payment of the processing tax the processing of sugarcane by or for the producer thereof for sale

¹⁶ This paragraph is taken from Sugar Regulations, Series 1, except for the omission herein of the sentence at the end of the paragraph, which reads as follows:

"For the purpose of determining any tax due on sirup of cane juice produced by or for a producer and sold by him, a gallon of sirup of cane juice shall be deemed to weigh 11½ pounds and to contain 65 percent of total sugars, unless the person subject to tax establishes to the satisfaction of the Commissioner of Internal Revenue that the said sirup of cane juice has a different weight and/or contains a different percentage of total sugar."

¹⁷ This paragraph is new herein.

by him, where such processing has been prescribed, directed, or permitted by the Secretary of Agriculture under the provisions of any sugarcane production adjustment contract and where such processing results in sirup or molasses for use, and which shall be used, for animal feed or for distillation purposes.

The foregoing exemption shall take effect as of March 4, 1935, the effective date of Puerto Rico Administrative Ruling No. 1 relating to the Puerto Rico sugarcane production adjustment contract.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington this 17th day of June 1935.

Secretary of Agriculture.

Approved:

The President of the United States.

JUNE 18, 1935.

SUPPRESSION OF PROSTITUTION IN THE DISTRICT

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 405) for the suppression of prostitution in the District of Columbia.

Mr. KING. I move that the Senate disagree to the amendments of the House, ask a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. KING, Mr. COPELAND, and Mr. CAPPER conferees on the part of the Senate.

PREVENTION OF SMOKE NUISANCE IN THE DISTRICT

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2034) to prevent the fouling of the atmosphere in the District of Columbia by smoke and other foreign substances, and for other purposes.

Mr. KING. I move that the Senate disagree to the amendments of the House, ask a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. KING, Mr. COPELAND, and Mr. CAPPER, conferees on the part of the Senate.

THE BANKING SYSTEM

Mr. BULKLEY. I move that the Senate proceed to the consideration of House bill 7617, the so-called "banking bill."

The VICE PRESIDENT. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 7617) to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes, which had been reported from the Committee on Banking and Currency, with an amendment.

SECOND DEFICIENCY APPROPRIATIONS

Mr. ADAMS. I ask unanimous consent that the pending business be temporarily laid aside, and that the Senate proceed to the consideration of House bill 8554, being the second deficiency appropriation bill.

The VICE PRESIDENT. Is there objection?

Mr. BULKLEY. I have no objection.

There being no objection, the Senate proceeded to consider the bill (H. R. 8554) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1935, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1935, and June 30, 1936, and for other purposes, which had been reported from the Committee on Appropriations, with amendments.

Mr. ADAMS. I ask unanimous consent that the formal reading of the bill be dispensed with, and that it be read for amendment, the amendments of the committee to be first considered.

The VICE PRESIDENT. Is there objection to the request of the Senator from Colorado? The Chair hears none. The clerk will state the first committee amendment.

Mr. McNARY. Mr. President, is not the Senator from Colorado willing now to lay aside the bill until tomorrow at 12 o'clock?

Mr. ADAMS. I should greatly prefer to go on this afternoon. The bill has been delayed, and several departments are waiting for funds. I hope the Senate may proceed with the bill this afternoon.

Mr. McNARY. Mr. President, I thought it was generally understood that after a final vote on the bill amending the Agricultural Adjustment Act a motion would be made to take up the banking bill, which is now the unfinished business, and then that a recess would be taken until 12 o'clock noon tomorrow. We have been in session since 10 o'clock this morning, and we were in session yesterday from 10 o'clock in the morning until 5 in the evening. I think we are entitled to a surcease.

Mr. ADAMS. It is only 3:30 o'clock in the afternoon. This bill is of great importance. It has been held over pending the long consideration of the bill just passed. I do not think there are any items in the appropriation bill which will require extended consideration.

Mr. HAYDEN. Mr. President, I desire to make a suggestion to the Senator from Oregon. The committee amendments might well be considered today and, if there are any to which there is any objection, they might go over until tomorrow; but, so far as I know, there are only one or two controverted matters among the amendments. It seems to me that by disposing of the routine amendments we should make progress on the bill.

Mr. McNARY. Mr. President, I have this feeling, and I have it very intensely:

It was not expected that the appropriation bill would come up this afternoon. I am very sure Members have left the Senate Chamber who probably would like to be here during the consideration of the bill. Personally, I have no objection to the consideration of the committee amendments at this time, if the Senator will not go any further with the consideration of the bill.

Mr. ADAMS. If we can take up the committee amendments, I think the other amendments might go over.

The VICE PRESIDENT. The clerk will read the bill for committee amendments.

The Chief Clerk proceeded to read the bill.

The first amendment of the Committee on Appropriations was, under the heading "Title I—General appropriations—Legislative", on page 2, after line 2, to insert:

SENATE

To pay to Olivia M. Cutting, mother of Hon. Bronson M. Cutting, late a Senator from the State of New Mexico, \$10,000.

The amendment was agreed to.

The next amendment was, on page 2, after line 6, to insert:

The unobligated balance of the appropriation for expenses of inquiries and investigations ordered by the Senate, contingent fund of the Senate, for the fiscal year 1935, is reappropriated and made available for the fiscal year 1936.

The amendment was agreed to.

The next amendment was, on page 2, after line 10, to insert:

For the purchase of furniture, fiscal year 1936, \$2,089.18.

The amendment was agreed to.

The next amendment was, under the subhead "Office of the Architect of the Capitol", on page 3, after line 15, to insert:

Capitol, Senate and House Office Buildings: For providing and installing complete air-conditioning systems, Capitol, Senate and House Office Buildings, including all necessary structural alterations required for such installations, \$2,550,000, to remain available until June 30, 1937, and to be expended by the Architect of the Capitol, and the Architect of the Capitol is hereby authorized to enter into contracts in the open market, to make expenditures for material, supplies, equipment, accessories, advertising, travel expenses and subsistence therefor, and, without regard to section 35 of the Public Buildings Act, approved June 25, 1910, as amended, or the Classification Act of 1923, as amended, to employ all necessary personnel, including professional, architectural, engineering, and other assistants: *Provided*, That said air-conditioning systems shall be procured and installed after competitive bidding on the whole project in accordance with the provisions of section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5).

The amendment was agreed to.

74TH CONGRESS
1ST SESSION

H. R. 8492

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 1935

Ordered to be printed with the amendments of the Senate numbered

AN ACT

To amend the Agricultural Adjustment Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the first sentence of subsection (1) of section 2 of
4 the Agricultural Adjustment Act, as amended, is amended
5 by striking out the first word and inserting in lieu thereof the
6 following: "Through the exercise of the powers conferred
7 upon the Secretary of Agriculture under this title, to", and
8 by inserting before the period at the end thereof a semicolon
9 and the following: "and, in the case of all commodities for
10 which the base period is the pre-war period, August 1909

1 to July 1914, will also reflect current interest payments per
2 acre on farm indebtedness secured by real estate and tax
3 payments per acre on farm real estate, as contrasted with
4 such interest payments and tax payments during the base
5 period ”.

6 (b) Section 2 of the Agricultural Adjustment Act,
7 as amended, is amended by striking out subsections (2) and
8 (3) and inserting in lieu thereof the following:

9 “(2) To protect the interest of the consumer by (a)
10 approaching the level of prices which it is declared to be
11 the policy of Congress to establish in subsection (1) of this
12 section by gradual correction of the current level at as rapid
13 a rate as the Secretary of Agriculture deems to be in the
14 public interest and feasible in view of the current consump-
15 tive demand in domestic and foreign markets, and (b)
16 authorizing no action under this title which has for its pur-
17 pose the maintenance of prices to farmers above the level
18 which it is declared to be the policy of Congress to establish
19 in subsection (1) of this section.”

20 SEC. 2. Section 8 of the Agricultural Adjustment Act,
21 as amended, is amended by striking out everything pre-
22 ceding subsection (2) and inserting in lieu thereof the
23 following:

24 “(1) Whenever the Secretary of Agriculture has
25 reason to believe that:

1 “(a) The current average farm price for any
 2 basic agricultural commodity is less than ~~(1)~~, ~~or is likely~~
 3 ~~during the current or next succeeding marketing year~~
 4 ~~for such commodity to be less than, the fair exchange~~
 5 ~~value thereof, and the fair exchange value thereof, or~~
 6 ~~the average farm price of such commodity is likely to~~
 7 ~~be less than the fair exchange value thereof for the~~
 8 ~~period in which the production of such commodity~~
 9 ~~during the current or next succeeding marketing year~~
 10 ~~is normally marketed, and~~

11 “(b) The conditions of and factors relating to
 12 the production, marketing, and consumption of such
 13 commodity are such that the exercise of any one or
 14 more of the powers conferred upon the Secretary under
 15 subsections (2) and (3) of this section would tend to
 16 effectuate the declared policy of this title, ~~(2)~~ ~~and that~~
 17 ~~the exercise of any one or more of such powers would be~~
 18 ~~administratively practicable,~~

19 he shall cause an immediate investigation to be made to
 20 determine such facts. If, upon the basis of such investiga-
 21 tion, the Secretary finds the existence of such facts, he shall
 22 ~~(3)~~ *proclaim such determination and shall* exercise such one
 23 or more of the powers conferred upon him under subsections
 24 (2) and (3) of this section as he finds, upon the basis of

1 such investigation, administratively practicable and best
2 calculated to effectuate the declared policy of this title.

3 “(2) Subject to the provisions of subsection (1) of
4 this section, the Secretary of Agriculture shall provide,
5 through agreements with producers or by other voluntary
6 methods,

7 “(a) For such adjustment in the acreage or in
8 the production for market, or both, of any basic agri-
9 cultural commodity, as he finds, upon the basis of the
10 investigation made pursuant to subsection (1) of this
11 section, will tend to effectuate the declared policy of
12 this title, and to make such adjustment program prac-
13 ticable to operate and administer, and

14 “(b) For rental or benefit payments in connec-
15 tion with such agreements or methods in such amounts
16 as he finds, upon the basis of such investigation, to be
17 fair and reasonable and best calculated to effectuate
18 the declared policy of this title and to make such pro-
19 gram practicable to operate and administer, to be paid
20 out of any moneys available for such payments or
21 (4), *subject to the consent of the producer*, to be made in
22 quantities of one or more basic agricultural commodities
23 acquired by the Secretary pursuant to this title.

24 “(3) Subject to the provisions of subsection (1) of
25 this section, the Secretary of Agriculture shall make pay-

1 ments, out of any moneys available for such payments,
 2 in such amounts as he finds, upon the basis of the investiga-
 3 tion made pursuant to subsection (1) of this section, to be
 4 fair and reasonable and best calculated to effectuate the
 5 declared policy of this title:

6 “(a) To remove from the normal channels of
 7 trade and commerce quantities of any basic agricul-
 8 tural commodity or product thereof;

9 “(b) To expand domestic or foreign markets for
 10 any basic agricultural commodity or product thereof;

11 “(c) In connection with the production of that
 12 part of any basic agricultural commodity which is
 13 required for domestic consumption.

14 “(4) Whenever, during a period during which any of
 15 the powers conferred in subsection (2) or (3) is being
 16 exercised, the Secretary of Agriculture has reason to believe
 17 that, with respect to any basic agricultural commodity:

18 “(a) The current average farm price for such com-
 19 modity is not less than (5), and is not likely during the
 20 ~~current or next succeeding marketing year~~ for such
 21 ~~commodity to be less than, the fair exchange value~~
 22 ~~thereof, or the fair exchange value thereof, and the~~
 23 *average farm price for such commodity is not likely*
 24 *to be less than the fair exchange value thereof for the*
 25 *period in which the production of such commodity*

1 *during the current or next succeeding marketing year*
 2 *is normally marketed, or*

3 “ (b) The conditions of and factors relating to the
 4 production, marketing, and consumption of such com-
 5 modity are such that none of the powers conferred in
 6 subsections (2) and (3), and no combination of such
 7 powers, would, if exercised, tend to effectuate the
 8 declared policy of this title ~~(6) or that the exercise~~
 9 ~~thereof would not be administratively practicable,~~
 10 he shall cause an immediate investigation to be made to
 11 determine such facts. If, upon the basis of such investi-
 12 gation, the Secretary finds the existence of such facts, he
 13 ~~(7)~~ *shall proclaim such determination, and shall not exercise*
 14 any of such powers with respect to such commodity after the
 15 end of the marketing year current at the time when such
 16 ~~(8) finding is made and prior to a new finding proclamation~~
 17 *is made and prior to a new proclamation* under subsection
 18 (1) of this section ~~(9)~~, *except insofar as the exercise of*
 19 *such power is necessary to carry out obligations of the Sec-*
 20 *retary assumed, prior to the date of such proclamation made*
 21 *pursuant to this subsection, in connection with the exercise*
 22 *of any of the powers conferred upon him under subsections*
 23 *(2) or (3) of this section.*

24 “ (5) In the course of any investigation required to be
 25 made under subsection (1) or subsection (4) of this section,

1 the Secretary of Agriculture shall hold one or more hear-
2 ings, and give due notice and opportunity for interested
3 parties to be heard.

4 “ (6) No payment under this title made in an agri-
5 cultural commodity acquired by the Secretary in pursuance
6 of this title shall be made in a commodity other than that
7 in respect of which the payment is being made. For the
8 purposes of this subsection, hogs and field corn may be
9 considered as one commodity.

10 “ (7) In the case of sugar beets or sugarcane, in the
11 event that it shall be established to the satisfaction of the Sec-
12 retary of Agriculture that returns to growers or producers,
13 under the contracts for the 1933-1934 crop of sugar beets
14 or sugarcane, entered into by and between the processors
15 and producers and/or growers thereof, were reduced by
16 reason of the payment of the processing tax, and/or the
17 corresponding floor stocks tax, on sugar beets or sugarcane,
18 in addition to the foregoing rental or benefit payments, the
19 Secretary of Agriculture shall make such payments, repre-
20 senting in whole or in part such tax, as the Secretary deems
21 fair and reasonable, to producers who agree, or have agreed,
22 to participate in the program for reduction in the acreage
23 or reduction in the production for market, or both, of sugar
24 beets or sugarcane.

1 “(8) In the case of rice, the Secretary of Agriculture,
2 in exercising the power conferred upon him by subsection
3 (2) of this section to provide for rental or benefit payments,
4 is directed to provide in any agreement entered into by him
5 with any rice producer pursuant to such subsection, upon
6 such terms and conditions as the Secretary determines will
7 best effectuate the declared policy of this title, that the
8 producer may pledge for production credit in whole or in
9 part his right to any rental or benefit payments under the
10 terms of such agreement and that such producer may
11 designate therein a payee to receive such rental or benefit
12 payments.

13 “(9) Under regulations of the Secretary of Agricul-
14 ture requiring adequate facilities for the storage of any non-
15 perishable agricultural commodity on the farm, inspection
16 and measurement of any such commodity so stored, and the
17 locking and sealing thereof, and such other regulations as
18 may be prescribed by the Secretary of Agriculture for the
19 protection of such commodity and for the marketing thereof,
20 a reasonable percentage of any benefit payment may be
21 advanced on any such commodity so stored. In any such
22 case, such deduction may be made from the amount of the
23 benefit payment as the Secretary of Agriculture determines
24 will reasonably compensate for the cost of inspection and
25 sealing but no deduction may be made for interest.”

1 SEC. 3. The first sentence of subsection (b) of section
2 12 of the Agricultural Adjustment Act, as amended, is
3 amended to read as follows: "In addition to the foregoing,
4 for the purpose of effectuating the declared policy of this
5 title, a sum equal to the proceeds derived from all taxes
6 imposed under this title is hereby appropriated to be
7 available to the Secretary of Agriculture for (1) the acqui-
8 sition of any agricultural commodity pledged as security for
9 any loan made by any Federal agency, which loan was
10 conditioned upon the borrower agreeing or having agreed
11 to cooperate with a program of production adjustment or
12 marketing adjustment adopted under the authority of this
13 title, and (2) the following purposes under part 2 of this
14 title: Administrative expenses, payments authorized to be
15 made under section 8, and refunds on taxes."

16 SEC. 4. Subsection (2) of section 8 of the Agricul-
17 tural Adjustment Act, as amended, is amended by desig-
18 nating said subsection as section 8b, by inserting said section
19 at the end of section 8a, and by amending the first sentence
20 thereof to read as follows: "In order to effectuate the
21 declared policy of this title, the Secretary of Agriculture
22 shall have the power, after due notice and opportunity for
23 hearing, to enter into marketing agreements with processors,
24 producers, associations of producers, and (10) ~~others~~, *others*
25 engaged in the handling of any agricultural commodity or

1 product thereof, ~~(11)~~*only with respect to such handling as is*
 2 in the current of interstate or foreign commerce, or ~~(12)~~*so*
 3 as directly to burden, obstruct, or affect as directly burdens,
 4 obstructs, or affects, interstate or foreign commerce in such
 5 commodity or product thereof.”

6 SEC. 5. The Agricultural Adjustment Act, as amended,
 7 is amended by striking out section 8 (3) thereof and by
 8 adding after section 8b, the following new section:

9 “ORDERS

10 “SEC. 8c. (1) The Secretary of Agriculture shall,
 11 subject to the provisions of this section, issue, and from time
 12 to time amend, orders applicable to processors, associations
 13 of producers, and ~~(13)~~*others, others* engaged in the handling
 14 of any agricultural commodity or product thereof specified in
 15 subsection (2) of this section. Such persons are referred
 16 to in this title as ‘handlers’. Such orders shall regulate, in
 17 the manner hereinafter in this section provided, ~~(14)~~*the han-*
 18 *dling of such agricultural commodity, or product thereof,*
 19 *only in the current of interstate or foreign commerce, or*
 20 *so as directly to burden, obstruct, or affect, interstate or*
 21 *foreign commerce in such commodity or product thereof*
 22 *only such handling of such agricultural commodity, or*
 23 *product thereof, as is in the current of interstate or foreign*
 24 *commerce, or as directly burdens, obstructs, or affects, inter-*
 25 *state or foreign commerce in such commodity or product*
 26 *thereof.*

1 “COMMODITIES TO WHICH APPLICABLE

2 “(2) Orders issued pursuant to this section shall be
3 applicable only to the following agricultural commodities and
4 the products thereof (except products of naval stores), or
5 to any regional, or market classification of any such com-
6 modity or product: Milk, fruits (including pecans and wal-
7 nuts but not including apples and not including fruits (15),
8 *other than olives, for canning*), tobacco, vegetables (16)~~(not~~
9 ~~including vegetables for canning)~~ *(not including beans and*
10 *not including vegetables, other than asparagus, for canning),*
11 *soybeans, and naval stores as (17)defined included in the*
12 *Naval Stores Act (18)and standards established thereunder*
13 *(including refined or partially refined oleoresin). (19)As*
14 *used in this section, the term ‘vegetables’ includes soybeans;*

15 “NOTICE AND HEARING

16 “(3) Whenever the Secretary of Agriculture has
17 reason to believe that the issuance of an order will tend to
18 effectuate the declared policy of this title with respect to
19 any commodity or product thereof specified in subsection
20 (2) of this section, he shall give due notice of and an
21 opportunity for a hearing upon a proposed order.

22 “FINDING AND ISSUANCE OF ORDER

23 “(4) After such notice and opportunity for hearing,
24 the Secretary of Agriculture shall issue an order if he finds,

1 and sets forth in such order, upon the evidence introduced
 2 at such hearing (in addition to such other findings as
 3 may be specifically required by this section) that the issuance
 4 of such order and all of the terms and conditions thereof
 5 will tend to effectuate the declared policy of this title with
 6 respect to such commodity.

7 "TERMS—MILK AND ITS PRODUCTS

8 "(5) In the case of milk and its products, orders issued
 9 pursuant to this section shall contain one or more of the
 10 following terms and conditions, and (except as provided
 11 in subsection (7)) no others:

12 "(A) Classifying milk in accordance with the form in
 13 which ~~(20) it is ultimately used or consumed~~, *or the purpose*
 14 *for which it is used* and fixing, or providing a method for
 15 fixing, minimum prices for each such use classification
 16 which all handlers shall pay, and the time when payments
 17 shall be made, for milk purchased from producers or as-
 18 sociations of producers. Such prices shall be uniform
 19 as to all handlers, subject only to adjustments for (1)
 20 volume, market, and production differentials customarily
 21 applied by the handlers subject to such order, (2) the
 22 grade or quality of the milk purchased, and (3) the loca-
 23 tions at which delivery of such milk, or any use classification
 24 thereof, is made to such handlers.

1 “(B) Providing:

2 “(i) for the payment to all producers and associa-
3 tions of producers delivering milk to the same handler
4 of uniform prices for all milk delivered by them: *Pro-*
5 *vided*, That, except in the case of orders covering milk
6 products only, such provision is approved or favored by
7 at least three-fourths of the producers who, during a
8 representative period determined by the Secretary of
9 Agriculture, have been engaged in the production for
10 market of milk covered in such order or by producers
11 who, during such representative period, have produced
12 at least three-fourths of the volume of such milk pro-
13 duced for market during such period; the approval
14 required hereunder shall be separate and apart from
15 any other approval or disapproval provided for by this
16 section; or

17 “(ii) for the payment to all producers and asso-
18 ciations of producers delivering milk to all handlers
19 of uniform prices for all milk so delivered, irrespective
20 of the uses made of such milk by the individual handler
21 to whom it is delivered;

22 subject, in either case, only to adjustments for (a) volume,
23 market, and production differentials customarily applied by
24 the handlers subject to such order, (b) the grade or quality

1 of the milk delivered, (c) the locations at which delivery
 2 of such milk is made, and (d) a further adjustment,
 3 equitably to apportion the total value of the milk ~~(21)~~ sold
 4 *purchased* by any handler, or by all handlers, among pro-
 5 ducers and associations of producers, on the basis of their
 6 production of milk during a representative period of time.

7 “(C) In order to accomplish the purposes set forth in
 8 paragraphs (A) and (B) of this subsection (5), provid-
 9 ing a method for making adjustments in payments, as among
 10 handlers (including producers who are also handlers), to
 11 the end that the total sums paid by each handler shall equal
 12 the value of the milk purchased by him at the prices fixed
 13 in accordance with paragraph (A) hereof.

14 ~~(22)~~“(D) In order to accomplish the purposes set forth in
 15 paragraph ~~(A)~~ of this subsection ~~(5)~~, providing that all
 16 handlers shall pay the price specified in such order for milk
 17 utilized for manufacturing purposes for all milk delivered to
 18 them by producers who were not, upon the effective date of
 19 such order, regularly selling milk for consumption in the
 20 area covered thereby, for the period of ninety days from
 21 and after the commencement of deliveries by such producers,
 22 respectively.

23 “(D) *Providing that, in the case of all milk pur-*
 24 *chased by handlers from any producer who was not, upon*
 25 *the effective date of such order, regularly selling milk for*

1 consumption in the area covered thereby, payments to such
 2 producer, for the period beginning with the first regular
 3 delivery by such producer and continuing for three full
 4 calendar months from the first day of the next succeeding
 5 month, shall be made at the price for the lowest use classi-
 6 fication specified in such order.

7 ~~(23)“(E) Providing for the verification of weights, sam-~~
 8 ~~pling, and testing of, and security for the payment for,~~
 9 ~~milk purchased.~~

10 “(E) Providing for market information to and the
 11 verification of weights, sampling, and testing of milk pur-
 12 chased from producers, and for making appropriate deduc-
 13 tions therefor from payments to producers, except as to
 14 producers for whom such services are being rendered by a
 15 cooperative marketing association, qualified as provided in
 16 paragraph (F) of this subsection (5), and assurance of,
 17 and security for the payment by handlers for, milk pur-
 18 chased.

19 “(F) Nothing contained in this subsection (5) is in-
 20 tended or shall be construed to prevent a cooperative market-
 21 ing association qualified under the provisions of the Act of
 22 Congress of February 18, 1922, as amended, known as the
 23 ‘Capper-Volstead Act’, engaged in making collective sales
 24 or marketing of milk or its products for the producers
 25 thereof, from blending the net proceeds of all of its sales

1 in all markets in all use classifications, and making distri-
 2 bution thereof to its producers in accordance with the con-
 3 tract between the association and its producers: *Provided,*
 4 That it shall not sell milk or its products to any handler
 5 for use or consumption in any market at prices less than
 6 the prices fixed pursuant to paragraph (A) of this sub-
 7 section (5) for such milk.

8 “(G) No marketing agreement or order applicable
 9 to milk and its products in any marketing area shall pro-
 10 hibit (24) *or in any manner limit except as provided for*
 11 *milk only in subsection (d)* the marketing in that area of
 12 any milk or product thereof produced in any production
 13 area in the United States.

14 “TERMS—OTHER COMMODITIES

15 “(6) In the case of fruits (including pecans and wal-
 16 nuts but not including apples and not including fruits
 17 for canning) and their products, tobacco and its products,
 18 vegetables (not including vegetables (25), *other than as-*
 19 *paragus*, for canning) and their products, (26) *soybeans*
 20 *and their products*, and naval stores as (27) ~~defined in-~~
 21 *cluded* in the Naval Stores Act (28) *and standards estab-*
 22 *lished thereunder (including refined or partially refined*
 23 *oleoresin)*, orders issued pursuant to this section shall con-
 24 tain one or more of the following terms and conditions, and
 25 (except as provided in subsection (7)) no others:

1 “(A) Limiting, or providing methods for the limita-
 2 tion of, the total quantity of any such commodity or product,
 3 or of any grade, size, or quality thereof, produced during
 4 any specified period or periods, which may be (29)~~mar-~~
 5 ~~keted in or transported to any or all markets marketed in~~
 6 *or transported in the current of interstate or foreign com-*
 7 *merce or as directly burdens, obstructs, or affects, interstate*
 8 *or foreign commerce in such commodity or product thereof,*
 9 during any specified period or periods by all handlers thereof.

10 “(B) Allotting, or providing methods for allotting, the
 11 amount of such commodity or product, or any grade, size,
 12 or quality thereof, which each handler may purchase from
 13 or handle on behalf of any and all producers thereof, during
 14 any specified period or periods, under a uniform rule based
 15 upon the amounts produced or sold by such producers in such
 16 prior period as the Secretary determines to be representa-
 17 tive, or upon the current production or sales of such pro-
 18 ducers, or both, to the end that the total quantity thereof to
 19 be purchased or handled during any specified period or
 20 periods shall be apportioned equitably among producers.

21 “(C) Allotting, or providing methods for allotting,
 22 the amount of any such commodity or product, or any
 23 grade, size, or quality thereof, which each handler may
 24 (30)~~market in or transport to any or all markets market~~
 25 *in or transport in the current of interstate or foreign com-*

1 *merce or as directly burdens, obstructs, or affects interstate*
 2 *or foreign commerce in such commodity or product thereof,*
 3 under a uniform rule based upon the amounts which each
 4 such handler has available for current shipment, or upon the
 5 amounts shipped by each such handler in such prior period
 6 as the Secretary determines to be representative, or both,
 7 to the end that the total quantity of such commodity or
 8 product, or any grade, size, or quality thereof, to be
 9 ~~(31) marketed in or transported to any or all markets~~
 10 *marketed in or transported in the current of interstate or*
 11 *foreign commerce or as directly burdens, obstructs, or affects,*
 12 *interstate or foreign commerce in such commodity or product*
 13 *thereof, during any specified period or periods shall be*
 14 equitably apportioned among all of the handlers thereof.

15 “(D) Determining, or providing methods for deter-
 16 mining, the existence and extent of the surplus of any such
 17 commodity or product, or of any grade, size, or quality
 18 thereof, and providing for the control and disposition of
 19 such surplus, and for equalizing the burden of such surplus
 20 elimination or control among the producers and handlers
 21 thereof.

22 “(E) Establishing, or providing for the establishment
 23 of, reserve pools of any such commodity or product, or of
 24 any grade, size, or quality thereof, and providing for the
 25 equitable distribution of the net return derived from the sale

1 thereof among the persons beneficially interested therein.
 2 ~~(32)~~“(F) Fixing, or providing methods for fixing, mini-
 3 mum prices at which any such commodity or product, or
 4 any grade, size or quality thereof, shall be purchased by
 5 the first handlers subject to such order: *Provided, That*
 6 such first handlers, as a group, purchase or otherwise acquire
 7 not less than 50 per centum of the total quantity of the
 8 commodity or product covered by such order directly from
 9 producers or associations of producers.

10 “TERMS COMMON TO ALL ORDERS

11 “(7) In the case of the agricultural commodities and
 12 the products thereof specified in subsection (2) orders shall
 13 contain one or more ~~(33)~~*of the following* terms and
 14 conditions:

15 “(A) Prohibiting unfair methods of competition and
 16 unfair trade practices in the handling thereof.

17 ~~(34)~~“(B) *Providing that (except for milk and cream to*
 18 *be sold for consumption in fluid form) such commodity or*
 19 *product thereof, or any grade, size, or quality thereof shall*
 20 *be sold by the handlers thereof only at prices filed by such*
 21 *handlers in the manner provided in such order.*

22 ~~(35)~~“(B) (C) Providing for the ~~(36)~~appointment or selec-
 23 tion by the Secretary of Agriculture, or a method for the
 24 ~~(37)~~appointment or selection, of an agency or agencies

25 ~~(38)~~*(which in the case of milk shall not be a cooperative*

1 *association of producers)* and defining their powers and
 2 duties, which, ~~(39)among other things, shall include~~ *shall*
 3 *include only* the powers:

4 “(i) To administer such order in accordance with
 5 its terms and provisions;

6 “(ii) To make rules and regulations to effectuate
 7 the terms and provisions of such order;

8 “(iii) To receive, investigate, and report to the
 9 Secretary of Agriculture complaints of violations of
 10 such order; and

11 “(iv) To recommend to the Secretary of Agricul-
 12 ture amendments to such order.

13 No person acting as a member of an agency established
 14 pursuant to this paragraph (B) shall be deemed to be acting
 15 in an official capacity, within the meaning of section 10 (g)
 16 of this title, unless such person receives compensation for
 17 his personal services from funds of the United States.

18 ~~(40)“(C)~~ (D) Incidental to, and not inconsistent with,
 19 the terms and conditions specified in subsections (5), (6),
 20 and (7) and necessary to effectuate the other provisions
 21 of such order.

22 “ORDERS WITH MARKETING AGREEMENT

23 “(8) Except as provided in subsection (9) of this
 24 section, no order issued pursuant to this section shall become
 25 effective until the handlers (excluding cooperative associa-

1 tions of producers who are not engaged in processing, dis-
 2 tributing, or shipping the commodity or product thereof
 3 covered by such order) of not less than 50 per centum of
 4 the volume of the commodity or product thereof covered by
 5 such order (41) *which is produced or marketed within the pro-*
 6 *duction or marketing area defined in such order* have signed
 7 a marketing agreement, entered into pursuant to section 8b
 8 of this title, which regulates the handling of such commodity
 9 or product in the same manner as such order (42), *except*
 10 *that as to California citrus fruits no order issued pursuant*
 11 *to this subsection (8) shall become effective until the handlers*
 12 *of not less than 80 per centum of the volume of such com-*
 13 *modity or product thereof covered by such order have signed*
 14 *such a marketing agreement (43): Provided, That no order*
 15 *issued pursuant to this subsection shall be effective unless the*
 16 *Secretary of Agriculture, with the approval of the President,*
 17 *determines that the issuance of such order is approved or*
 18 *favored by at least two-thirds of the producers by volume*
 19 *or number, such approval to be determined by referendum*
 20 *vote of said producers, and who during a representative*
 21 *period, determined by the Secretary, have been engaged,*
 22 *within the production area specified in such marketing agree-*
 23 *ment or order, in the production for market in interstate*
 24 *commerce of the commodities specified therein.*

1 "ORDERS WITH OR WITHOUT MARKETING AGREEMENT

2 " (9) ~~(44)(A)~~ Any order issued pursuant to this sec-
 3 tion shall become effective in the event that, notwithstanding
 4 the refusal or failure of handlers (excluding cooperative asso-
 5 ciations of producers who are not engaged in processing, dis-
 6 tributing, or shipping the commodity or product thereof
 7 covered by such order) of more than 50 per centum
 8 of the volume of the commodity or product thereof ~~(45)~~ *(ex-*
 9 *cept that as to California citrus fruits said per centum shall*
 10 *be 80 per centum)* covered by such order ~~(46)~~ *which is*
 11 *produced or marketed within the production or marketing*
 12 *area defined in such order* to sign a marketing agreement
 13 relating to such commodity or product thereof, on which a
 14 hearing has been held, the Secretary of Agriculture, with
 15 the approval of the President, determines:

16 " ~~(47)(1)~~ (A) That the refusal or failure to sign a
 17 marketing agreement (upon which a hearing has been held)
 18 by the handlers (excluding cooperative associations of pro-
 19 ducers who are not engaged in processing, distributing, or
 20 shipping the commodity or product thereof covered by such
 21 order) of more than 50 per centum of the volume of the
 22 commodity or product thereof ~~(48)~~ *(except that as to Cali-*
 23 *fornia citrus fruits said per centum shall be 80 per centum)*
 24 *specified therein* ~~(49)~~ *which is produced or marketed within*
 25 *the production or marketing area specified therein* tends to

1 prevent the effectuation of the declared policy of this title
 2 with respect to such commodity or product, and

3 “~~(50)(2)~~ (B) That the issuance of such order is the
 4 only practical means of advancing the interests of the pro-
 5 ducers of such commodity pursuant to the declared policy,
 6 and is approved or ~~(51)~~ favored by at least two-thirds of the
 7 producers who, during a representative period determined
 8 by the Secretary, have been engaged in the production for
 9 market of the commodity specified in such marketing agree-
 10 ment or order, or by producers who, during such representa-
 11 tive period, have produced for market at least two-thirds of
 12 the volume of such commodity produced for market during
 13 such period, favored:

14 ~~(52)~~“(i) By at least two-thirds of the producers
 15 (except as to California citrus fruit said order must be
 16 approved or favored by three-fourths of the producers)
 17 who, during a representative period determined by the
 18 Secretary, have been engaged, within the production
 19 area specified in such marketing agreement or order, in
 20 the production for market of the commodity specified
 21 therein, or who, during such representative period,
 22 have been engaged in the production of such commodity
 23 for sale or consumption in the marketing area specified
 24 in such marketing agreement, or order, or

1 “(ii) *By producers who, during such represen-*
 2 *tative period, have produced for market at least two-*
 3 *thirds of the volume of such commodity produced for*
 4 *market within the production area specified in such*
 5 *marketing agreement or order, or who, during such*
 6 *representative period, have produced at least two-thirds*
 7 *of the volume of such commodity sold or consumed*
 8 *within the marketing area specified in such marketing*
 9 *agreement or order.*

10 “MANNER OF REGULATION AND APPLICABILITY

11 “(10) No order shall be issued under this section
 12 unless it regulates the handling of the commodity or product
 13 covered thereby in the same manner as, and is made appli-
 14 cable only to persons in the respective classes of industrial
 15 or commercial activity specified in, a marketing agreement
 16 upon which a hearing has been held. (53) *No order shall*
 17 *be issued under this Act prohibiting, regulating, or restrict-*
 18 *ing the advertising of any commodity or product covered*
 19 *hereby, nor shall any marketing agreement contain any pro-*
 20 *vision prohibitng, regulatng, or restrcting the advertsing*
 21 *of any commodity or product covered by such marketing*
 22 *agreement.*

23 “REGIONAL (54) ~~RULE~~ APPLICATION

24 “(11) (A) No order shall be issued under this section
 25 which is applicable to all production areas or marketing

1 areas, or both, of any commodity or product thereof unless
 2 the Secretary finds that the issuance of several orders appli-
 3 cable to the respective regional production areas or regional
 4 marketing areas, or both, as the case may be, of the com-
 5 modity or product would not effectively carry out the
 6 declared policy of this title.

7 “(B) Except in the case of milk and its products,
 8 orders issued under this section shall be limited in their
 9 application to the smallest regional production areas or
 10 regional marketing areas, or both, as the case may be,
 11 which the Secretary finds practicable, consistently with
 12 carrying out such declared policy.

13 “(C) All orders issued under this section which are
 14 applicable to the same commodity or product thereof shall,
 15 so far as practicable, prescribe such different terms, appli-
 16 cable to different production areas and marketing areas, as
 17 the Secretary finds necessary to give due recognition to the
 18 differences in production and marketing of such commodity
 19 or product in such areas.

20 “COOPERATIVE ASSOCIATION REPRESENTATION

21 “(12) Whenever, pursuant to the provisions of this
 22 section, the Secretary is required to determine the approval
 23 or disapproval of producers with respect to the issuance of
 24 any order, or any term or condition thereof, or the termi-
 25 nation thereof, the Secretary (55) ~~may~~ shall consider the

1 approval or disapproval by any cooperative association of
 2 producers, bona fide engaged in marketing the commodity
 3 or product thereof covered by such order, or in rendering
 4 services for or advancing the interests of the producers of
 5 such commodity, as the approval or disapproval of the pro-
 6 ducers who are members of, stockholders in, or under con-
 7 tract with, such cooperative association of producers.

8 “RETAILER AND PRODUCER EXEMPTION

9 “(13) (A) No order issued under subsection (9)
 10 of this section shall be applicable to any person who sells
 11 agricultural commodities or products thereof at retail in
 12 his capacity as such retailer, except to a retailer in his
 13 capacity as a retailer of milk and its products.

14 “(B) No order issued under this title shall be appli-
 15 cable to any producer in his capacity as a producer.

16 “VIOLATION OF ORDER

17 “(14) Any handler subject to an order issued under
 18 this section, or any officer, director, agent, or employee of
 19 such handler, who violates any provision of such order
 20 (other than a provision calling for payment of a pro rata share
 21 of expenses) shall, on conviction, be fined not less than
 22 \$50 or more than \$500 for each such violation, and each
 23 day during which such violation continues shall be deemed
 24 a separate violation: *Provided, (56)* That no person shall be
 25 convicted under this title because of any violation of any

1 order or of any obligation imposed in connection there-
 2 with, if such violation occurs between the date upon which
 3 such person files with the Secretary a petition, with respect
 4 to such order or obligation, as provided for in subsection
 5 (15), and five days after the Secretary enters a ruling
 6 thereon *That if the court finds that a petition pursuant to*
 7 *subsection (15) of this section was filed and prosecuted by*
 8 *the defendant in good faith and not for delay, no penalty*
 9 *shall be imposed under this subsection for such violations as*
 10 *occurred between the date upon which the defendant's petition*
 11 *was filed with the Secretary, and the date upon which notice*
 12 *of the Secretary's ruling thereon was given to the defendant*
 13 *in accordance with regulations prescribed pursuant to sub-*
 14 *section (15).*

15 " PETITION BY HANDLER AND REVIEW

16 "(15) (A) Any handler subject to an order may file
 17 a written petition with the Secretary of Agriculture, stating
 18 that any such order or any provision of any such order
 19 or any obligation imposed in connection therewith is not
 20 in accordance with law and praying for a modification
 21 thereof or to be exempted therefrom. He shall thereupon
 22 be given an opportunity for a hearing upon such petition,
 23 in accordance with regulations made by the Secretary of
 24 Agriculture, with the approval of the President. After
 25 such hearing, the Secretary shall make a ruling upon the

1 prayer of such petition which shall be final, if in accordance
2 with law.

3 “(B) The District Courts of the United States (includ-
4 ing the Supreme Court of the District of Columbia) in any
5 district in which such handler is an inhabitant, or has his
6 principal place of business, *is are* hereby vested with juris-
7 diction in equity to review such ruling, provided a bill in
8 equity for that purpose is filed within twenty days from
9 the date of the entry of such ruling. Service of process in
10 such proceedings may be had upon the Secretary by deliv-
11 ering to him a copy of the bill of complaint. If the court
12 determines that such ruling is not in accordance with law,
13 it shall remand such proceedings to the Secretary with
14 directions either (1) to make such ruling as the court
15 shall determine to be in accordance with law, or (2) to
16 take such further proceedings as, in its opinion, the law
17 requires. ~~(57)Nothing contained in this subsection (15)~~
18 ~~shall be construed to prevent, hinder, or delay the United~~
19 ~~States or the Secretary of Agriculture from pursuing the rem-~~
20 ~~edies provided for in section 8a (6) of this title~~ *The pend-*
21 *ency of proceedings instituted pursuant to this subsection*
22 *(15) shall not impede, hinder, or delay the United States or*
23 *the Secretary of Agriculture from obtaining relief pursuant*
24 *to section 8a (6) of this title. Any proceedings brought*
25 *pursuant to section 8a (6) of this title (except where*

1 brought by way of counterclaim in proceedings instituted
 2 pursuant to this subsection (15)) shall abate whenever
 3 a final decree has been rendered in proceedings between
 4 the same parties, and covering the same subject matter,
 5 instituted pursuant to this subsection (15).

6 “TERMINATION OF ORDERS AND MARKETING AGREEMENTS

7 “(16) (A) The Secretary of Agriculture shall, when-
 8 ever he finds that any order issued under this section, or
 9 any provision thereof, obstructs or does not tend to effectuate
 10 the declared policy of this title, terminate or suspend the
 11 operation of such order or such provision thereof.

12 “(B) The Secretary shall terminate any marketing
 13 agreement entered into under section 8b, or order issued
 14 under this section, at the end of the then current marketing
 15 period for such commodity, (58)as specified in such market-
 16 ing agreement or order, whenever he finds that such termina-
 17 tion is favored by a majority of the producers who, during a
 18 representative period determined by the Secretary, have
 19 been engaged in the production for market of the commodity
 20 specified in such marketing agreement or order (59) provided
 21 ~~that such majority have during such representative period~~
 22 ~~produced for market more than 50 per centum of the volume~~
 23 ~~of such commodity produced for market during such period~~
 24 *within the production area specified in such marketing agree-*
 25 *ment or order, or who, during such representative period,*

1 *have been engaged in the production of such commodity for*
 2 *sale or consumption within the marketing area specified in*
 3 *such marketing agreement or order: Provided, That such*
 4 *majority have, during such representative period, produced*
 5 *for market more than 50 per centum of the volume of such*
 6 *commodity produced for market within the production area*
 7 *specified in such marketing agreement or order, or have,*
 8 *during such representative period, produced more than 50*
 9 *per centum of the volume of such commodity sold or con-*
 10 *sumed in the marketing area specified in such marketing*
 11 *agreement or order but such termination shall be effective*
 12 *only if announced on or before such date (prior to the end*
 13 *of the then current marketing period) as may be specified*
 14 *in such marketing agreement or order.*

15 “(C) The termination or suspension of any order or
 16 amendment thereto or provision thereof, shall not be con-
 17 sidered an order within the meaning of this section.

18 “ PROVISIONS APPLICABLE TO AMENDMENTS

19 “(17) The provisions of this section, section 8d, and
 20 section 8e applicable to orders shall be applicable to amend-
 21 ments to orders(60): *Provided, That notice of a hearing*
 22 *upon a proposed amendment to any order issued pursuant to*
 23 *section 8(c), given not less than three days prior to the*
 24 *date fixed for such hearing, shall be deemed due notice*
 25 *thereof.”*

1 SEC. 6. The Agricultural Adjustment Act, as amended,
2 is further amended by striking out subsection (4) of section
3 8 thereof and adding after section 8c thereof the following
4 new sections:

5 “BOOKS AND RECORDS

6 “SEC. 8d. (1) All parties to any marketing agree-
7 ment, and all handlers subject to an order, shall severally,
8 from time to time, upon the request of the Secretary, furnish
9 him with such information as he finds to be necessary
10 to enable him to ascertain and determine the extent to
11 which such agreement or order has been carried out or
12 has effectuated the declared policy of this title, and with
13 such information as he finds to be necessary to determine
14 whether or not there has been any abuse of the privilege
15 of exemptions from the antitrust laws. Such information
16 shall be furnished in accordance with forms of reports
17 to be prescribed by the Secretary. For the purpose of
18 ascertaining the correctness of any report made to the
19 Secretary pursuant to this subsection, or for the purpose of
20 obtaining the information required in any such report,
21 where it has been requested and has not been furnished,
22 the Secretary is hereby authorized to examine such
23 books, papers, records, copies of income-tax reports, accounts,
24 correspondence, contracts, documents, or memoranda, as
25 he deems relevant and which are within the control (1) of

1 any such party to such marketing agreement, or any such
2 handler, from whom such report was requested or (2) of
3 any person having, either directly or indirectly, actual or
4 legal control of or over such party or such handler or (3)
5 of any subsidiary of any such party, handler, or person.

6 “(2) Notwithstanding the provisions of section 7, all
7 information furnished to or acquired by the Secretary of
8 Agriculture pursuant to this section shall be kept confiden-
9 tial by all officers and employees of the Department of Agri-
10 culture and only such information so furnished or acquired
11 as the Secretary deems relevant shall be disclosed by them,
12 and then only in a suit or administrative hearing brought at
13 the direction, or upon the request, of the Secretary of Agri-
14 culture, or to which he or any officer of the United States
15 is a party, and involving the marketing agreement or order
16 with reference to which the information so to be disclosed
17 was furnished or acquired. Nothing in this section shall be
18 deemed to prohibit (A) the issuance of general statements
19 based upon the reports of a number of parties to a market-
20 ing agreement or of handlers subject to an order, which
21 statements do not identify the information furnished by any
22 person, or (B) the publication by direction of the Secre-
23 tary, of the name of any person violating any marketing
24 agreement or any order, together with a statement of the
25 particular provisions of the marketing agreement or order

1 violated by such person. Any such officer or employee
2 violating the provisions of this section shall upon conviction
3 be subject to a fine of not more than \$1,000 or to imprison-
4 ment for not more than one year, or to both, and shall be
5 removed from office.

6 " DETERMINATION OF BASE PERIOD

7 " SEC. 8e. In connection with the making of any
8 marketing agreement or the issuance of any order, if the
9 Secretary finds and proclaims that, as to any commodity
10 specified in such marketing agreement or order, the pur-
11 chasing power during the base period specified for such
12 commodity in section 2 of this title cannot be satisfactorily
13 determined from available statistics of the Department of
14 Agriculture, the base period, for the purposes of such
15 marketing agreement or order, shall be the post-war period,
16 August 1919–July 1929, or all that portion thereof for
17 which the Secretary finds and proclaims that the purchasing
18 power of such commodity can be satisfactorily determined
19 from available statistics of the Department of Agriculture."

20 SEC. 7. Subsection (5) of section 8 of the Agricultural
21 Adjustment Act, as amended, is further amended by desig-
22 nating said subsection as section 8f, by inserting said section
23 at the end of section 8e, and by striking out the last sentence
24 thereof.

1 SEC. 8. Subsection (1) of section 8a of the Agricul-
2 tural Adjustment Act, as amended, is amended as follows:

3 (a) by striking out the word "handlers" wherever it
4 appears and by inserting in lieu thereof the words "persons
5 engaged in the handling";

6 (b) by striking out the phrase "or in competition
7 with" and the comma following such phrase in paragraph
8 (B);

9 (c) by inserting the word "directly" before the words
10 "to burden" in paragraph (B);

11 (d) by striking out the words "in any way" in
12 paragraph (B).

13 SEC. 9. Subsection (6) of section 8a of the Agricul-
14 tural Adjustment Act, as amended, is amended by inserting
15 the word "or" after the comma following the word "regula-
16 tion," and by striking out the words "or license".

17 SEC. 10. Subsection (7) of section 8a of the Agri-
18 cultural Adjustment Act, as amended, is amended by insert-
19 ing at the end thereof the following new sentence: "When-
20 ever the Secretary, or such officer or employee of the Depart-
21 ment of Agriculture as he may designate for the purpose, has
22 reason to believe that any handler has violated, or is violat-
23 ing, the provisions of any order or amendment thereto issued
24 pursuant to this title, the Secretary shall have power to
25 institute an investigation and, after due notice to such

1 handler, to conduct a hearing in order to determine the
2 facts for the purpose of referring the matter to the Attorney
3 General for appropriate action.”

4 SEC. 11. (a) Subsection (a) of section 9 of the Agri-
5 cultural Adjustment Act, as amended, is amended by
6 striking out all of the second sentence preceding the semi-
7 colon and inserting in lieu thereof the following: “When
8 the Secretary of Agriculture determines that any one or
9 more payments authorized to be made under section 8
10 are to be made with respect to any basic agricultural com-
11 modity, he shall proclaim such determination, and a process-
12 ing tax shall be in effect with respect to such commodity
13 from the beginning of the marketing year therefor next
14 following the date of such proclamation”.

15 (b) The eighth sentence of such subsection (a) is
16 amended by striking out “rental or benefit payments”
17 and inserting in lieu thereof: “all payments authorized
18 under section 8 which are in effect”.

19 SEC. 12. Subsection (b) of section 9 of the Agricul-
20 tural Adjustment Act, as amended, is amended to read as
21 follows:

22 “TAX RATE GENERALLY

23 “(b) (1) The processing tax shall be at such rate as
24 equals the difference between the current average farm
25 price for the commodity and the fair exchange value of the

1 commodity, plus such percentage of such difference, not to
2 exceed 20 per centum, as the Secretary of Agriculture may
3 determine will result in the collection, in any marketing year
4 with respect to which such rate of tax may be in effect pur-
5 suant to the provisions of this title, of an amount of tax
6 equal to (A) the amount of credits or refunds which he
7 estimates will be allowed or made during such period pur-
8 suant to section 15 (c) with respect to the commodity and
9 (B) the amount of tax which he estimates would have been
10 collected during such period upon all processings of such
11 commodity which are exempt from tax by reason of the
12 fact that such processings are done by or for a State, or
13 a political subdivision or an institution thereof, had such
14 processings been subject to tax. If, prior to the time
15 the tax takes effect, or at any time thereafter, the Sec-
16 retary has reason to believe that the tax at such rate, or
17 at the then existing rate, on the processing of the commodity
18 generally or for any designated use or uses, or on the proc-
19 essing of the commodity in the production of any designated
20 product or products thereof for any designated use or uses,
21 will cause or is causing such reduction in the quantity of
22 the commodity or products thereof domestically consumed
23 as to result in the accumulation of surplus stocks of the
24 commodity or products thereof or in the depression of the
25 farm price of the commodity, then the Secretary shall cause

1 an appropriate investigation to be made, and afford due
 2 notice and opportunity for hearing to interested parties.
 3 If thereupon the Secretary determines and proclaims that
 4 any such result will occur or is occurring, then the processing
 5 tax on the processing of the commodity generally or for any
 6 designated use or uses, or on the processing of the com-
 7 modity in the production of any designated product or
 8 products thereof for any designated use or uses, shall be
 9 at such lower rate or rates as he determines and proclaims
 10 will prevent such accumulation of surplus stocks and de-
 11 pression of the farm price of the commodity, and the tax
 12 shall remain during its effective period at such lower rate
 13 until the Secretary, after due notice and opportunity for
 14 hearing to interested parties, determines and proclaims that
 15 an increase in the rate of such tax will not cause such accu-
 16 mulation of surplus stocks or depression of the farm price
 17 of the commodity. Thereafter the processing tax shall be
 18 at the highest rate which the Secretary determines will not
 19 cause such accumulation of surplus stocks or depression of
 20 the farm price of the commodity, but it shall not be higher
 21 than the rate provided in the first sentence of this paragraph.

22 "SPECIFIC TAX RATES

23 "(2) In the case of wheat, cotton, field corn, hogs,
 24 peanuts, tobacco, paper, and jute, and (except as provided
 25 in paragraph (61)~~(6)~~ (8) of this subsection) in the case of

1 sugarcane and sugar beets, the tax on the first domestic
 2 processing of the commodity generally or for any particular
 3 use, or in the production of any designated product for any
 4 designated use, shall be levied, assessed, collected, and paid
 5 at the rate prescribed by the regulations of the Secretary of
 6 Agriculture in effect on (62) June 1, 1935, during the period
 7 ~~from the date of the adoption of this amendment~~ *the date of*
 8 *the adoption of this amendment, during the period from such*
 9 *date to December 31, 1937, both dates inclusive.*

10 "SPECIFIC TAX RATE—RICE

11 "(3) For the period from April 1, 1935, to July 31,
 12 1936, both inclusive, the processing tax with respect to rice
 13 shall be levied, assessed, collected, and paid at the rate of
 14 1 cent per pound of rough rice.

15 (63) "SPECIFIC TAX RATE—MARKETING YEAR—FLOOR

16 STOCKS—RYE

17 "(4) *For the period from August 15, 1935, to Decem-*
 18 *ber 31, 1937, both inclusive, the processing tax with respect*
 19 *to rye shall be levied, assessed, collected, and paid at the*
 20 *rate of 30 cents per bushel of fifty-six pounds. In the*
 21 *case of rye, the first marketing year shall be considered to*
 22 *be the period commencing August 15, 1935, and ending June*
 23 *30, 1936. Subsequent marketing years shall commence*
 24 *on July 1 and end on June 30 of the succeeding year. The*

1 provisions of section 16 of this title shall not apply in the
2 case of rye.

3 **(64)**“SPECIFIC TAX RATE—FLOOR STOCKS—FLAXSEED

4 AND BARLEY

5 “(5) If at any time prior to December 31, 1937, any
6 tax with respect to barley becomes effective pursuant to
7 proclamation as provided in subsection (a) of this section,
8 such tax shall be levied, assessed, collected, and paid during
9 the period from the date upon which such tax becomes effec-
10 tive to December 31, 1937, both inclusive, and in the case
11 of barley at the rate of 25 cents per bushel of forty-eight
12 pounds. The provisions of section 16 of this title shall not
13 apply in the case of barley. **(65)**During such time as the
14 production of flaxseed in the United States is less than the
15 domestic consumption thereof, there shall be no reduction of
16 or limitation upon the acreage devoted to or to be hereafter
17 devoted to the production of flaxseed or upon the quantity
18 produced or to be hereafter produced within the United
19 States, and no grower of flaxseed shall be denied participa-
20 tion in benefit payments by reason of the fact that such
21 grower has not engaged in growing flaxseed in any preceding
22 year. **(66)**In the case of flaxseed the first marketing year
23 shall be considered to be the period commencing October 1,
24 1935, and ending April 30, 1936. Subsequent marketing

1 years shall commence on May 1 and end on April 30 of the
2 succeeding year.

3 There shall be levied, assessed, collected, and paid
4 (during any period after the date of the adoption of this
5 amendment when a processing tax is in effect with respect
6 to flaxseed) (a) a processing tax on the first domestic
7 processing of perilla seed at the rate equal to the per pound
8 rate of the processing tax which is then in effect on flaxseed,
9 and (b) a processing tax on the first domestic processing of
10 hempseed at the rate of 84 per centum of the per pound
11 rate of the processing tax which is then in effect on flaxseed.
12 (67) No tax shall be imposed under section 15(d) of the
13 Agricultural Adjustment Act, as amended, upon tung seed
14 or its products, including tung oil.

15 " ADJUSTMENT OF RATE

16 (68) ~~(4)~~ In accordance with the formulae and stand-
17 ards prescribed in this title, ~~(A)~~ any rate of tax prescribed
18 in paragraphs ~~(2)~~ and ~~(3)~~ of this subsection may be
19 decreased ~~(including a decrease to zero)~~, to prevent an
20 accumulation of surplus stocks of the commodity or the
21 products thereof, to prevent such reduction in the quantity
22 of the commodity or products thereof domestically consumed
23 as will result in the accumulation of surplus stocks of the
24 commodity or products thereof, or to prevent depression in
25 the farm price of the commodity, or may be increased, or

1 shall terminate pursuant to proclamation as provided in sec-
 2 tion 9 (a) or pursuant to section 13, and (B) after Decem-
 3 ber 31, 1937 (in the case of the commodities specified in
 4 paragraph (2) of this subsection), and after July 31, 1936
 5 (in the case of rice), rates of tax shall be determined
 6 by the Secretary of Agriculture and shall thereafter be
 7 effective. If the applicability to any person or circum-
 8 stances of any tax under this title the rate of which is fixed
 9 in pursuance of this paragraph is finally held invalid by
 10 reason of any provision of the Constitution, or is finally held
 11 invalid by reason of the Secretary of Agriculture's exercise
 12 or failure to exercise any power conferred on him under this
 13 title, there shall be levied, assessed, collected, and paid (in
 14 lieu of all rates of tax fixed in pursuance of this paragraph
 15 with respect to all tax liabilities incurred under this title
 16 on or after the effective date of each of the rates of tax
 17 fixed in pursuance of this paragraph, respectively) rates of
 18 tax fixed under paragraph (2) or (3) and such rates shall
 19 be in effect (unless the particular tax is terminated pur-
 20 suant to proclamation as provided in section 9 (a) or pur-
 21 suant to section 13) until altered by Act of Congress;
 22 except that, for any period prior to the effective date of
 23 such holding of invalidity, the amount of tax which repre-
 24 sents the difference between tax at the rate fixed in pur-
 25 suance of this paragraph and tax at the rate fixed under

1 paragraph ~~(2)~~ or ~~(3)~~ shall not be levied, assessed, collected,
2 or paid.

3 “(6) (A) Any rate of tax which is prescribed in para-
4 graph (2), (3), (4), or (5) of this subsection on the process-
5 ing of any commodity, shall be decreased (including a de-
6 crease to zero) in accordance with the formulae, standards,
7 and requirements of paragraph (1) of this subsection, in
8 order to prevent such reduction in the quantity of such com-
9 modity or the products thereof domestically consumed as
10 will result in the accumulation of surplus stocks of such
11 commodity or the products thereof or in the depression of
12 the farm price of the commodity.

13 “(B) If the average farm price of any commodity, the
14 rate of tax on the processing of which is prescribed in para-
15 graph (2), (3), (4), or (5) of this subsection, during the
16 twelve months period consisting of the two months immediately
17 preceding and the first ten months of any marketing year—

18 “(i) is equal to, or exceeds by 20 per centum or
19 less, the fair exchange value thereof, or is less than the
20 fair exchange value by not more than 10 per centum,
21 the rate of such tax shall be reduced, at the beginning
22 of the next succeeding marketing year, to such rate as
23 equals 20 per centum of the fair exchange value thereof.

24 “(ii) exceeds by more than 20 per centum the
25 fair exchange value thereof, the rate of such tax shall

1 *be reduced, at the beginning of the next succeeding*
2 *marketing year, to such rate as equals 10 per centum*
3 *of the fair exchange value thereof.*

4 *“(C) Any rate of tax which has been decreased pur-*
5 *suant to this paragraph (6) shall remain at such decreased*
6 *rate until further decreased pursuant to this paragraph (6),*
7 *or until increased pursuant to this paragraph (6) or para-*
8 *graph (1) of this subsection.*

9 *“(D) In accordance with the formulae, standards,*
10 *and requirements prescribed in this title, any rate of tax*
11 *prescribed in paragraphs (2), (3), (4), or (5) of this*
12 *subsection may be increased.*

13 *“(E) Any tax, the rate of which is prescribed in*
14 *paragraphs (2), (3), (4), and (5) of this subsection,*
15 *shall terminate pursuant to proclamation as provided in*
16 *section 9 (a) of this title or pursuant to section 13 of this*
17 *title. Any such tax with respect to any basic commodity*
18 *which terminates pursuant to proclamation as provided in*
19 *section 9 (a) of this title shall again become effective at*
20 *the rate prescribed in paragraphs (2), (3), (4), or (5)*
21 *of this subsection from the beginning of the marketing year*
22 *for such commodity next following the date of a new proc-*
23 *lamation by the Secretary as provided in section 9 (a) of*
24 *this title, if such marketing year begins prior to December*

1 31, 1937, and shall remain at such rate until altered pur-
2 suant to the provisions of section 9 of this title.

3 “(F) After December 31, 1937 (in the case of the
4 commodities specified in paragraphs (2), (4), and (5) of
5 this subsection), and after July 31, 1936 (in the case of
6 rice), rates of tax shall be determined by the Secretary of
7 Agriculture in accordance with the formulae, standards,
8 and requirements prescribed in this title, and shall, subject
9 to such formulae, standards, and requirements, thereafter be
10 effective.

11 “(G) If the applicability to any person or circum-
12 stances of any tax, the rate of which is fixed in pursuance
13 of this paragraph (6), is finally held invalid by reason of
14 any provision of the Constitution, or is finally held invalid
15 by reason of the Secretary of Agriculture’s exercise or fail-
16 ure to exercise any power conferred on him under this title,
17 there shall be levied, assessed, collected, and paid (in lieu
18 of all rates of tax fixed in pursuance of this paragraph (6)
19 with respect to all tax liabilities incurred under this title on
20 or after the effective date of each of the rates of tax fixed
21 in pursuance of this paragraph (6)), rates of tax fixed
22 under paragraphs (2), (3), (4), or (5), and such rates
23 shall be in effect (unless the particular tax is terminated
24 pursuant to proclamation, as provided in section 9 (a) or
25 pursuant to section 13) until altered by Act of Congress;

1 *except that, for any period prior to the effective date of*
 2 *such holding of invalidity, the amount of tax which repre-*
 3 *sents the difference between the tax at the rate fixed under*
 4 *paragraphs (2), (3), (4), and (5) shall not be levied,*
 5 *assessed, collected, or paid.*

6 “ RICE—SPECIAL RULE

7 “~~(69)(5)~~ (7) In the case of rice, the weight to which
 8 the rate of tax shall be applied shall be the weight of rough
 9 rice when delivered to a processor, except that, where the
 10 producer processes his own rice, the weight to which the rate
 11 of tax shall be applied shall be the weight of rough rice when
 12 delivered to the place of processing.

13 “ SUGAR—SPECIAL RULE

14 “~~(70)(6)~~ (8) In the case of sugar beets or sugarcane
 15 the rate of tax shall be applied to the direct-consumption
 16 sugar, resulting from the first domestic processing, translated
 17 into terms of pounds of raw value according to regulations to be
 18 resulting from the first domestic processing, translated into
 19 terms of pounds of raw value according to regulations to be
 20 issued by the Secretary of Agriculture, and in the event that
 21 the Secretary increases or decreases the rate of tax fixed by
 22 paragraph (2) of this subsection, pursuant to the provisions
 23 of paragraph ~~(71)(4)~~ (6) of this subsection, then the rate of
 24 tax to be so applied shall be the higher of the two following
 25 quotients: The difference between the current average farm

1 price and the fair exchange value (A) of a ton of sugar
 2 beets and (B) of a ton of sugarcane, divided in the case
 3 of each commodity by the average extraction therefrom of
 4 sugar in terms of pounds of raw value (which average
 5 extraction shall be determined from available statistics of
 6 the Department of Agriculture) ; the rate of tax fixed by
 7 paragraph (2) of this subsection or adjusted pursuant to
 8 the provisions of paragraph ~~(72)(4)~~ (6) of this subsection
 9 shall in no event exceed the amount of the reduction by the
 10 President on a pound of sugar raw value of the rate of duty
 11 in effect on January 1, 1934, under paragraph 501 of the
 12 Tariff Act of 1930, as adjusted to the treaty of commercial
 13 reciprocity concluded between the United States and the
 14 Republic of Cuba on December 11, 1902, and/or the
 15 provisions of the Act of December 17, 1903, chapter 1.

16 " WHEAT PREMIUMS

17 "~~(73)(7)~~ (9) In computing the current average farm
 18 price in the case of wheat, premiums paid producers for pro-
 19 tein content shall not be taken into account."

20 SEC. 13. Subsection (c) of section 9 of the Agricul-
 21 tural Adjustment Act, as amended, is amended to read as
 22 follows:

23 "(c) For the purposes of part 2 of this title, the fair
 24 exchange value of a commodity shall be the price therefor
 25 that will give the commodity the same purchasing power,

1 with respect to articles farmers buy, as such commodity
 2 had during the base period specified in section 2; and, in
 3 the case of all commodities where the base period is the
 4 pre-war period, August 1909 to July 1914, will also reflect
 5 interest payments per acre on farm indebtedness secured
 6 by real estate and tax payments per acre on farm real
 7 estate, as contrasted with such interest payments and tax
 8 payments during said base period; and the current average
 9 farm price and the fair exchange value shall be ascertained
 10 by the Secretary of Agriculture from available statistics of
 11 the Department of Agriculture. The rate of tax upon the
 12 processing of any commodity, in effect on the date on which
 13 this amendment is adopted, shall not be affected by the
 14 adoption of this amendment and shall not be required to
 15 be adjusted or altered, unless the Secretary of Agriculture
 16 finds that it is necessary to adjust or alter any such rate
 17 pursuant to section 9 (a) of this title."

18 ~~(74)SEC. 14. Paragraph (5) of subsection (d) of sec-~~
 19 ~~tion 9 of the Agricultural Adjustment Act, as amended, is~~
 20 ~~hereby repealed.~~

21 *SEC. 14. (a) Paragraph (1) of subsection (d) of*
 22 *section 9 of the Agricultural Adjustment Act, as amended,*
 23 *is amended by inserting following the word "wheat" in the*
 24 *two instances in which it occurs, a comma, and the follow-*
 25 *ing: "rye, barley,"*

1 (b) Paragraph (5) of subsection (d) of section 9 of
2 the Agricultural Adjustment Act, as amended, is hereby
3 repealed.

4 **(75)**SEC. 15. Section 9 of the Agricultural Adjustment
5 Act, as amended, is amended by adding at the end thereof the
6 following new subsection:

7 “(g) Nothing contained in this title shall be construed
8 to authorize any tax upon the processing of any commodity
9 which processing results in the production of newsprint.”

10 SEC. **(76)**~~45~~ 16. Subsection (b) of section 10 of the
11 Agricultural Adjustment Act, as amended, is amended to
12 read as follows:

13 “(b) (1) The Secretary of Agriculture is authorized
14 to establish, for the more effective administration of the func-
15 tions vested in him by this title, State and local committees,
16 or associations of producers, and to permit cooperative asso-
17 ciations of producers, when in his judgment they are quali-
18 fied to do so, to act as agents of their members and patrons
19 in connection with the distribution of payments authorized to
20 be made under section 8. The Secretary, in the adminis-
21 tration of this title, shall accord such recognition and en-
22 couragement to producer-owned and producer-controlled
23 cooperative associations as will be in harmony with the
24 policy toward cooperative associations set forth in existing
25 Acts of Congress, and as will tend to promote efficient meth-

1 ods of marketing and distribution (77), ~~but without discrim-~~
2 ~~ination against other producers, processors, and handlers.~~

3 “(2) Each order issued by the Secretary under this
4 title shall provide that each handler subject thereto shall
5 pay to any authority or agency established under such order
6 such handler's pro rata share (as approved by the Secretary)
7 of such expenses as the Secretary may find will necessarily
8 be incurred by such authority or agency, during any period
9 specified by him, for the maintenance and functioning of such
10 authority or agency, other than expenses incurred in receiv-
11 ing, handling, holding, or disposing of any quantity of a
12 commodity received, handled, held, or disposed of by such
13 authority or agency for the benefit or account of persons
14 other than handlers subject to such order. The pro rata
15 share of the expenses payable by a cooperative association
16 of producers shall be computed on the basis of the quantity
17 of the agricultural commodity or product thereof covered
18 by such order which is distributed, processed, or shipped by
19 such cooperative association of producers. Any such author-
20 ity or agency may maintain in its own name, or in the names
21 of its members, a suit against any handler subject
22 to an order for the collection of such handler's pro rata share
23 of expenses. The several District Courts of the United
24 States are hereby vested with jurisdiction to entertain such
25 suits regardless of the amount in controversy.”

1 SEC. ~~(78)~~¹⁶ 17. Subsection (e) of section 10 of the
2 Agricultural Adjustment Act, as amended, is amended by
3 striking out "rental or benefit payment" and inserting in
4 lieu thereof "payment authorized to be made under section
5 8".

6 SEC. ~~(79)~~¹⁷ 18. Section 10 of the Agricultural Adjust-
7 ment Act, as amended, is amended by inserting at the end
8 thereof the following new subsection:

9 "(i) The Secretary of Agriculture ~~(80)~~^{is} authorized
10 *upon the request of the duly constituted authorities of any*
11 *State is directed*, in order to effectuate the declared policy
12 of this title and in order to obtain uniformity in the
13 formulation, administration, and enforcement of Federal
14 and State programs relating to the regulation of the han-
15 dling of agricultural commodities or products thereof, to
16 confer with and hold joint hearings with the duly constituted
17 authorities of any State, ~~(81)~~^{and} *is authorized* to cooperate
18 with such authorities; to accept and utilize, with the consent of
19 the State, such State and local officers and employees as may be
20 necessary; to avail himself of the records and facilities of such
21 authorities; to issue orders (subject to the provisions of sec-
22 tion 8c) complementary to orders or other regulations issued
23 by such authorities; and to make available to such State
24 authorities the records and facilities of the Department of
25 Agriculture: *Provided*, That information furnished to the

1 Secretary of Agriculture pursuant to section 8d (1) hereof
 2 shall be made available only to the extent that such informa-
 3 tion is relevant to transactions within the regulatory juris-
 4 diction of such authorities, and then only upon a written
 5 agreement by such authorities that the information so fur-
 6 nished shall be kept confidential by them in a manner similar
 7 to that required of Federal officers and employees under the
 8 provisions of section 8d (2) hereof."

9 SEC. (82)18 19. The first sentence of subsection (a)
 10 of section 12 of the Agricultural Adjustment Act as amended,
 11 is amended by striking out "rental and benefit payments
 12 made with respect to reduction in acreage or reduction in
 13 production for market under part 2 of this title" and insert-
 14 ing in lieu thereof "payments authorized to be made under
 15 section 8".

16 (83)SEC. 19. Section 12 of the Agricultural Adjustment
 17 Act, as amended, is amended by adding at the end thereof
 18 the following new subsection:

19 "(d) Amounts expended under this title which are
 20 expended for payments authorized to be made under section
 21 8 and administrative expenses in connection with any
 22 basic agricultural commodity shall not be less than a sum
 23 equal to the proceeds of the taxes levied under this title
 24 with respect to such commodity. For the purposes of this
 25 subsection: (1) Amounts collected and expended from

1 taxes the proceeds of which under this title are held for,
2 or paid for use in, any possession of the United States
3 shall not be included; ~~(2) the amount of all refunds and~~
4 ~~abatements of taxes shall not be included; and (3) hogs and~~
5 ~~field corn may be considered as one commodity."~~

6 SEC. 20. (a) The second sentence of section 13 of
7 the Agricultural Adjustment Act, as amended, is amended by
8 striking out "at the end of three years after the adoption
9 of this amendment" and inserting in lieu thereof "on De-
10 cember 31, 1937".

11 (b) Subsection (c) of section 16 of the Agricultural
12 Adjustment Act, as amended, is amended by striking out
13 the last sentence thereof.

14 SEC. 21. Subsection (a) of section 15 of the Agricul-
15 tural Adjustment Act, as amended, is amended by striking
16 out the period at the end of the subsection and inserting in
17 lieu thereof a comma and the following: "or shall credit
18 against any tax due and payable under this title the amount
19 of tax which would be refundable. During the period in
20 which any certificate under this section is effective, the
21 provisions of subsection (e) of this section shall be sus-
22 pended with respect to all imported articles of the kind
23 described in such certificate; and notwithstanding the pro-
24 visions of section 21, any compensating taxes, which have
25 heretofore, during the period in which any certificate under

1 this section has been effective, become due and payable
 2 upon imported articles of the kind described in such cer-
 3 tificate, shall be refunded by the Secretary of the Treasury
 4 if the same have been paid, or, if the same have not been
 5 paid the amount thereof shall be abated. Notwithstanding
 6 the provisions of section 21, the Secretary of the Treasury
 7 shall refund (84) or credit any processing tax paid on or before
 8 June 12, 1934, with respect to such amount of cotton as was
 9 used in the manufacture of large cotton bags (as defined in
 10 the Certificate of the Secretary of Agriculture, dated June 12,
 11 1934) between June 13 and July 7, 1934, both inclusive.”.

12 (85) SEC. 21. Subsection (b) of section 15 of the Agricul-
 13 tural Adjustment Act, as amended, is amended by adding at
 14 the end of said subsection the following new sentence: “The
 15 Secretary of Agriculture is authorized to exempt by regu-
 16 lation from the payment of the tax on the ginning of cotton
 17 as levied under authority of the Act approved April 21,
 18 1934, an amount of lint cotton not in excess of one hundred
 19 and ten pounds, produced by or for any producer and
 20 retained for domestic use in his household.”

21 SEC. 22. Subsection (c) of section 15 of the Agricul-
 22 tural Adjustment Act, as amended, is amended by striking
 23 out the next to the last sentence, which reads as follows:
 24 “No refund shall be allowed under this section unless
 25 claim therefor is filed within six months after delivery of

1 the products to the organization for charitable distribution,
2 or use.”.

3 ~~(86)~~SEC. 23. *The first sentence of subsection (d) of section*
4 *15 of the Agricultural Adjustment Act, as amended, is*
5 *amended by adding after the word “processors” the words*
6 *“or producers”.*

7 SEC. ~~(87)~~²³ 24. Subsection (e) of section 15 of the
8 Agricultural Adjustment Act, as amended, is amended by
9 inserting after the words “with respect to domestic proces-
10 sing of such commodity” the following: “into such an
11 article”.

12 SEC. ~~(88)~~²⁴ 25. Subsection (a) of section 16 of the
13 Agricultural Adjustment Act, as amended, is amended by
14 striking out subdivision (2) thereof and inserting in lieu
15 thereof the following:

16 “(2) Whenever the processing tax is wholly ter-
17 minated, (A) there shall be refunded or credited in the case
18 of a person holding such stocks with respect to which a tax
19 under this title has been paid, or (B) there shall be credited
20 or abated in the case of a person holding such stocks with
21 respect to which a tax under this title is payable, where such
22 person is the processor liable for the payment of such tax,
23 or (C) there shall be refunded or credited ~~(89)~~^{when the tax}
24 ~~has been paid~~ *(but not before the tax has been paid)* in the
25 case of a person holding such stocks with respect to which a

1 tax under this title is payable, where such person is not the
 2 processor liable for the payment of such tax, a sum in an
 3 amount equivalent to the processing tax which would have
 4 been payable with respect to the commodity from which
 5 processed if the processing had occurred on such date:
 6 *Provided*, That in the case of any commodity with re-
 7 spect to which there was any increase, effective prior to
 8 June 1, 1934, in the rate of the processing tax, no such
 9 refund, credit, or abatement, shall be in an amount which
 10 exceeds the equivalent of the initial rate of the processing
 11 tax in effect with respect to such commodity."

12 SEC. (90)~~25~~ 26. The second sentence of subsection (b)
 13 of section 16 of the Agricultural Adjustment Act, as amended,
 14 is amended to read as follows: "Except (91)*as to flour*
 15 *and prepared flour, and cereal preparations made chiefly*
 16 *from wheat, as classified in Wheat Regulations, Series 1,*
 17 *Supplement 1*, as to any article processed wholly or in chief
 18 value from cotton (92)~~or wheat~~, the tax refund, credit,
 19 or abatement provided in subsection (a) of this section
 20 shall not apply to the retail stocks of persons engaged in
 21 retail trade, (93)*nor to any article (except sugar) processed*
 22 *wholly or in chief value from sugar beets, sugarcane, or any*
 23 *product thereof, nor to any article (except flour, prepared*
 24 *flour and cereal preparations made chiefly from wheat, as*
 25 *classified in Wheat Regulations, Series 1, Supplement 1)*

1 *processed wholly or in chief value from wheat, held on the*
 2 *date the processing tax is wholly terminated."*

3 **(94)**SEC. 27. *The second sentence of subsection (b) of sec-*
 4 *tion 16 of the Agricultural Adjustment Act, as amended, is*
 5 *amended to read as follows: "Except as to flour, prepared*
 6 *flour, and cereal preparations made chiefly from wheat, as*
 7 *classified in Wheat Regulations, Series 1, Supplement 1 and*
 8 *as to any article processed wholly or in chief value from*
 9 *cotton, the tax refund, credit, or abatement provided in sub-*
 10 *section (a) of this section shall not apply to the retail stocks*
 11 *of persons engaged in retail trade, nor to any article (except*
 12 *sugar) processed wholly or in chief value from sugar beets,*
 13 *sugarcane, or any product thereof, nor to any article (except*
 14 *flour, prepared flour and cereal preparations made chiefly*
 15 *from wheat, as classified in Wheat Regulations, Series 1,*
 16 *Supplement 1) processed wholly or in chief value from*
 17 *wheat, held on the date the processing tax is wholly termi-*
 18 *nated."*

19 **(95)**SEC. 28. (a) *Paragraph (1) of subsection (e) of*
 20 *section 16 of the Agricultural Adjustment Act, as amended,*
 21 *is amended by inserting after the first word in the first sen-*
 22 *tence a comma and the following: "subsequent to June*
 23 *26, 1934," by inserting in the proviso after the word*
 24 *"made", the following: "in the case of hogs"; and by*
 25 *inserting at the end of such paragraph the following: "In*

1 *the case of wheat the provisions of this paragraph and of*
 2 *paragraph (2) of this subsection shall apply to flour, pre-*
 3 *pared flour and cereal preparations made chiefly from wheat,*
 4 *as classified in Wheat Regulations, Series 1, Supplement 1*
 5 *only; in the case of sugarcane and sugar beets the provisions*
 6 *of this paragraph and of paragraph (2) of this subsection*
 7 *shall apply to sugar only.*

8 SEC. ~~(96)~~26. 29. (a) Paragraph (1) of subsection (e)
 9 of section 16 of the Agricultural Adjustment Act, as
 10 amended, is amended by inserting after the first word in the
 11 first sentence a comma and the following: "subsequent to
 12 June 26, 1934," ~~(97)~~and by inserting in the proviso after
 13 the word "made", the following: "in the case of hogs"
 14 ~~(98)~~; and by inserting at the end of such paragraph the fol-
 15 lowing: "*In the case of wheat the provisions of this para-*
 16 *graph and of paragraph (2) of this subsection shall apply to*
 17 *flour, prepared flour and cereal preparations made chiefly*
 18 *from wheat, as classified in Wheat Regulations, Series 1,*
 19 *Supplement 1 only; in the case of sugarcane and sugar beets*
 20 *the provisions of this paragraph and of paragraph (2) of*
 21 *this subsection shall apply to sugar only.*

22 ~~(99)~~(b) Section 16 of the Agricultural Adjustment Act,
 23 as amended, is amended by adding at the end thereof the
 24 following new subsection:

1 “(f) No refund, credit, or abatement of the amount
 2 of any tax shall be made or allowed under this section,
 3 unless, within one hundred and twenty days after the right to
 4 such refund, credit, or abatement accrued, a claim for such
 5 refund, credit, or abatement (conforming to such regulations
 6 as the Commissioner of Internal Revenue, with the approval
 7 of the Secretary of the Treasury, may prescribe) is filed by
 8 the person entitled to such refund, credit, or abatement, and
 9 no such claim shall be allowed for an amount less than \$10.”

10 SEC. ~~(100)~~²⁷ 30. Subsection (a) of section 17 of the
 11 Agricultural Adjustment Act, as amended, is amended by
 12 striking out the first two sentences thereof and inserting in lieu
 13 thereof the following: ~~(101)~~“~~The consignor named in the~~
 14 ~~bill of lading under which any product (if such product or the~~
 15 ~~commodity from which processed is under this title subject to~~
 16 ~~tax)~~ is exported; or the exporter of such product, if the bill of
 17 lading bears the proper disclaimer by the consignor, or the
 18 manufacturer of such product, if the bill of lading bears the
 19 proper disclaimer by the consignor and the exporter, shall
 20 be entitled, upon the exportation of such product to any for-
 21 eign country (or to the Philippine Islands, the Virgin
 22 Islands, American Samoa, the Canal Zone, or the island of
 23 Guam) to the refund of the amount of tax due and paid
 24 under this title with respect to such product so exported, or
 25 to a credit against any tax due and payable under this title

1 of the amount of tax which would be refundable under this
 2 section with respect to such product so exported " Upon
 3 the exportation to any foreign country (and/or to the
 4 Philippine Islands, the Virgin Islands, American Samoa,
 5 the Canal Zone, and the island of Guam) of any product
 6 processed wholly or partly from a commodity with respect
 7 to which product or commodity a tax has been paid or
 8 is payable under this title, the tax due and payable or due
 9 and paid shall be credited or refunded. Under regulations
 10 prescribed by the Commissioner of Internal Revenue, with
 11 the approval of the Secretary of the Treasury, the credit
 12 or refund shall be allowed to the consignor named in the bill
 13 of lading under which the product is exported or to the
 14 shipper or to the person liable for the tax provided the con-
 15 signor waives any claim thereto in favor of such shipper or
 16 person liable for the tax."

17 SEC. (102)~~28~~ 31. (a) Subsection (b) of section 19 of
 18 the Agricultural Adjustment Act, as amended, is amended by
 19 inserting in the proviso, after the words " of the payment
 20 of " the following: " not exceeding three-fourths of the
 21 amount of the " (103), and by adding at the end of the
 22 proviso the following: " but postponement of all taxes covered
 23 by returns under this title for a period not exceeding one
 24 hundred and eighty days may be permitted in cases in which
 25 the Secretary of the Treasury authorizes such taxes to be

1 paid each month on the amount of the commodity marketed
2 during the next preceding month”.

3 (104)(b) Section 19 of the Agricultural Adjustment Act, as
4 amended, is amended by adding at the end thereof the fol-
5 lowing new subsection:

6 “(c) Under regulations made by the Commissioner
7 of Internal Revenue, with the approval of the Secretary of
8 the Treasury, any person required pursuant to the provi-
9 sions of this title to file a return may be required to file such
10 return and pay the tax shown to be due thereon to the col-
11 lector of internal revenue for the district in which the process-
12 ing was done or the liability was incurred. Whenever the
13 Commissioner of Internal Revenue deems it necessary, he
14 may require any person or class of persons handling or
15 dealing in any commodity or product thereof, with respect
16 to which a tax is imposed under the provisions of this title,
17 to make a return, render under oath such statements, or to
18 keep such records, as the Commissioner deems sufficient to
19 show whether or not such person, or any other person, is
20 liable for the tax.”

21 SEC. (105)~~29~~ 32. The Agricultural Adjustment Act,
22 as amended, is amended by adding after section 20 the
23 following new section:

24 (106)~~“SEC. 21. (a) No suit or proceeding shall be~~
25 ~~brought or maintained in, nor shall any judgment or decree be~~

1 entered by, any court for the ~~recoupment, set-off,~~ refund, or
2 credit of, or on any counterclaim for, any amount of any
3 tax assessed, paid, collected, or accrued under this title
4 prior to the date of the adoption of this amendment.
5 Except pursuant to a final judgment or decree entered
6 prior to the date of the adoption of this amendment, no
7 recoupment, set-off, refund, or credit of, or counterclaim for,
8 any amount of any tax, interest, or penalty assessed, paid,
9 collected, or accrued under this title prior to the date of the
10 adoption of this amendment shall be made or allowed. The
11 provisions of this subsection shall not apply to ~~(1)~~ any
12 overpayment of tax which results from an error in the com-
13 putation of the tax, or ~~(2)~~ duplicate payments of any tax,
14 or ~~(3)~~ any refund or credit under subsection ~~(a)~~ or ~~(c)~~
15 of section 15 or under section 17.

16 “~~(107)(b)~~ SEC. 21 (a). No suit, action, or proceed-
17 ing (including probate, administration, receivership, and
18 bankruptcy proceedings) shall be brought or maintained in
19 any court if such suit, action, or proceeding is for the purpose
20 or has the effect (1) of preventing or restraining the assess-
21 ment or collection of any tax imposed or the amount of any
22 penalty or interest accrued under this title on or after the
23 date of the adoption of this amendment, or (2) of obtaining
24 a declaratory judgment under the Federal Declaratory Judg-
25 ments Act in connection with any such tax or such amount of

1 any such interest or penalty. In probate, administration,
 2 receivership, bankruptcy, or other similar proceedings, the
 3 claim of the United States for any such tax or such amount
 4 of any such interest or penalty, in the amount assessed by the
 5 Commissioner of Internal Revenue, shall be allowed and
 6 ordered to be paid, but the right to claim the refund or credit
 7 thereof and to maintain such claim pursuant to the
 8 ~~(108)provisions of law made applicable by section 19~~
 9 *applicable provisions of law, including subsection (d) of this*
 10 *section, may be reserved in the court's order.*

11 “~~(109)(e)~~ (b) The taxes imposed under this title, as
 12 determined, prescribed, proclaimed and made effective by
 13 the proclamations and certificates of the Secretary of Agri-
 14 culture ~~(110)and or of the President or of the President~~
 15 *and* by the regulations of the Secretary with the approval
 16 of the President prior to the date of the adoption of this
 17 amendment, are hereby legalized and ratified, and the assess-
 18 ment, levy, collection, and accrual of all such taxes ~~(111)~~
 19 *(together with penalties and interest with respect thereto)*
 20 prior to said date are hereby legalized and ratified and con-
 21 firmed as fully to all intents and purposes as if each such
 22 tax had been made effective and the rate thereof fixed
 23 specifically ~~(112)on May 12, 1933, by~~ *by* prior Act of
 24 Congress. All such taxes which have accrued and remain
 25 unpaid on the date of the adoption of this amendment shall

be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

(113)“(c) *The making of rental and benefit payments under this title prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.*

(114)“(d) ~~No refund or credit shall be made or allowed of any amount of any tax which accrued on or after the date of the adoption of this amendment under this title (includ-~~

1 ing any overpayment of such tax), unless ~~(1)~~ the claimant
 2 establishes to the satisfaction of the Commissioner of
 3 Internal Revenue, ~~(A)~~ that he has not included such amount
 4 in the price of the article with respect to which it was im-
 5 posed or of any article processed from the commodity with
 6 respect to which it was imposed, and that he has not col-
 7 lected from the vendee any part of such amount, or ~~(B)~~
 8 that he has repaid such amount to the producer or the
 9 ultimate purchaser of the article, and ~~(C)~~ in the case of
 10 hogs that such amount has not been deducted from the price
 11 paid to the producer, or ~~(2)~~ the claimant files with the
 12 Commissioner of Internal Revenue the written consent of
 13 such producer and ultimate purchaser to the allowance of
 14 the credit or refund. The provisions of this subsection shall
 15 not apply to any refund under section 15 ~~(a)~~, section 16,
 16 or section 17.

17 “(d) No recovery, recoupment, set-off, refund, or credit
 18 shall be made or allowed of, nor shall any counter claim
 19 be allowed for any amount of any tax, penalty, or interest
 20 which accrued before, on, or after the date of the adoption of
 21 this amendment under this title (including any overpay-
 22 ment of such tax), unless the claimant establishes to the
 23 satisfaction of the Commissioner of Internal Revenue, or
 24 in the case of a judicial proceeding establishes in such pro-
 25 ceeding (1) that he has not included such amount in the

1 price of the article with respect to which it was imposed or
 2 of any article processed from the commodity with respect
 3 to which it was imposed, that he has not collected from the
 4 vendee any part of such amount, and that the price paid
 5 to the producer was not reduced by any part of such amount,
 6 or (2) that he has repaid such amount to the ultimate pur-
 7 chaser of the article, or in case the price paid to the pro-
 8 ducer was reduced by such amount, to such producer; nor
 9 shall any judgment or decree be entered by any Federal or
 10 State court for damages for the collection thereof, unless the
 11 claimant establishes the foregoing facts, in (1) or (2) as
 12 the case may be, in addition to all other facts required to be
 13 established. The provisions of this subsection shall not
 14 apply to any refund or credit under subsection (a) or (c)
 15 of section 15, section 16, or section 17 of this title, or to
 16 any refund or credit to the processor of any tax paid by
 17 him with respect to articles exported pursuant to the pro-
 18 visions of section 317 of the Tariff Act of 1930."

19 **(115)**"(e) In connection with the establishment, by any
 20 claimant, of the facts required to be established in sub-
 21 section (d) of this section, the Commissioner of Internal
 22 Revenue is hereby authorized, by any officer or employee of
 23 the Bureau of Internal Revenue, including the field service,
 24 designated by him for that purpose, to examine any books,
 25 papers, records, or memoranda, bearing upon the facts so

1 required to be established, to require the attendance of the
 2 claimant or of any officer or employee of the claimant, or
 3 the attendance of any other person having knowledge in the
 4 premises, and to take his testimony with reference to the facts
 5 required by subsection (d) of this section to be established
 6 in such claim, with power to administer oaths to such person
 7 or persons. All information obtained by the Commissioner
 8 pursuant to this subsection shall be available to the Secretary
 9 of Agriculture upon written request therefor. Such infor-
 10 mation shall be kept confidential by all officers and employees
 11 of the Department of Agriculture, and any such officer or
 12 employee who violates this requirement shall, upon convic-
 13 tion, be subject to a fine of not more than \$1,000 or to
 14 imprisonment for not more than one year, or to both, and
 15 shall be removed from office.

16 “~~(116)(e)~~ (f) No ~~(117)refund or credit~~ refund, credit,
 17 or abatement shall be made or allowed of the amount of any
 18 tax, under section 15, ~~(118)section 16~~, or section 17, unless,
 19 within one year after the right to such refund or credit has ac-
 20 crued, a claim for such refund or credit (conforming to such
 21 regulations as the Commissioner of Internal Revenue, with
 22 the approval of the Secretary of the Treasury, may pre-
 23 scribe) is filed by the person entitled to such refund or credit,
 24 except that if the right to any such refund or credit accrued
 25 prior to the date of the adoption of this amendment, then

1 such one year period shall be computed from the date of this
 2 amendment. No interest shall be allowed or paid, or
 3 included in any judgment, with respect to any such claim
 4 for refund or credit.

5 **(119)**~~“(f) The provisions of section 3226, Revised Statutes,~~
 6 ~~as amended, are hereby extended to apply to any suit for~~
 7 ~~the recovery of any amount of any tax which accrued, on~~
 8 ~~or after the date of the adoption of this amendment, under~~
 9 ~~this title, and to any suit for the recovery of any amount of~~
 10 ~~tax which results from an error in the computation of the~~
 11 ~~tax or from duplicate payments of any tax.~~

12 “(g) *The provisions of section 3226, Revised Statutes,*
 13 *as amended, are hereby extended to apply to any suit for*
 14 *the recovery of any amount of any tax, penalty, or interest,*
 15 *which accrued before on or after the date of the adoption*
 16 *of this amendment under this title (whether an overpay-*
 17 *ment or otherwise), and to any suit for the recovery of any*
 18 *amount of tax which results from an error in the computa-*
 19 *tion of the tax or from duplicate payments of any tax, or*
 20 *any refund or credit under subsection (a) or (c) of section*
 21 *15, under paragraph (1) of subsection (e) of section 16,*
 22 *or under section 17 of this title or any refund or credit to*
 23 *the processor of any tax paid by him with respect to articles*
 24 *exported pursuant to the provisions of section 317 of the*
 25 *Tariff Act of 1930.*

1 **(120)**“(h) *Nothing in this section (32) shall be construed*
2 *to validate or legalize acts, taxes, penalties or regulations*
3 *or proceedings thereunder, that were done, imposed, had or*
4 *issued contrary to said prior acts, or any action not in*
5 *conformity with the terms of said prior acts.*

6 **(121)**“(g) ~~Whenever in this title a refund of any tax is~~
7 *authorized to be made to any person other than the person*
8 *required to pay the tax with respect to which an applica-*
9 *tion for refund is made, upon statement under oath by the*
10 *applicant for refund that he has no knowledge, information*
11 *or belief that such tax has not in fact been paid, then for*
12 *the purpose of such refund to said applicant such tax shall*
13 *be deemed to have been due from and paid by the person*
14 *liable therefor. Any other provision of the law notwith-*
15 *standing, the Comptroller General of the United States is*
16 *authorized and directed, without review of the fact of the*
17 *payment of the tax, to certify for payment refunds authorized*
18 *under this subsection in the amounts scheduled to him by*
19 *the Commissioner of Internal Revenue. Whoever makes*
20 *any false statement under oath in connection with applying*
21 *for or securing such refund of any tax shall be guilty of a*
22 *misdemeanor and upon conviction thereof shall be punished*
23 *by a fine of not more than \$1,000 or by imprisonment not*
24 *exceeding six months, or both.”*

1 (122)SEC. 30. The Agricultural Adjustment Act, as
2 amended, is amended by inserting after section 21 the
3 following:

4 "IMPORTS

5 "SEC. 22. (a) Whenever the President has reason to
6 believe that any one or more articles are being imported
7 or are likely to be imported into the United States under
8 such conditions and in sufficient quantities to render ineffec-
9 tive or materially interfere with any program or operation
10 undertaken under this title, he shall cause an immediate
11 investigation to be made by the United States Tariff Com-
12 mission, which shall give precedence to investigations under
13 this subsection, to determine such facts. Such investigation
14 shall be made after such notice and hearing and subject to
15 such regulations as the President shall specify.

16 "(b) If, after such investigation and report to him of
17 findings and recommendations made in connection therewith,
18 the President finds the existence of such facts, he shall by
19 order direct that the entry into the United States of such
20 article or articles shall, for such time as may be specified
21 by him, be permitted subject to (1) such terms and condi-
22 tions, (2) such limitations on the total quantities thereof
23 which may be imported, or (3) the payment of such com-
24 pensating taxes as he finds necessary to prescribe in order

1 that the entry of such article or articles will not render
 2 or tend to render ineffective or materially interfere with
 3 such program or operation undertaken under this title.
 4 Any compensating tax imposed under this section shall be
 5 in addition to any tax imposed under section 15 (c) and
 6 the provisions of such section shall apply thereto.

7 “(c) Any decision of the President as to facts under
 8 this section shall be final.

9 “(d) Upon information of any order of the President
 10 under subsection (b), the Secretary of the Treasury shall
 11 permit entry of any article or articles specified therein only
 12 in conformity with such order.

13 “(e) After investigation, report, and finding in the
 14 manner provided in the case of an original order, any order
 15 or provision thereof may be suspended or revoked by the
 16 President whenever he finds that the circumstances requir-
 17 ing the order or provision no longer exist, or may be modi-
 18 fied by the President whenever he finds that changed cir-
 19 cumstances require such modification to carry out the
 20 provisions of this section.”

21 *SEC. 33. The Agricultural Adjustment Act, as amended,*
 22 *is amended by inserting after section 21 the following:*

23 “IMPORTS

24 “SEC. 22. (a) Whenever the President has reason to
 25 believe that any one or more articles are being imported into

1 the United States under such conditions and in sufficient
2 quantities as to render or tend to render ineffective or ma-
3 terially interfere with any program or operation undertaken
4 under this title, or to reduce or tend to reduce the amount of
5 any commodity processed in the United States subject to this
6 title, he shall cause an immediate investigation to be made
7 by the United States Tariff Commission, which shall give
8 precedence to investigations under this section to determine
9 such facts. Such investigation shall be made after due notice
10 and opportunity for hearing to interested parties and shall
11 be conducted subject to such regulations as the President
12 shall specify.

13 “(b) If, on the basis of such investigation and report to
14 him of findings and recommendations made in connection
15 therewith, the President finds the existence of such facts, he
16 shall by proclamation impose such limitations on the total
17 quantities of any article or articles which may be imported
18 as he finds and declares shown by such investigation to be
19 necessary to prescribe in order that the entry of such article
20 or articles will not render or tend to render ineffective or
21 materially interfere with any program or operation under-
22 taken under this title: Provided, That no limitation shall be
23 imposed on the total quantity of any article which may be
24 imported from any country which reduces such permissible
25 total quantity to less than 50 per centum of the average

1 *annual quantity of such article which was imported from*
 2 *such country during the period from July 1, 1928, to*
 3 *June 30, 1933, both dates inclusive.*

4 *“(c) No import restriction proclaimed by the Presi-*
 5 *dent under this section nor any revocation, suspension, or*
 6 *modification thereof shall become effective until fifteen days*
 7 *after the date of such proclamation, revocation, suspension,*
 8 *or modification.*

9 *“(d) Any decision of the President as to facts under*
 10 *this section shall be final.*

11 *“(e) After investigation, report, finding, and declara-*
 12 *tion in the manner provided in the case of a proclamation*
 13 *issued pursuant to subsection (b) of this section, any procla-*
 14 *mation or provision of such proclamation may be suspended*
 15 *by the President whenever he finds that the circumstances*
 16 *requiring the proclamation or provision thereof no longer*
 17 *exist, or may be modified by the President whenever he finds*
 18 *that changed circumstances require such modification to carry*
 19 *out the purposes of this section.”*

20 **(123)SEC. 31.** *There is authorized to be appropriated for*
 21 *each fiscal year an amount equal to 30 per centum of the*
 22 *gross receipts from duties collected under the customs laws*
 23 *during the period January 1 to December 31, both inclu-*
 24 *sive, preceeding the beginning of such fiscal year. Sums*
 25 *appropriated in pursuance of such authorization shall be*

1 maintained in a separate fund and shall be used by the
2 Secretary of Agriculture only to: (1) Encourage the ex-
3 portation of major agricultural commodities and products
4 thereof by the payment of benefits in connection with the
5 exportation thereof or of indemnities for losses incurred in
6 connection with such exportation; (2) encourage the domes-
7 tic consumption of such commodities or products by diverting
8 them, by the payment of benefits or indemnities or by
9 other means, from the normal channels of trade and com-
10 merce; (3) purchase or lease, on behalf of the United
11 States, submarginal agricultural and grazing lands; and (4)
12 finance adjustments in the quantity planted or produced
13 for market of agricultural commodities. The amounts appro-
14 priated in pursuance of this section shall be expended for
15 such of the above-specified purposes, and at such times, in
16 such manner, and in such amounts as the Secretary of Agri-
17 culture finds will tend to eliminate unprofitable agricultural
18 and grazing lands, bring about the utilization of only such
19 lands as can be profitably utilized, increase the exporta-
20 tion of agricultural commodities and products thereof, and
21 increase the domestic consumption of agricultural commodi-
22 ties and products thereof: *Provided*, That no part of the
23 funds authorized to be appropriated by this section shall be
24 expended pursuant to (3) or (4) hereof unless the Secretary
25 of Agriculture determines that the expenditure of such part

1 pursuant to clauses ~~(1)~~ and ~~(2)~~ is not necessary to effectuate the purposes of this section.

3 (124)SEC. 34. Section 7 of Title 1 of the Agricultural
4 Adjustment Act, as amended by section 221 of the National
5 Industrial Recovery Act (48 Stat. 210, 15 U. S. C., art.
6 607), is amended by striking it out and inserting in lieu
7 thereof the following:

8 “SEC. 7. The Secretary shall sell cotton held or ac-
9 quired by him pursuant to authority of this Act at his
10 discretion subject only to the conditions and limitations of
11 Title 1 of this Act: Provided, That the Secretary shall
12 have authority to enter into option contracts with producers
13 of cotton to sell to or for the producers such cotton held
14 and/or acquired by him in such amounts and at such prices
15 and upon such terms and conditions as he, the Secretary,
16 may deem advisable, and such option contracts may be
17 transferred or assigned in such manner as the Secretary
18 of Agriculture may prescribe.

19 “Notwithstanding any provisions contained in option
20 contracts heretofore issued and/or any provision of law,
21 assignments made prior to January 11, 1934, of option
22 contracts exercised prior to January 18, 1934, shall be
23 deemed valid upon determination by the Secretary that
24 such assignment was an assignment in good faith of the

1 full interest in such contract and for full value and is free
2 from evidence of fraud or speculation by the assignee.

3 “Notwithstanding any provision of existing law, the
4 Secretary of Agriculture may, in the administration of the
5 Agricultural Adjustment Act, make public such information
6 as he deems necessary in order to effectuate the purposes of
7 such Act.”

8 **(125)**SEC. 35. Section 6 of the Agricultural Adjustment
9 Act is hereby repealed.

10 **(126)**SEC. 36. Section 4 (b) of Title 1 of the Agricultural
11 Adjustment Act, as amended by the Emergency Appropria-
12 tion Act, fiscal year 1935, is amended by striking out the
13 words “to be available until March 1, 1936” and inserting
14 at the end of said section a new sentence to read as follows:
15 “This sum shall be available until the cotton acquired by
16 the Secretary of Agriculture under authority of Title 1 of
17 this Act, including cotton futures, shall have been finally
18 marketed by any agency which may have been or may be
19 established by the Secretary of Agriculture for the handling,
20 carrying, insuring, or marketing of any cotton acquired by
21 the Secretary of Agriculture.”

22 **(127)**SEC. 37. Section 4 (f) of Title 1 of the Agricultural
23 Adjustment Act, as amended by the Emergency Appropria-
24 tion Act, fiscal year 1935, is amended by adding at the end
25 thereof a new paragraph to read as follows:

1 *"The word 'obligation' when used in this section shall*
 2 *include (without being limited to) administrative expenses,*
 3 *warehouse charges, insurance, salaries, interest, costs, com-*
 4 *missions, and other expenses incident to handling, carrying,*
 5 *insuring, and marketing of said cotton."*

6 (128)SEC. 32. The Secretary of Agriculture is authorized
 7 to use as much as he finds advisable of the funds appro-
 8 priated by the second paragraph of Public Resolution Num-
 9 bered 27, Seventy-third Congress, approved May 25, 1934,
 10 to carry out section 6 of the Act entitled "An Act to amend
 11 the Agricultural Adjustment Act so as to include cattle
 12 and other products as basic agricultural commodities, and
 13 for other purposes" approved April 7, 1934, for experi-
 14 mentation and efforts to eradicate Bang's disease in cattle.
 15 Such funds shall be available to carry out such section 6
 16 and for the purposes for which funds are made available
 17 by this section until December 31, 1937, and may be used
 18 for all necessary expenses in connection therewith, including
 19 the employment of persons and means in the District of
 20 Columbia and elsewhere.

21 SEC. 38. In addition to all funds heretofore appropri-
 22 ated there is hereby appropriated, out of any money in the
 23 Treasury not otherwise appropriated, the sum of \$40,000,000
 24 to enable the Secretary of Agriculture, under rules and
 25 regulations to be promulgated by him and upon such terms

1 as he may prescribe, to eliminate diseased dairy and beef
 2 cattle, including cattle suffering from tuberculosis or Bang's
 3 disease, and to make payments to owners with respect thereto.
 4 The Secretary of Agriculture is authorized to use for scien-
 5 tific experimentation and efforts to eradicate disease in
 6 cattle, as much as he finds advisable of the funds authorized
 7 to be appropriated by this section and the funds appropriated
 8 by the second paragraph of Public Resolution Numbered 27,
 9 Seventy-third Congress, approved May 25, 1934, to carry
 10 out section 6 of the Act entitled, "An Act to amend the
 11 Agricultural Adjustment Act so as to include cattle and other
 12 products as basic agricultural commodities, and for other
 13 purposes", approved April 7, 1934. Such funds shall
 14 remain available to carry out the purposes of this section
 15 and such section 6 until December 31, 1937, and may be
 16 used for all necessary expenses in connection therewith,
 17 including the employment of persons and means in the Dis-
 18 trict of Columbia and elsewhere. The unexpended balance
 19 of the funds appropriated by the second paragraph of such
 20 Public Resolution Numbered 27 to carry out the purposes
 21 of section 2 of such Act of April 7, 1934, shall remain
 22 available for the purposes of such section 2 until December
 23 31, 1937.

24 SEC. (129)~~33~~ 39. Nothing contained in this Act shall
 25 (130)(a), invalidate any marketing agreement or license

1 in existence on the date of the enactment hereof, or any pro-
 2 vision thereof, or any act done pursuant thereto, either before
 3 or after the enactment of this Act, ~~(131)nor shall anything~~
 4 ~~contained in this Act~~ or (b) impair any remedy provided
 5 for on the date of the enactment thereof for the enforce-
 6 ment of any such marketing agreement or license, ~~(132)or~~
 7 (c) invalidate any agreement entered into pursuant to sec-
 8 tion 8 (1) of the Agricultural Adjustment Act prior to the
 9 enactment of this Act, or subsequent to the enactment of
 10 this Act in connection with a program initiated under such
 11 section 8 (1) prior to the enactment of this Act, or any
 12 act done or agreed to be done or any payment made or
 13 agreed to be made in pursuance of any such agreement,
 14 either before or after the enactment of this Act, or any
 15 change in the terms and conditions of any such agreement,
 16 or any voluntary arrangements or further agreements which
 17 the Secretary finds necessary or desirable in order to com-
 18 plete or terminate such program pursuant to the declared
 19 policy of the Agricultural Adjustment Act.

20 ~~(133)~~SEC. 40. No cotton cooperative association shall be
 21 eligible for any loan authorized to be made to cooperative
 22 associations by any agency of the Government, unless such
 23 association handles the products of or supplies of bona fide
 24 cotton-producing members (or the products of or supplies
 25 of bona fide cotton-producing members of member associa-

1 tions) in an amount at least equal in value to such as are
 2 dealt in for persons other than such bona fide members, but
 3 all cotton handled by any cooperative association for or on
 4 behalf of the United States or any agency or instrumentality
 5 thereof shall be disregarded in determining the volume of
 6 member and nonmember business handled by such associa-
 7 tion.

8 (134) AMENDMENTS TO BANKHEAD COTTON ACT

9 (135) SEC. 41. (a) Section 2 and the first sentence of sec-
 10 tion 3 (a) of the Act entitled "An Act to place the cotton
 11 industry on a sound commercial basis, to prevent unfair
 12 competition and practices in putting cotton into the channels
 13 of interstate and foreign commerce, to provide funds for pay-
 14 ing additional benefits under the Agricultural Adjustment
 15 Act, and for other purposes", approved April 21, 1934, as
 16 amended, are amended by inserting after the phrase "the
 17 crop year 1935-1936", wherever such phrase appears, the
 18 phrase "or the crop year 1936-1937 or the crop year
 19 1937-1938".

20 (136) (b) Section 3 (a) of such Act, as amended, is amended
 21 by adding at the end thereof the following new sentence:
 22 "In ascertaining the sentiment of the producers with respect
 23 to the crop year 1936-1937 or the crop year 1937-1938,
 24 the vote in favor of the compulsory tax features of this Act,

1 *by two-thirds of the producers voting, shall be deemed*
 2 *sufficient for the purposes of this subsection."*

3 **(137)**(c) *Section 5 (a) of an Act entitled "An Act to place*
 4 *the cotton industry on a sound commercial basis, to prevent*
 5 *unfair competition and practices in putting cotton into the*
 6 *channels of interstate and foreign commerce, to provide funds*
 7 *for paying additional benefits under the Agricultural Adjust-*
 8 *ment Act, and for other purposes," approved April 21, 1934,*
 9 *as amended, is amended by inserting after the sentence " that*
 10 *no State shall receive an allotment of less than 200,000 bales*
 11 *of cotton if in any one year of five years prior to this date*
 12 *the production of the State equaled 250,000 bales " the follow-*
 13 *ing: "And be it further provided that after the year 1935*
 14 *no State shall receive an allotment of less than 80,000 bales*
 15 *of cotton if in any one year of five years prior to the date of*
 16 *the passage of said Act the production of the State equaled*
 17 *100,000 bales."*

18 **(138)**(d) *The action of the Secretary of Agriculture in*
 19 *ascertaining and proclaiming, pursuant to section 3 (a) and*
 20 *(b) of such Act, as amended, 10,500,000 bales as the maxi-*
 21 *mum amount of cotton of the crop harvested in the crop*
 22 *year 1935-1936 that may be marketed exempt from pay-*
 23 *ment of the tax levied by such Act, as amended, is hereby*
 24 *legalized and ratified, and all apportionments and other*
 25 *action taken pursuant to such ascertainment and procla-*

1 *mation are legalized and ratified and confirmed as fully*
 2 *to all intents and purposes as if such amount had been fixed*
 3 *specifically by Act of Congress.*

4 (139) SEC. 42. *Section 17 of an Act entitled "An Act to*
 5 *place the cotton industry on a sound commercial basis, to pre-*
 6 *vent unfair competition and practices in putting cotton into*
 7 *the channels of interstate and foreign commerce, to provide*
 8 *funds for paying additional benefits under the Agricultural*
 9 *Adjustment Act, and for other purposes", approved April*
 10 *21, 1934, as amended, is amended by inserting "(a)" before*
 11 *the first sentence thereof and by inserting at the end thereof*
 12 *the following new subsection:*

13 *"(b) Appropriations for administrative expenses under*
 14 *this Act are authorized to be made available to enable the*
 15 *Secretary of Agriculture to pay any person, who, in con-*
 16 *nection with the operation of any cotton gin, incurred addi-*
 17 *tional expenses in connection with the administration of*
 18 *this Act with respect to cotton harvested and ginned during*
 19 *any crop year when the above-mentioned Act is in effect,*
 20 *and who applies to the Secretary therefor, compensation*
 21 *at the rate of 25 cents per bale of such cotton ginned by*
 22 *such person."*

23 (140) AMENDMENTS TO KERR TOBACCO ACT

24 (141) SEC. 43. *The title of the Act entitled "An Act to*
 25 *place the tobacco-growing industry on a sound financial and*

1 economic basis, to prevent unfair competition and practices
 2 in the production and marketing of tobacco entering into the
 3 channels of interstate and foreign commerce, and for other
 4 purposes", approved June 28, 1934, is amended to read
 5 as follows:

6 "An Act to place the tobacco-growing industry on a
 7 sound financial and economic basis, to prevent unfair com-
 8 petition and practices in the production and marketing of
 9 tobacco entering into the channels of interstate and foreign
 10 commerce, to raise revenue, and for other purposes."

11 (142) SEC. 44. Section 1 of said Act is amended by adding
 12 at the end thereof the following new subsections:

13 (143) "(l) The term ' Puerto Rican tobacco ' means all leaf
 14 tobacco classified as type 46 in the United States Depart-
 15 ment of Agriculture, Bureau of Agricultural Economics,
 16 Service and Regulatory Announcements Numbered 118.

17 (144) "(m) The term ' cigar-wrapper tobacco ' means all
 18 leaf tobacco classified in class 6 in the United States Depart-
 19 ment of Agriculture, Bureau of Agricultural Economics,
 20 Service and Regulatory Announcements Numbered 118."

21 (145) SEC. 45. Section 2 of said Act is amended by insert-
 22 ing after the words " consumption of tobacco " a comma and
 23 the words " to raise revenue,".

24 (146) SEC. 46. Subsection (b) of section 3 of said Act is
 25 amended by striking out the period and the remainder of the

1 subsection following the first sentence and inserting in lieu
2 thereof the following: "and to all tobacco harvested in the
3 crop year 1935-1936, except Maryland tobacco, Puerto
4 Rican tobacco, and cigar wrapper tobacco. Thereafter
5 whenever the Secretary of Agriculture determines (1) that
6 the imposition of the tax upon any particular type of tobacco
7 is necessary for the orderly marketing of such tobacco in
8 interstate and foreign commerce and to effectuate the declared
9 policy of this Act, and (2) that two-thirds of the land
10 engaged in the production of such type of tobacco during
11 the crop year in which such determination is made is voted
12 in favor of the levy of the tax upon the sale of such type
13 of tobacco, he shall proclaim such determination at least
14 sixty days prior to the next succeeding crop year, and the
15 tax shall thereafter apply to the sale of tobacco of such type
16 harvested during the crop year next following the date of
17 such proclamation. All persons who have the right, during
18 the crop year in which such determination is made, to sell
19 or to receive a share of the proceeds derived from the sale
20 of tobacco of any type produced by them, or produced on
21 land owned or leased by them, shall be entitled to vote, and
22 the proportion of all the votes cast in each county which
23 are cast in favor of levying the tax upon the sale of such
24 type of tobacco shall determine the proportion of the total
25 amount of tobacco land in such county which shall be deemed

1 to have been voted in favor of levying such tax. The tax
 2 provided for by subsection (a) of this section shall not
 3 apply to any tobacco harvested after April 30, 1939."

4 (147)SEC. 47. Subsection (a) of section 5 of said Act is
 5 amended by inserting after the designation "(a)" at the
 6 beginning thereof the following: "(1)"; and by inserting
 7 at the end of said subsection the following paragraph:

8 " (2) The Secretary of Agriculture shall issue to any
 9 person, who, because of religious or moral scruples, is un-
 10 willing or unable to become a contracting producer, similar
 11 tax-payment warrants covering the quantity of tobacco pro-
 12 duced by such person: Provided, That the Secretary deter-
 13 mines that such person has not planted a greater acreage of
 14 tobacco nor sold a greater quantity of tobacco than he could
 15 have planted or sold as a contracting producer."

16 (148)SEC. 48. Subsection (b) of section 5 of said Act is
 17 amended by striking out the first sentence of said subsection
 18 and inserting in lieu thereof the following:

19 " There shall be available for issuance by the Secretary
 20 of Agriculture further warrants, covering an amount of
 21 tobacco of any type equal to 3 per centum of the amount
 22 of tobacco of such type covered by the warrants issuable
 23 or issued to all contracting producers under the provisions
 24 of subsection (a) of this section, to persons engaged in the
 25 production of tobacco of such type who do not enter into

1 such contracts and as to whom the Secretary determines
2 that no equitable allotment of tobacco acreage or production
3 is possible under such tobacco contracts. Such warrants
4 shall be issued, upon application therefor, upon such basis
5 or classification as the Secretary deems will effectuate the
6 declared policy of this Act and will be fair and just, and as
7 will apply to all persons eligible to receive warrants under
8 this subsection uniformly on the basis or classification
9 adopted: Provided, That warrants covering two-thirds of
10 the amount of any type of tobacco to cover which warrants
11 are available under this subsection shall be issued, upon
12 application therefor, only to persons who receive warrants
13 covering one thousand five hundred pounds or less of any
14 type of tobacco.”

15 **(149)**SEC. 49. Subsection (d) of section 5 of said Act is
16 amended to read as follows:

17 “If any tax-payment warrant is erroneously issued to
18 any person, or if the Secretary of Agriculture determines
19 pursuant to this subsection that any person to whom any
20 tax-payment warrant is issued has failed to comply in any
21 crop year with any provision of any agreement entered into
22 by such person pursuant to the Agricultural Adjustment Act
23 or has failed to comply with any rule or regulation issued
24 by the Secretary of Agriculture pursuant to this Act or the
25 Agricultural Adjustment Act, any warrant issued during

1 such crop year to such person shall be void upon demand
 2 in writing for the return of such warrant made by the Secre-
 3 tary of Agriculture to the person to whom such warrant
 4 was issued. If any tax-payment warrant which has been
 5 accepted in payment of the tax imposed by this Act upon
 6 the sale of tobacco becomes void pursuant to this subsection
 7 either before or after such acceptance, the person to whom
 8 such warrant was issued shall, notwithstanding such accept-
 9 ance of such warrant, be liable for the full amount of the
 10 tax upon such sale."

11 **(150)**Sec. 50. Section 8 of said Act is amended by striking
 12 out subsection (b) of that section and inserting in lieu
 13 thereof two new subsections as follows:

14 " (b) All persons, in whatever capacity acting, includ-
 15 ing producers, warehousemen, processors of tobacco, and
 16 common carriers, having information with respect to tobacco
 17 produced or sold, may be required to make a return in
 18 regard thereto, setting forth the amount of tobacco pro-
 19 duced, sold, or delivered, the name and address of the
 20 person who produced, sold, or delivered said tobacco, or to
 21 whom said tobacco was sold or delivered, the price paid
 22 on such sale, and any other and further information which
 23 the Commissioner of Internal Revenue, with the approval
 24 of the Secretary of the Treasury and the Secretary of Agri-
 25 culture, shall by regulations prescribe as necessary for the

1 *proper administration and collection of the tax. Any person*
 2 *required to make any such return shall render a true and*
 3 *accurate return to the Commissioner of Internal Revenue.*

4 “(c) *Any person willfully failing or refusing to file*
 5 *any return required to be filed under this section, or filing*
 6 *willfully any false return, shall be guilty of a misdemeanor*
 7 *and upon conviction thereof shall be punished by a fine of*
 8 *not more than \$1,000.”*

9 **(151)**SEC. 51. *Section 9 of said Act is amended by adding*
 10 *at the end thereof the following new subsection:*

11 “(c) *Any person who is authorized in writing by the*
 12 *Secretary of Agriculture to act as his agent in the admin-*
 13 *istration of this Act shall, while he is acting as such agent,*
 14 *have the power to administer oaths in connection with the*
 15 *execution of forms required by regulations issued pursuant*
 16 *to sections 7 and 8 of this Act, but no fee or compensation*
 17 *shall be charged or received by any such agent for admin-*
 18 *istering such an oath.”*

19 **(152)**SEC. 52. *The first sentence of subsection (a) of section*
 20 *10 of said Act is amended to read as follows: “The proceeds*
 21 *heretofore and hereafter derived from the tax are hereby*
 22 *appropriated to be available to the Secretary of Agriculture*
 23 *for rental and benefit payments under the Agricultural Ad-*
 24 *justment Act to contracting producers, for administrative*
 25 *expenses, refunds of taxes, redemption of tax-payment war-*

1 rants heretofore or hereafter received by contracting pro-
2 ducers subsequent to the sale of the tobacco covered by said
3 warrants and subsequent to payment of the tax imposed
4 upon such sale by section 3 of this Act, and other payments
5 under this Act.”

6 (153) SEC. 53. Subsection (a) of section 11 of said Act is
7 amended effective as of the date of the enactment of the
8 said Act by striking out the words “six months” and by
9 inserting in lieu thereof the words “one year”.

10 (154) SEC. 54. Section 14 of said Act is amended to read
11 as follows:

12 “The Secretary of Agriculture is directed not to refuse
13 on the ground of lateness any offer by a tobacco producer
14 to become a contracting producer, if such offer is filed with
15 the Secretary of Agriculture within thirty days after the
16 date of the proclamation by the Secretary of Agriculture,
17 pursuant to subsection (b) of section 3 of this Act.”

18 (155) SEC. 55. In order to develop a national program of
19 land conservation and land utilization, there is hereby
20 appropriated, out of the money made available by the Emer-
21 gency Relief Appropriation Act of 1935, to be used in the
22 discretion and under the direction of the President, to be
23 immediately available and to remain available until expended,
24 the sum of \$50,000,000. This appropriation shall be avail-

1 *able for the acquisition of submarginal land and its retire-*
2 *ment from agricultural use other than for grazing purposes.*

3 *In carrying out the provisions of this section, the*
4 *President is authorized:*

5 *(a) To establish and prescribe the duties and functions*
6 *of governmental agencies;*

7 *(b) To utilize and prescribe the duties and functions*
8 *of any governmental agency;*

9 *(c) To delegate the powers conferred upon him under*
10 *this section to any governmental agency;*

11 *(d) To make contracts and grants; and*

12 *(e) To acquire, by purchase, any real property or any*
13 *interest therein in accordance with the policy herein set forth.*

14 *Any proceeds or receipts derived by the President by*
15 *virtue of the activities conducted pursuant to this section*
16 *shall be available to the President as a revolving fund to be*
17 *used in the furtherance of this section: Provided, That no*
18 *lands shall be so acquired unless prior to the effective date*
19 *of this act options had already been made for their purchase.*

20 **(156)** *Wherever in any Federal reclamation project there*
21 *exist submarginal lands against which or by reason of which*
22 *the reclamation settlers are, by reason of contract with the*
23 *Government of the United States or the Reclamation Bureau*
24 *obligated for payment, such submarginal lands may be elimi-*

1 nated from such project and any reclamation charge against
2 such lands canceled.

3 (157) SEC. 56. Any person (not in the classified civil
4 service) other than an attorney who receives under this or
5 any other Act of Congress a salary or other compensation
6 at the rate of \$7,500 or more per annum, and any adminis-
7 trator or other officer or the members of any central board
8 or other agency named to have supervision at the seat of
9 government over the program, work, and/or expenditures
10 provided for and contemplated under this Act or any other
11 Act of Congress, and receiving a salary or other compensa-
12 tion at the rate of \$6,000 or more per annum, and any State
13 or regional administrator receiving a salary or other com-
14 pensation at the rate of \$3,600 or more per annum, in
15 pursuance of any of such Acts, shall be appointed by the
16 President by and with the advice and consent of the Senate;
17 Provided, That section 1761 of the Revised Statutes shall
18 apply to any and all persons required to be confirmed by
19 the Senate under the terms of this section.

20 (158) ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA
21 VIRUS

22 SEC. 57. It is hereby declared to be the policy of
23 Congress to insure the maintenance of an adequate supply
24 of anti-hog-cholera serum and hog-cholera virus by regulating
25 the marketing of such serum and virus in interstate and

1 *foreign commerce, and to prevent undue and excessive fluc-*
2 *tuations and unfair methods of competition and unfair trade*
3 *practices in such marketing.*

4 **(159)** *SEC. 58. In order to effectuate the policy declared in*
5 *section 57 of this Act the Secretary of Agriculture shall have*
6 *the power, after due notice and opportunity for hearing, to*
7 *enter into marketing agreements with manufacturers and*
8 *others engaged in the handling of anti-hog cholera serum*
9 *and hog-cholera virus only in the current of interstate or*
10 *foreign commerce or so as directly to burden, obstruct, or*
11 *affect interstate or foreign commerce in such serum and virus.*
12 *Such persons are hereafter in this Act referred to as "han-*
13 *dlers". The making of any such agreement shall not be*
14 *held to be in violation of any of the antitrust laws of the*
15 *United States, and any such agreement shall be deemed to be*
16 *lawful.*

17 **(160)** *SEC. 59. Marketing agreements entered into pursuant*
18 *to section 58 of this Act shall contain such one or more of*
19 *the following terms and conditions and no others as the*
20 *Secretary finds, upon the basis of the hearing provided for*
21 *in section 58, will tend to effectuate the policy declared in*
22 *section 57 of this Act:*

23 *(a) One or more of the terms and conditions specified*
24 *in subsection (7) of section 8c of the Agricultural Adjust-*
25 *ment Act, as amended.*

1 (b) *Terms and conditions requiring each manufacturer*
2 *to have available on May 1 of each year a supply of com-*
3 *pleted serum equivalent to not less than 40 per centum of*
4 *his previous year's sales.*

5 (161) SEC. 60. *Whenever all the handlers of not less than 75*
6 *per centum of the volume of anti-hog-cholera serum and hog-*
7 *cholera virus which is handled in the current of interstate*
8 *or foreign commerce, or so as directly to burden, obstruct,*
9 *or affect interstate or foreign commerce, have signed a mar-*
10 *keting agreement entered into with the Secretary of Agri-*
11 *culture pursuant to section 58 of this Act, the Secretary of*
12 *Agriculture shall issue an order which shall regulate only*
13 *such handling in the same manner as, and contain only such*
14 *terms and conditions as are contained in such marketing*
15 *agreement, and shall from time to time amend such order*
16 *in conformance with amendments to such marketing agree-*
17 *ment. Such order shall terminate upon termination of such*
18 *marketing agreement as provided in such marketing agree-*
19 *ment.*

20 (162) SEC. 61. *Subject to the policy declared in section 57*
21 *of this Act, the provisions of subsections (6), (7), (8),*
22 *and (9) of section 8a and of subsection (14) and (15)*
23 *of section 8c of the Agricultural Adjustment Act, as*
24 *amended, are hereby made applicable in connection with*
25 *orders issued pursuant to section 60 of this Act, and the*

1 provisions of section 8 (d) of the Agricultural Adjustment
 2 Act, as amended, are hereby made applicable in connection
 3 with marketing agreements entered into pursuant to sec-
 4 tion 58 and orders issued pursuant to section 60 of this Act.
 5 The provisions of subsections (a), (b), (2), (c), (f),
 6 (h), and (i) of section 10 of the Agricultural Adjustment
 7 Act, as amended, are hereby made applicable in connection
 8 with the administration of sections 57 to 61, inclusive, of
 9 this Act. The sums appropriated by section 12 of the
 10 Agricultural Adjustment Act, as amended, are hereby ap-
 11 propriated to be available to the Secretary of Agriculture
 12 for administrative expenses (including those described in
 13 section 12 (c) of the Agricultural Adjustment Act, as
 14 amended), in connection with sections 57 to 61, inclusive,
 15 of this Act.

16 (163) POTATO CONTROL

17 SEC. 62. Section 11 of the Agricultural Adjustment
 18 Act, as amended, is amended by adding after the word
 19 "rice" a comma and the word "potatoes" and by adding
 20 at the end of said section 11 a new sentence as follows:
 21 "As used in this title, the term 'potatoes' means all varieties
 22 of potatoes included in the species *Solanum tuberosum*."

23 SEC. 63. Subsection 1 of section 2 of the Agricultural
 24 Adjustment Act, as amended, is amended by adding after
 25 the word "tobacco", in both the second and third sentences
 26 of said subsection, the words "and potatoes".

TITLE II

DEFINITIONS

1
2
3 *SEC. 201. When used in this title, unless the context*
4 *otherwise requires—*

5 *(a) The term “person” includes an individual, a cor-*
6 *poration, a partnership, a business trust, a joint-stock com-*
7 *pany, an association, a syndicate, group, pool, joint venture,*
8 *or any other unincorporated organization or group.*

9 *(b) The term “Commissioner” means the Commis-*
10 *sioner of Internal Revenue.*

11 *(c) The term “collector” means a collector of inter-*
12 *nal revenue.*

13 *(d) The term “sale” includes any agreement or de-*
14 *livery whereby the seller transfers the property in, or right to*
15 *consume, potatoes to another for a consideration, and any*
16 *sum of money, services, property, or anything of value what-*
17 *soever, may constitute consideration for such transfer, but*
18 *does not include the transfer of the right to consume potatoes*
19 *to a member of the household of a producer of such potatoes*
20 *or a transfer for consumption by the household of a person*
21 *employed in the farming operations of the producer of such*
22 *potatoes.*

23 *(e) The term “allotment year” means the period*
24 *commencing December 1 and ending November 30: Pro-*

1 vided, That the first allotment year shall commence December
2 1, 1935, and shall end November 30, 1936.

3 (f) The term "change in the form of potatoes" means
4 an intentionally effected change in the form of potatoes in
5 preparation for the sale of such potatoes, or any product
6 thereof, as such change is defined by rules and regulations
7 prescribed by the Commissioner, with the approval of the
8 Secretary of the Treasury.

9 (g) The term "tax stamp" means an appropriate
10 stamp or other means of identifying potatoes with respect
11 to which a tax levied by this title has been paid.

12 (h) The term "tax-exemption stamp" means an ap-
13 propriate stamp or other means of identifying potatoes with
14 respect to which an exemption from the tax has been estab-
15 lished.

16 (i) The term "potatoes" means all varieties of
17 potatoes included in the species *Solanum tuberosum*.

18 (j) The term "producer" means a person who has
19 the right to sell, or to receive a share of the proceeds derived
20 from the sale of, potatoes cultivated by him, or on land
21 owned or leased by him.

22 (k) The term "continental United States" means
23 the several States of the United States and the District of
24 Columbia and does not include any Territory or possession
25 of the United States.

1 (l) The term "operator" means any person operat-
2 ing his own farm, any tenant operating a farm rented for
3 cash or for a fixed-commodity payment, any crop-share
4 tenant, and any crop-share landlord.

5 (m) The term “farm” means all the land operated
6 by the producer as a single operating unit with work stock,
7 farm machinery, and labor substantially separate from that
8 of any other tract of land.

IMPOSITION OF THE TAX

10 SEC. 202. (a) There is hereby levied and assessed upon
11 each first sale of potatoes harvested on or after December 1,
12 1935, in the continental United States a tax, to be paid by
13 the seller, at the rate of three-fourths of 1 cent per pound:
14 Provided, That when there is a change in the form of
15 potatoes harvested on or after December 1, 1935, in the
16 continental United States prior to the first sale thereof, a
17 tax at the rate of three-fourths of 1 cent per pound, to be
18 paid by the owner at the time such change is effected, is
19 hereby levied and assessed upon the effecting of such change,
20 and no tax shall be levied upon the first sale of such
21 potatoes or any product or products thereof.

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this

1 title) are in excess of the probable supply of potatoes in
2 the continental United States during the marketing periods
3 for such region or regions, he shall proclaim such determina-
4 tion, and the provisions of this title shall not be operative
5 during such marketing periods.

6 (c) At least thirty days prior to the beginning of each
7 allotment year after the first allotment year, the Secretary
8 of Agriculture shall conduct a referendum which will afford
9 to producers of potatoes a reasonable opportunity to vote in
10 favor of or in opposition to continuing in effect with respect
11 to potatoes produced during the succeeding allotment year
12 the taxes levied by subsection (a) of this section. Each
13 producer shall be entitled to one vote for each sixty pounds
14 of potatoes apportioned to him pursuant to sections 205, 206,
15 and 207 of this title for the last allotment year for which such
16 apportionments were made. If one-third of the votes cast in
17 such referendum are cast in opposition to continuing such
18 taxes in effect, the provisions of this title shall not be opera-
19 tive with respect to potatoes produced during such succeed-
20 ing allotment year.

21 (d) If the Secretary of Agriculture determines and
22 proclaims that the taxes levied by subsection (a) of this
23 section will at the rate therein specified for such taxes,
24 (1) tend to adversely affect the orderly marketing of
25 potatoes, or (2) tend to depress the farm price of potatoes,

1 or (3) tend to cause to producers of potatoes disadvantages
2 in competition by reason of an excessive shift in con-
3 sumption from potatoes to some other commodity or com-
4 modities, then the rate of such taxes shall for such period
5 as the Secretary of Agriculture designates, be at the highest
6 rate which is lower than three-fourths of 1 cent (not less
7 than one-half of 1 cent per pound) as he finds and proclaims
8 will not adversely affect such orderly marketing, or cause
9 such depression of the farm price, or cause such disad-
10 vantages in competition.

11 (e) The taxes levied by subsection (a) of this section
12 shall be represented by tax stamps, and the proceeds of
13 taxes levied under this title shall be paid into the Treasury
14 of the United States as internal revenue collections.

15 (f) The Commissioner shall cause to be prepared, for
16 the payment of such taxes, tax stamps of suitable denomi-
17 nations and shall furnish same to the collectors of internal
18 revenue. The Commissioner shall also furnish to the Post-
19 master General without prepayment a suitable quantity of
20 such stamps to be distributed to, and kept on sale by, the
21 various postmasters in the United States. The Postmaster
22 General may require each such postmaster to give addi-
23 tional or increased bond as postmaster for the value of
24 the stamps so furnished, and each such postmaster shall
25 deposit the receipts from the sale of such stamps to the

1 *credit of, and render accounts to, the Postmaster General*
2 *at such times and in such form as he may by regulations*
3 *prescribe. The Postmaster General shall at least once*
4 *monthly transfer all collections from this source to the*
5 *Treasury as internal revenue collections.*

6 *ALLOTMENTS*

7 *SEC. 203. The Secretary of Agriculture shall investigate*
8 *probable production and market conditions for each allot-*
9 *ment year and shall determine from available statistics of*
10 *the Department of Agriculture and proclaim, at least thirty*
11 *days prior to the beginning of each allotment year, the*
12 *quantity of potatoes which, if produced during such year*
13 *and sold during or after such year, will, in his opinion,*
14 *tend to establish and maintain such balance between the*
15 *production, sale, and consumption of potatoes and the mar-*
16 *keting conditions therefor as will, in his opinion, tend to*
17 *establish prices to potato producers at a level that would*
18 *give potatoes a purchasing power with respect to articles*
19 *that farmers buy equivalent to the purchasing power of*
20 *potatoes in the period August 1919–July 1929 without*
21 *reducing the total net income of potato producers from*
22 *potatoes below the largest probable net income of potato*
23 *producers from potatoes produced during such allotment*
24 *year, and without tending to cause to producers of potatoes*
25 *disadvantages in competition by reason of an excessive shift*

1 in consumption from potatoes to some other commodity
2 or commodities; and the quantity so proclaimed shall, for
3 each allotment year, be apportioned by the Secretary of
4 Agriculture as hereinafter provided.

5 SEC. 204. When a quantity is determined in accordance
6 with section 203 of this title, the Secretary of Agriculture
7 shall apportion such quantity among the several States.
8 The apportionment to each State shall be determined on
9 the basis of the ratio that the annual average acreage of
10 the four years in which the highest potato acreage was
11 harvested in such State in the years 1927-1934, inclusive,
12 multiplied by the average yield per acre for the four years
13 that the yield of potatoes per acre for such State was highest
14 in the years 1927-1934, inclusive, multiplied by the
15 average annual percentage of the crop produced in such
16 State during the years 1929-1934, inclusive, which was
17 sold, bears to the sum of the products of such average
18 acreages, such average yields, and such percentages of sales
19 for all States: Provided, That if the Secretary of Agriculture
20 finds that the application of the foregoing formula alone
21 would, because of differences in production practices and
22 marketing practices among the several States, result in an
23 inequitable and unfair apportionment to any State or States,
24 not in excess of 2 per centum of the quantity of potatoes
25 determined in accordance with section 203 of this title may

1 *be deducted from such quantity and may be used by the*
2 *Secretary of Agriculture to adjust on the basis of equity*
3 *and fairness the apportionments made or to be made to*
4 *any State or States.*

5 *SEC. 205. Ninety-five per centum of the quantity of*
6 *potatoes apportioned to any State pursuant to section 204 of*
7 *this title shall be apportioned by the Secretary of Agricul-*
8 *ture to farms on which potatoes have been grown within*
9 *such State during any one or more years within the period*
10 *1932-1934, inclusive. Such apportionment to any farm*
11 *shall be made upon application therefor and may, in order*
12 *to secure equitable apportionments to producers, be made*
13 *by the Secretary based upon either—*

14 *(1) A percentage of the average sales of potatoes*
15 *produced on such farm for a representative base period, pre-*
16 *scribed by the Secretary, of any two or more years during*
17 *the years 1932-1934, inclusive, providing the operators of*
18 *such farm for the allotment year for which the apportion-*
19 *ment is made produced potatoes on such farm during at*
20 *least one of the base-period years. The representative base*
21 *period prescribed by the Secretary and the percentage*
22 *applied to the average sales of potatoes produced during*
23 *such period in establishing apportionments for each farm*
24 *under this paragraph shall, so far as practicable, be uniform*
25 *for farms similarly situated upon the basis or classification*

1 *prescribed by the Secretary of Agriculture, but in the case*
 2 *of any farm for which such average sales are 300 pounds*
 3 *or less, such average sales shall be exempt from any per-*
 4 *centage reduction thereof and such farm shall receive an*
 5 *apportionment equal to such average sales; or*

6 *(2) Such basis as the Secretary of Agriculture deems*
 7 *fair and just and will apply to all farms to which an appor-*
 8 *tionment is made under this paragraph 2 uniformly on the*
 9 *basis or classification adopted. In making an apporportion-*
 10 *ment to a farm under this paragraph, due consideration shall*
 11 *be given to the quantity of potatoes produced and sold in*
 12 *the past by the operators who will operate such farm for*
 13 *the allotment year for which the apportionment is made,*
 14 *the quantity of potatoes produced on such farm and sold*
 15 *in the past, and the acreage of the farm available for the*
 16 *production of potatoes and which the operators are currently*
 17 *equipped to devote to the production of potatoes.*

18 *SEC. 206. Not in excess of 5 per centum of the quantity*
 19 *of potatoes apportioned to any State pursuant to section 204*
 20 *of this title shall, upon application therefor, be available*
 21 *for apportionment by the Secretary of Agriculture to farms*
 22 *operated by persons engaged or evidencing a desire to en-*
 23 *gage in the production and sale of potatoes in such State*
 24 *and which farms are ineligible to receive an apportionment*
 25 *under section 205 or in respect to which the Secretary of*

1 *Agriculture determines that the apportionments made pur-*
2 *suant to section 205 are inequitable: Provided, That appor-*
3 *tionments under this section shall be made upon such basis*
4 *as the Secretary of Agriculture deems fair and just and*
5 *which will, so far as practicable, apply to all such farms*
6 *uniformly upon the basis or classification prescribed by the*
7 *Secretary. Any quantity not apportioned under this sec-*
8 *tion shall be available for apportionment under section 205*
9 *of this title.*

10 *SEC. 207. If an apportionment is made to a farm under*
11 *section 206 of this title for any allotment year, for each suc-*
12 *ceeding allotment year that the operation of such farm is*
13 *continued by the operators who operated it during the allot-*
14 *ment year for which such apportionment was made, the*
15 *apportionment to such farm shall be made upon the basis*
16 *provided in section 206 of this title but shall be made from the*
17 *quantity available for apportionment under section 205 of*
18 *this title.*

19 *SEC. 208. For the purposes of the apportionments to*
20 *be made pursuant to sections 204, 205, 206, and 207 of this*
21 *title, the District of Columbia shall be considered as a part*
22 *of the State of Maryland.*

23 *SEC. 209. (a) The Secretary of Agriculture, or any*
24 *agent or agency designated for such purpose by the Secre-*
25 *tary, shall, upon application therefor, issue for each farm*

1 *tax-exemption stamps for an amount of potatoes equal to*
2 *the apportionment made to such farm pursuant to sections*
3 *205, 206, and 207 of this title: Provided, That under such*
4 *regulations as the Secretary of Agriculture shall prescribe he*
5 *shall refuse to issue such tax-exemption stamps to any appli-*
6 *cant in any allotment year in which such applicant is not a*
7 *bona fide producer of potatoes. Each such tax-exemption*
8 *stamp, during the period of its validity as determined pursu-*
9 *ant to subsection (c) of this section, shall establish an exemp-*
10 *tion from the taxes imposed by subsection (a) of section 202*
11 *of this title for the amount of potatoes stated on the face of*
12 *each such stamp.*

13 *(b) The right to tax-exemption stamps shall be*
14 *evidenced in such manner as the Secretary of Agriculture*
15 *may by regulations prescribe, and such tax-exemption*
16 *stamps shall be issued in such form or forms, and under*
17 *such terms and conditions as may be prescribed jointly*
18 *by the Secretary of Agriculture and the Secretary of the*
19 *Treasury.*

20 *(c) The Secretary of Agriculture shall establish and*
21 *define potato-producing regions for the continental United*
22 *States upon the basis of the marketing periods for potatoes*
23 *produced in such regions during an allotment year, and*
24 *shall from time to time by regulation and upon the basis of*
25 *such marketing periods for each such region, determine and*

1 *fix the period during which tax-exemption stamps issued, or*
2 *pursuant to subsection (g) of this section transferred, to*
3 *producers in such regions for any allotment year shall be*
4 *valid, provided that all tax-exemption stamps shall be valid*
5 *for a period of at least the allotment year for which they*
6 *are issued.*

7 *(d) If any tax-exemption stamp is erroneously issued,*
8 *the person to whom such stamp is so issued shall, upon*
9 *demand by the Secretary of Agriculture in writing and*
10 *mailed to the last-known address of such person, be obligated*
11 *to return such stamp or pay to the Secretary a sum equal*
12 *to the amount of the taxes imposed by subsection (a) of*
13 *section 202 of this title upon the amount of potatoes covered*
14 *by such stamp, at the rate in effect at the time such stamp*
15 *was issued.*

16 *(e) Any sale, assignment, pledge, or transfer, and*
17 *any agreement or power of attorney to sell, assign, apply,*
18 *pledge, or transfer made or entered into by any person of*
19 *his right to or claim for tax-exemption stamps or any part*
20 *thereof not accompanied by actual delivery of such stamps*
21 *shall, for all purposes, be null and void; except agreements*
22 *between landlords and share-tenants or share-croppers*
23 *which, in accordance with such regulations as the Secretary*
24 *of Agriculture shall prescribe, provide for a division of the*
25 *tax-exemption stamps received or to be received by any such*

1 landlord, any such share-tenant or any such share-cropper,
2 or any or all of them, in accordance with their respective
3 shares in the potatoes or the proceeds thereof to be produced
4 by them.

5 (f) Where a farm is operated by share-tenants, or with
6 the aid of share-croppers, tax-exemption stamps issued for
7 an apportionment made to such farm shall be used by the
8 landlord, the share-tenants, and/or the share-croppers in
9 accordance with their respective shares in the potatoes pro-
10 duced on such farm, during the allotment year for which
11 such apportionment is made, or the proceeds of such potatoes,
12 and the Secretary of Agriculture shall issue regulations pro-
13 tecting the interests of share-croppers and tenants in the
14 issuance and use of such tax-exemption stamps.

15 (g) If accompanied by delivery thereof, tax-exemption
16 stamps may be transferred or assigned in such manner and
17 upon such terms and conditions, including conditions govern-
18 ing the consideration which must be given therefor, as the
19 Secretary of Agriculture may determine are reasonably
20 necessary to prevent (1) transfers and assignments which
21 would tend to depress the market price for potatoes produced
22 in any potato-producing area, (2) speculation in tax-exempt
23 stamps, or (3) fraud or coercion in the transfer of such
24 stamps, or which the Secretary of Agriculture finds to be
25 necessary or desirable to facilitate the identification of tax-

1 paid or tax-exempt potatoes or which the Secretary of Agri-
2 culture finds to be necessary or desirable to protect the
3 interests of tenants and share-croppers in the issuance and
4 use of tax-exemption stamps.

5 *SEC. 210. Tax-exemption stamps issued to a person,*
6 *and a person's right to and claim for, tax-exemption stamps*
7 *shall be exempt from the claims of the creditors of such*
8 *person and from any and all process for the enforcement of*
9 *such claims. The Secretary of Agriculture shall by regula-*
10 *tion provide for the issuance to, and/or use by, the person*
11 *who by devise, bequest, or descent becomes the owner of*
12 *potatoes planted by a person dying during an allotment*
13 *year, of the tax-exemption stamps which have been, or*
14 *would have been, issued to such deceased person for such*
15 *allotment year.*

16 *PACKAGING*

17 *SEC. 211. (a) To facilitate the collection of the tax*
18 *upon the first sale of potatoes imposed by subsection (a) of*
19 *section 202 of this title, all potatoes harvested on and after*
20 *December 1, 1935, and sold in the continental United States,*
21 *during any period such tax is in effect, shall, in accordance*
22 *with such rules and regulations as the Commissioner with*
23 *the approval of the Secretary of the Treasury shall pre-*
24 *scribe, be packed in closed and marked containers to which*
25 *shall be attached or affixed tax stamps or tax-exemption*

1 stamps equal in face value to the amount of tax per pound
2 in effect on the potatoes contained therein: Provided, That,
3 subject to such regulations as the Commissioner with the
4 approval of the Secretary of the Treasury may prescribe,
5 packaging may be postponed beyond the time of the first
6 sale of potatoes which are to be stored in bulk, or which
7 are to be graded, at such places as may be designated by
8 regulations prescribed by the Commissioner with the
9 approval of the Secretary of the Treasury. The time and
10 method of such packaging and the time and method of attach-
11 ing or affixing such stamps and the time and circumstances
12 under which packages may be broken shall be established
13 in accordance with such regulations as the Commissioner,
14 with the approval of the Secretary of the Treasury, may
15 prescribe as desirable or necessary to facilitate the collection
16 of such tax. In prescribing and approving rules and regu-
17 lations for the packaging of potatoes and the attaching or
18 affixing of stamps, the Commissioner and the Secretary of the
19 Treasury shall give due weight to the customs of the industry.

20 (b) To facilitate the collection of the tax upon a change
21 in the form of potatoes imposed by subsection (a) of section
22 202 of this title, the Commissioner, with the approval of the
23 Secretary of the Treasury, is authorized by regulation to
24 prescribe appropriate means of identifying potatoes, the

1 *change of form of which is subject to such tax, and for the*
 2 *identification of the products of such potatoes.*

3 *RULES AND REGULATIONS*

4 *SEC. 212. The Commissioner, with the approval of the*
 5 *Secretary of the Treasury, shall prescribe and publish such*
 6 *rules and regulations as he may deem needful in administer-*
 7 *ing provisions of this title relating to the revenue including*
 8 *rules and regulations for the issue, sale, custody, production,*
 9 *cancelation, destruction, and disposition of tax stamps and*
 10 *the cancelation and destruction of tax-exemption stamps,*
 11 *and the substitution or replacement of tax stamps in cases*
 12 *of loss, destruction, or defacement thereof.*

13 *SEC. 213. The Secretary of Agriculture is authorized*
 14 *to make such rules and regulations as may be necessary*
 15 *to carry out the powers vested in him by the provisions*
 16 *of this title.*

17 *SEC. 214. (a) All producers, warehousemen, processors,*
 18 *carriers, retailers, factors, handlers, and any other person*
 19 *who the Commissioner has reason to believe to have informa-*
 20 *tion with respect to potatoes produced or sold may be*
 21 *required, under regulations prescribed jointly by the Secre-*
 22 *tary of the Treasury and the Secretary of Agriculture, to*
 23 *make such returns, render such statements, give such*
 24 *information, and keep such records as they may deem*
 25 *necessary for the proper administration of this title.*

1 (b) Any person willfully failing or refusing to file
2 such a return, render such statement, give such information,
3 or keep such records, or filing a willfully false return, or
4 rendering or giving willfully false statements or information
5 or willfully keeping false records, shall be guilty of a
6 misdemeanor and upon conviction thereof, shall be punished
7 by a fine of not more than \$1,000 or by imprisonment not
8 exceeding one year, or both.

9

REFUNDS

10 SEC. 215. (a) No refund of any tax, penalty, interest,
11 or sum of money paid shall be allowed under this title unless
12 claim therefor is presented within one year after the date
13 of payment of such tax, penalty, interest, or sum.

14 (b) No suit or proceeding shall be maintained in any
15 court for the recovery of any tax under this title alleged to
16 have been erroneously or illegally assessed or collected, or
17 of any penalty claimed to have been collected without
18 authority, or of any sum alleged to have been excessive
19 or in any manner illegally or wrongfully collected until a
20 claim for refund or credit has been duly filed with the
21 Commissioner according to the provisions of law in that
22 regard and the regulations of the Secretary of the Treasury
23 established in pursuance thereof. No suit or proceeding
24 shall be begun before the expiration of six months from
25 the date of filing such claim unless the Commissioner

1 renders a decision thereon within that time, nor after the
2 expiration of two years from the date of payment of such
3 tax, penalty, or sum, unless such suit or proceeding is begun
4 within two years after the disallowance of the part of such
5 claim to which such suit or proceeding relates. The Com-
6 missioner shall, within ninety days after such disallowance,
7 notify the taxpayer thereof by registered mail.

8 (c) The amount of the taxes imposed by subsection
9 (a) of section 202, paid by a person, which taxes would not
10 have been paid had the tax-exemption stamps to which
11 such person was entitled been delivered to such person prior
12 to the payment of such taxes, shall be refunded to such
13 person.

14 APPROPRIATION

15 SEC. 216. (a) The proceeds derived from the taxes
16 imposed by this title are hereby authorized to be appropri-
17 ated to be available to the Secretary of Agriculture for
18 administrative expenses, for all purposes of the Agricultural
19 Adjustment Act, for refunds of taxes and for other pay-
20 ments under this title. The Secretary of Agriculture and
21 the Secretary of the Treasury shall estimate from time to
22 time the amount of taxes which will be collected during a
23 period following any such estimate not in excess of four
24 months, and the Secretary of the Treasury shall, out of any
25 money in the Treasury not otherwise appropriated, advance

1 to the Secretary of Agriculture the amounts so estimated.
2 The amount of any such advance shall be deducted from
3 such tax proceeds as shall subsequently become available
4 under this subsection: Provided, That all taxes imposed by
5 section 230 of this title, collected upon potatoes coming
6 from the possessions or territories of the United States, shall
7 not be covered into the general fund of the Treasury of the
8 United States but shall be held as a separate fund and paid
9 into the treasuries of the said possessions and territories,
10 respectively, to be used and expended by the governments
11 thereof for the benefit of agriculture.

12 (b) The Secretary of Agriculture is hereby authorized
13 to expend, out of the sums available to the Secretary of
14 Agriculture under the Agricultural Adjustment Act, as
15 amended, such sums as may be necessary for administrative
16 expenses, for refunds of taxes and for other payments under
17 this title.

18 (c) The administrative expenses provided for under
19 this section shall include, among others, expenditures for
20 personal services and rent in the District of Columbia and
21 elsewhere, for law books, periodicals, newspapers, and books
22 of references, for contract stenographic reporting services,
23 for the purchase or hire of vehicles, including motor vehicles,
24 and for printing and paper in addition to allotments under
25 the existing law.

(d) *The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expense of, and refunds made by, such departments or agencies in the administration of this title.*

(e) *There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses for refunds of taxes, and for other advances or payments under this title.*

GENERAL AND PENAL PROVISIONS

SEC. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 202 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treas-

1 ury, the sale, or change in form, of potatoes for such use or
2 uses by the purchaser thereof shall be exempt from the provi-
3 sions of subsection (a) of section 211, and from the taxes
4 imposed by subsection (a) of section 202 of this title until
5 such time as the Secretary of Agriculture, after further
6 investigation and due notice and opportunity for hearing to
7 the interested parties, revokes such proclamation: Provided,
8 That the right to any such exemption shall be evidenced in
9 such manner as joint regulations of the Secretary of Agri-
10 culture and the Secretary of the Treasury shall prescribe.
11 If such purchaser uses any potatoes sold to him free of tax
12 under this section or uses any product of such potatoes, for
13 other than an exempt use as above specified, then he shall be
14 liable for a tax in the same manner as if such potatoes were
15 sold by him at a first sale.

16 SEC. 218. The Secretary of Agriculture is authorized,
17 in order to carry out the provisions of this title, to appoint,
18 without regard to the provisions of the civil-service law,
19 such officers, agents, and employees and to utilize such
20 Federal officers and employees and, with the consent of
21 the State, such State and local officers and employees, as
22 he may find necessary, to prescribe their authorities, duties,
23 responsibilities, and tenure, and, without regard to the
24 Classification Act of 1923, as amended, to fix the compen-
25 sation of any officers, agents, and employees so appointed.

1 *SEC. 219. (a) For the more effective administration*
2 *of the functions vested in him by this title, the Secretary of*
3 *Agriculture is authorized to utilize committees and associa-*
4 *tions heretofore or hereafter established pursuant to subsection*
5 *(b) of section 10 of the Agricultural Adjustment Act and*
6 *to establish regional, State, and local committees and associa-*
7 *tions of producers of potatoes.*

8 *(b) The Secretary of Agriculture, out of any funds*
9 *appropriated for administrative expenses under this title, is*
10 *authorized to advance funds to the proper fiscal officer of*
11 *associations established or utilized pursuant to subsection*
12 *(a) of section 219 of this title, for expenses incurred or*
13 *to be incurred in the administration of this title, with the*
14 *approval of the Secretary of Agriculture by such associa-*
15 *tions. Payment of such expenses of such associations shall*
16 *be made upon such evidence and in such manner and at*
17 *such time or times as the Secretary of Agriculture may*
18 *direct, and the accounting therefor by the associations shall*
19 *be solely administrative and to the Secretary of Agriculture*
20 *only.*

21 *SEC. 220. Any person who knowingly sells, or offers*
22 *for sale, or knowingly offers to buy, or buys, potatoes not*
23 *packaged as required by this title, or any person who know-*
24 *ingly sells, or offers for sale, or who knowingly offers to*
25 *buy, or buys, potatoes to the packages of which are not*

1 *affixed or attached tax-exemption stamps or tax stamps as*
2 *required by this title shall, upon conviction thereof, be fined*
3 *not more than \$1,000. Any person convicted of a second*
4 *offense under the provisions of this title may, in addition*
5 *to such fine, be imprisoned for not more than one year.*

6 *SEC. 221. Any person who, in violation of the regula-*
7 *tions made by the Secretary of Agriculture, speculates*
8 *in tax-exemption stamps, and any person securing tax-*
9 *exemption stamps from another person by fraud or coercion,*
10 *shall, upon conviction thereof, be fined not more than*
11 *\$1,000 or sentenced to not more than one year's imprison-*
12 *ment, or both.*

13 *SEC. 222. Whenever any potato container, to which*
14 *are affixed tax stamps or tax-exemption stamps, is emptied,*
15 *it shall be the duty of the person in whose hands the same*
16 *is to destroy utterly the stamps thereon. Any revenue officer*
17 *may destroy the tax stamps or tax-exemption stamps upon*
18 *any emptied potato package.*

19 *SEC. 223. Any person who willfully violates any pro-*
20 *vision of this title, or who willfully fails to pay, when*
21 *due, any tax imposed under this title, or who, with intent*
22 *to defraud, falsely makes, forges, orders, or counterfeits any*
23 *tax stamps or tax-exemption stamps made or used under*
24 *this title or who uses, sells, or has in his possession any*
25 *such forged, ordered, or counterfeited tax stamps or tax-*

1 exemption stamps or any plate or die used, or which may
2 be used in the manufacture thereof, or has in his possession
3 any tax stamp or tax-exemption stamp which should have
4 been destroyed as required by this title, or who makes,
5 uses, sells, or has in his possession, any paper in imitation
6 of the paper or other substance used in the manufacture of
7 any such tax stamp or tax-exemption stamp, or who reuses
8 any tax stamp or tax-exemption stamp required to be de-
9 stroyed by this title, or who places any potatoes in any
10 package which has been theretofore filled or stamped or
11 otherwise identified under this title without destroying the
12 tax stamp and tax-exemption stamps previously affixed to
13 such package, or who gives away or accepts from another
14 or who sells or buys any emptied package which had been
15 previously filled and stamped or otherwise identified under
16 this title without destroying the tax stamps and tax-exemp-
17 tion stamps previously affixed or attached to such package,
18 or who makes any false statement in any application for
19 tax-exemption stamps under this title, or who has in his
20 possession any tax-exemption stamps or tax stamps, obtained
21 by him otherwise than as provided in this title, shall, upon
22 conviction, be punished by a fine not exceeding \$1,000 or
23 by imprisonment for not exceeding six months, or both.

24 *SEC. 224. Any person who willfully violates any regu-*
25 *lation issued or approved pursuant to this title, for the vio-*

1 *lation of which a special penalty is not provided by law,*
2 *shall, upon conviction thereof, be punished by a fine not*
3 *exceeding \$200.*

4 *SEC. 225. All provisions of law, including penalties*
5 *applicable with respect to the taxes imposed by sections 600*
6 *and 800 of the Revenue Act of 1926, except section 1121*
7 *of the Revenue Act of 1926, and except section 614 of the*
8 *Revenue Act of 1932, shall, insofar as applicable and not*
9 *inconsistent with the provisions of this title, be applicable*
10 *with respect to all taxes imposed by this title.*

11 *SEC. 226. In order to facilitate the making of appor-*
12 *tionments and the collection of the taxes imposed by this title,*
13 *every producer who sells potatoes during any allotment year,*
14 *or who changes the form of potatoes, shall keep such books*
15 *and records as the Commissioner, with the joint approval*
16 *of the Secretary of the Treasury and the Secretary of Agri-*
17 *culture, shall by regulations require and such books and*
18 *records shall be open to inspection by any authorized agent*
19 *of the Secretary of Agriculture or the Commissioner.*

20 *SEC. 227. Whenever any potatoes, upon the sale of*
21 *which a tax is required to be paid, are sold, without the use*
22 *of the proper stamps, or whenever a change of form of pota-*
23 *toes upon which a tax is required to be paid occurs, without*
24 *the payment of such tax, it shall be the duty of the Commis-*
25 *sioner, within a period of not more than two years after such*

1 sale or change of form, upon satisfactory proof, to estimate
2 the amount of the tax which has been omitted to be paid,
3 and to make the assessment therefor, and certify the same
4 to a collector. The tax so assessed shall be in addition to the
5 penalties imposed by law.

6 *EXPORTS*

7 *SEC. 228. Under such rules and regulations as the*
8 *Commissioner, with the approval of the Secretary of the*
9 *Treasury, may prescribe, the taxes imposed under subsection*
10 *(a) of section 202 of this title shall not apply in respect to*
11 *potatoes sold for export to any foreign country or for ship-*
12 *ment to a possession or Territory of the United States, and*
13 *in due course so exported or shipped. Under such rules*
14 *and regulations the amount of any such tax erroneously or*
15 *illegally collected in respect to such potatoes so exported or*
16 *shipped may be refunded to the exporter or shipper of the*
17 *potatoes instead of the taxpayer if the taxpayer waives any*
18 *claim for the amount so to be refunded.*

19 *IMPORTS*

20 *SEC. 229. In order to secure equality between domestic*
21 *and foreign producers of potatoes and in order to prevent*
22 *the taxes imposed by subsection (a) of section 202 from*
23 *resulting in disadvantages to producers of potatoes in the*
24 *continental United States, the Secretary of Agriculture is*

1 hereby authorized and directed to, from time to time by
2 orders and regulations—

3 (a) For each allotment year or any part thereof that
4 the taxes imposed by subsection (a) of section 202 of this
5 title are in effect, establish quotas for the entry or the
6 importation into the continental United States of potatoes
7 produced in any Territory or possession of the United States,
8 or any foreign country. Such quotas shall be based upon
9 that percentage of the annual average quantity of such pota-
10 toes brought or imported into the continental United States
11 during the years 1929–1934, inclusive, which is equal to
12 the percentage that the quantity proclaimed by the Secre-
13 tary under section 203 of this title is of the annual average of
14 the quantity of potatoes sold in the continental United States
15 during the years 1929–1934, inclusive; and

16 (b) Allot the quotas provided for by subsection (a)
17 to the importers of such potatoes in the United States in
18 such manner as he may deem fair and equitable, having
19 due regard to the respective amounts of potatoes imported
20 during the years 1932–1934, inclusive, by such persons.

21 SEC. 230. After such quotas have been established,
22 potatoes imported or brought into the continental United
23 States in excess of any such quotas shall, in addition to any
24 import duties, be subject to internal-revenue tax equal to
25 the amount of the tax then in effect on the first sale of

1 *potatoes produced and sold in the continental United States.*
2 *The tax levied by this section shall be represented by tax*
3 *stamps and shall be paid by the owner or importer prior*
4 *to release from customs custody and control, or entry into*
5 *the continental United States.*

6 *SEC. 231. During any period the tax imposed by sub-*
7 *section (a) of section 202 is in effect all potatoes imported*
8 *or brought into the continental United States from any*
9 *possession or Territory of the United States or from any*
10 *foreign country shall, prior to release from customs custody*
11 *and control, in accordance with such rules and regulations*
12 *as the Commissioner, with the approval of the Secretary of*
13 *the Treasury, shall prescribe as necessary or desirable to*
14 *facilitate the collection of the taxes levied by this title, be*
15 *packed in closed and marked containers. The time and*
16 *method of such packaging and the time and method of*
17 *attaching or affixing the stamps required by the preceding*
18 *section shall be established in accordance with such regula-*
19 *tions as the Commissioner shall prescribe. All sales of*
20 *such potatoes, after release thereof from customs custody*
21 *and control or entry in the continental United States, shall*
22 *be in packages in the same manner and under the same*
23 *terms and conditions as required for the sales of potatoes*
24 *harvested and sold in the continental United States.*

1 *SEC. 232. The provisions of sections 229 and 230 shall*
2 *not be applicable to potatoes produced in the Republic of Cuba*
3 *and imported and entered for consumption into the conti-*
4 *ental United States during the period from December 1*
5 *to the last day of the following February, inclusive, in any*
6 *years: Provided, That if the Secretary of Agriculture at*
7 *any time finds that the importation of potatoes from the*
8 *Republic of Cuba during such period is, or threatens or*
9 *results in, unduly depressing the potato market in or for any*
10 *potato-producing area of the continental United States, he*
11 *shall proclaim such findings and the provisions of sections*
12 *229 and 230 shall be applicable to all potatoes thereafter*
13 *imported into the continental United States from the*
14 *Republic of Cuba.*

Passed the House of Representatives June 18, 1935.

Attest:

SOUTH TRIMBLE,

Clerk.

Passed the Senate May 13 (calendar day, July 23),
1935.

Attest:

EDWIN A. HALSEY,

Secretary.

AN ACT

To amend the Agricultural Adjustment Act,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 1935

Ordered to be printed with the amendments of the
Senate numbered

drawn for consumption or use in the United States shall be subject to the duty, if any, imposed upon such articles by the revenue laws in force at the date of withdrawal; and on such articles which shall have suffered diminution or deterioration from incidental handling and necessary exposure, the duty, if paid, shall be assessed according to the appraised value at the time of withdrawal for consumption or use, and the penalties prescribed by law shall be enforced against any person guilty of any illegal sale, use, or withdrawal.

SEC. 3. That the Government of the United States is not by this resolution obligated to any expense in connection with the holding of such exposition and is not hereafter to be obligated other than for suitable representation thereat.

EXECUTIVE SESSION

Mr. ROBINSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGE REFERRED

The PRESIDING OFFICER (Mr. McGILL in the chair) laid before the Senate a message from the President of the United States nominating Findley B. Howard, of Nebraska, to be Envoy Extraordinary and Minister Plenipotentiary to Paraguay, which was referred to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

Mr. WAGNER, from the Committee on Public Lands and Surveys, reported favorably the nomination of Charles West, of Ohio, to be Under Secretary of the Interior.

Mr. DIETERICH, from the Committee on the Judiciary, reported favorably the nomination of Edward D. Bolger, of Michigan, to be United States marshal, western district of Michigan, to succeed Martin Brown, resigned.

Mr. BURKE, from the Committee on the Judiciary, reported favorably the nomination of Cleon A. Summers, of Oklahoma, to be United States attorney, eastern district of Oklahoma, vice W. F. Rampendahl, resigned.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the clerk will state the first nomination on the calendar.

BOARD OF TAX APPEALS

The legislative clerk read the nomination of William W. Arnold, of Illinois, to be a member.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

PUBLIC HEALTH SERVICE

The legislative clerk proceeded to read sundry nominations in the Public Health Service.

Mr. ROBINSON. I ask that the nominations in the Public Health Service be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 36 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Tuesday, July 30, 1935, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate July 29, 1935

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Findley B. Howard, of Nebraska, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Paraguay.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 29, 1935

BOARD OF TAX APPEALS

William W. Arnold to be a member of the Board of Tax Appeals.

PUBLIC HEALTH SERVICE

TO BE MEDICAL DIRECTORS

James P. Leake
Lawrence Kolb
Hermon E. Hasseltine

TO BE SENIOR SURGEONS

William S. Bean, Jr. Thomas B. H. Anderson
Gleason C. Lake Herbert A. Spencer

TO BE ASSISTANT SURGEON

Dr. Thornburn S. McGowan.

TO BE PASSED ASSISTANT PHARMACISTS

Edgar B. Scott
Edwin M. Holt

POSTMASTERS

CALIFORNIA

Lutheria F. Cunningham, Saratoga.

COLORADO

Zebulon M. Pike, Golden.
Esther M. Stanley, Gypsum.

MINNESOTA

Ralph J. Dolan, Arlington.
Colette F. Grutsch, Avon.
Harriett M. Eleeson, Beaver Creek.
Edward S. Scheibe, Cloquet.
Ole J. Leding, Cook.
Hazel W. Brown, La Crescent.
William C. Ackerman, Lakeville.
William Pennar, Laporte.
Vern Weaver, Lowry.
Cora E. McAlpine, Marble.
Conrad B. Diekman, Ogema.
Charles E. Gravel, Onamia.
Leslie R. Lisle, Royalton.
May E. Aukofer, Welcome.
Louis I. Bullis, Winnebago.

MISSOURI

Louis H. Barker, Willow Springs.

NEBRASKA

Argyle M. Knapp, Ansley.
R. Elmer Harmon, Auburn.
John L. Delong, Bushnell.
Halford J. Mayes, Rushville.
William P. Cowan, Stanton.

NORTH DAKOTA

Herbert J. Simon, Lakota.

OHIO

Charles C. Reynolds, Blanchester.
Dwight C. Banbury, Danville.
Burl A. Louderbaugh, Gambier.
Glenn D. Keeney, Rock Creek.
Leroy Brown, Saint Paris.

VERMONT

Daniel B. Hufnail, Reading.

WEST VIRGINIA

Marguerite E. Whiting, Glenville.

HOUSE OF REPRESENTATIVES

MONDAY, JULY 29, 1935

The House met at 12 o'clock noon.

Rev. William A. Keese, pastor of the Metropolitan Memorial Methodist Episcopal Church of Washington, D. C., offered the following prayer:

Almighty God, infinite Father of our spirits, sovereign

Ruler of all nations, hear us, we humbly beseech Thee, and grant us Thy favor. Continue Thy gracious guidance of this Congress and of all who sit in authority, that liberty and law, righteousness and peace may everywhere prevail. Ennoble us with the consciousness that the service of the people is the service of God. Unite our hearts to do Thy law, that so we may lead the nations in the paths of good will and understanding. May justice bring forth contentment in every home and tolerance grow to fellowship between all groups. Make us sensible of our union one with another as thy children that we may strive wisely to order all things according to Thy perfect will. Build strong the bulwarks of the State with brotherhood and enrich our national life with godly fear.

"From war's alarms, from deadly pestilence,
Be Thy strong arm our ever sure defense;
Thy true religion in our hearts increase,
Thy bounteous goodness nourish us in peace."

In the time of plenty thou didst not forsake us; and now, in the day of adversity, suffer not our trust in Thee to fail. We pray in the spirit of Thy children. Amen.

The Journal of the proceedings of Thursday, July 25, 1935, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On July 25, 1935:

H. R. 7590. An act to create a Central Statistical Committee and a Central Statistical Board, and for other purposes.

On July 26, 1935:

H. R. 6323. An act to provide for the custody of Federal proclamations, orders, regulations, notices, and other documents, and for the prompt and uniform printing and distribution thereof.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment a bill of the House of the following title:

H. R. 7980. An act to protect the revenue of the United States and provide measures for the more effective enforcement of the laws respecting the revenue, to prevent smuggling, to authorize customs-enforcement areas, and for other purposes.

The message also announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 7617. An act to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes.

The message also announced that the Senate insists upon its amendment to the foregoing bill, requests a conference with the House thereon, and appoints Mr. GLASS, Mr. FLETCHER, Mr. BULKLEY, Mr. McADOO, Mr. NOBEECK, and Mr. TOWNSEND to be the conferees on the part of the Senate.

SECOND DEFICIENCY BILL

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8554) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1935, and for prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1935, and June 30, 1936, and for other purposes, with Senate amendments, disagree

to the Senate amendments, and ask for a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. BUCHANAN, TAYLOR of Colorado, OLIVER, SANDLIN, TABER, and BACON.

AMENDMENT OF THE AGRICULTURAL ADJUSTMENT ACT

Mr. JONES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. TABER. Mr. Speaker, according to my understanding, there are two or three items involved that are rather unusual on a bill of this character; for instance, an appropriation of \$40,000,000 in connection with cattle and an appropriation of \$50,000,000 with respect to marginal lands, in addition to various legislative matters. Will the gentleman assure us that these matters will be brought back to the House for a separate vote?

Mr. JONES. It is my understanding we are required to do so where there is a separate amendment carrying an appropriation. However, there are so many changes I do not like to give assurance with respect to specific items. The Senate took out a good many things and put in a good many things. However, I can assure the gentleman that they kept the same number on the bill. There are so many items of change that they involve about as much as the original bill and I do not like to make a specific agreement to bring back various propositions for separate votes. On appropriations I think we would probably be required to bring them back for a separate vote.

Mr. TABER. Can the gentleman give us such assurance as to the appropriations?

Mr. JONES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. JONES. When an amendment carries an appropriation, such amendment being attached by the Senate to a legislative bill originating in the House, is it necessary that it be brought back for a separate vote on that particular amendment?

The SPEAKER. The Chair thinks so, under the rules.

The rule, with which the gentleman is familiar, reads:

No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

The Chair thinks it is very clear, therefore, that the amendment would have to be brought back to the House for a separate vote.

Mr. JONES. I had so understood.

Mr. SNELL. Mr. Speaker, will the gentleman from Texas yield for a question?

Mr. JONES. I yield.

Mr. SNELL. What is the amendment affecting the potato growers of the country requiring that each individual potato grower must get an assignment of the amount he may grow and providing a processing tax on the farmers throughout the country?

Mr. JONES. I understand that is what is known as the "Warren potato bill" which is pending on the House Calendar. I have not read it specifically, but I understand it is practically identical with the House bill.

Mr. SNELL. This is a matter that is very important to the people in the northern part of my State and I wish the gentleman would give us a chance at least to have a sep-

arate vote on such an important amendment affecting so generally the people of the United States.

Mr. JONES. There are a great many amendments. I may state to the gentleman, there are 78 pages of amendments. I am going to try to be fair and I am sure the other members of the conference will be fair, but the gentleman knows the impracticability of having definite committals for separate votes on every item that may come up before consideration has been given to the amendments by the conference.

Mr. SNELL. I would not think of asking the gentleman for a separate vote on every amendment, but when you pass such an important piece of legislation affecting so many people with respect to such a necessary food product as potatoes, I think the House ought to have an opportunity to pass on the matter.

Mr. JONES. I would rather not make a definite committal, but I will state to the gentleman that I shall take that up with the conference group and we will try to work out what is fair with respect to the matter.

Mr. SNELL. I think the average Member of the House would like to have an opportunity to express himself on such an important proposition.

Mr. JONES. That may be true; and I shall consult with the other members of the committee, as well as the conference group, about it.

Mr. RICH and Mr. GILCHRIST rose.

Mr. RICH. Mr. Speaker, reserving the right to object, may I interrogate the gentleman with respect to the \$50,000,000 that is proposed to be spent for acquiring additional land? Can the gentleman tell me why the House should not have a separate vote on that proposition, and are we going to have an opportunity to vote on the question of building additional dams in the Northwest, where we are putting into cultivation now millions of acres of additional ground, by reason of the fact we are building such dams?

It certainly is a foolhardy proposition to go out and buy lands and put them out of business, then go out West and build dams costing hundreds of millions of dollars, and putting those additional lands into cultivation.

Mr. JONES. I do not know that the gentleman heard the Speaker, but he ruled that it is necessary, where a specific appropriation is put on a legislative bill, if we agree to it, that it must come back for authority from the House.

Mr. RICH. I hope the gentleman will give consideration to the fact that we are asked, notably in the river and harbor bill, to buy additional lands costing the country hundreds of millions of dollars, and put the Government into the business of cultivation, irrigating millions of acres of land. It is ridiculous when we cannot get money enough into the Treasury to pay our bills.

Mr. GILCHRIST. Reserving the right to object, the chairman stated that the Warren potato bill is on the House Calendar. I would like to ask the gentleman if the bill has been reported from the committee?

Mr. JONES. I think it has. It was ordered reported.

Mr. GILCHRIST. I understand it was ordered reported by one vote. The statement was made at the time that those who objected to the bill might file minority views. It was reported out by a majority of one, as I recall. Has the bill been reported without the privilege of the minority filing views?

Mr. JONES. I suspect that is my fault. I recall the gentleman having said something about that, but Mr. COOLEY made the report, and it was overlooked. It was my fault and not the fault of the gentleman from Iowa. I will be glad to join in a request that the minority views may be filed at this time.

Mr. GILCHRIST. I thank the gentleman for that frank statement.

Mr. ANDRESEN. Reserving the right to object, I understand that the Warren bill attached in the Senate was the original Warren bill.

Mr. JONES. No; I understand it carries the latest amendments; but if not, that could be adjusted in conference.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Chair appointed the following conferees: Mr. JONES, Mr. FULMER, Mr. DOXEY, Mr. HOPE, and Mr. KINZER.

THE WARREN POTATO BILL

Mr. JONES. Mr. Speaker, I ask unanimous consent that any member of the Committee on Agriculture may have three legislative days within which to file minority views on what is known as the "Warren potato bill."

The SPEAKER. Is there objection?

There was no objection.

THE BANKING BILL

Mr. STEAGALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 7617) to provide for the sound, effective, and uninterrupted operation of the banking system, and for other purposes, disagree to the Senate amendments, and agree to the conference asked for.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Chair appointed as conferees on the part of the House Mr. STEAGALL, Mr. GOLDSBOROUGH, and Mr. HOLLISTER.

THE CONSOLIDATION OF THE ARMY AND NAVY FOR THE PROMOTION OF PEACE AND ECONOMY

Mr. STEFAN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to insert therein a radio address that I delivered.

The SPEAKER. Is there objection?

There was no objection.

Mr. STEFAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following address which I delivered recently over the radio, on July 25, 1935:

I am very happy to be the guest speaker of the National Council for Prevention of War. It was through the request of that noble woman, Miss Jeannette Rankin, who has done so much for the cause of peace, that I succumbed to accepting this invitation. The subject assigned me is the Consolidation of the Army and Navy for the Promotion of Peace and Economy. To discuss in detail such a tremendous question in the short time assigned me is an impossibility. Consolidation of business of any kind by the cutting down of the overhead always works out in economy. I wish to repeat what has been previously said—but not too often—that the Constitution provides that the Constitution, the acts of Congress, all treaties, are the supreme law of the land. I want to quote from the treaty outlawing war, signed by our Government and 61 other nations:

"ARTICLE I. The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

"ART. II. The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means."

You who are listening to me; you who have felt the suffering which followed the last war, take heed. What has happened to that treaty? The latest war is Italy in Abyssinia, with Japan on Italy's trail. You have, since those treaty words were written, read much about the distrust which has been mutual among nations. You have seen the League of Nations ignored; you have seen Manchuria conquered; you have seen the Versailles Treaty repudiated, and you have seen the defalcation of debts to the United States which run into \$11,000,000,000. The warning comes to us in big headlines, reading "America, Keep Out." You can see the spirit of George Washington still warning America against European entanglements. The United States is not responsible to any country in the world, but is responsible to the people and the possessions of the United States. I feel that a majority of Members of the House of Representatives will ever bear this in mind and that a majority are pledged to their conscience and to their constituents that never again will the United States set foot on foreign soil for war purposes.

Our Army and Navy are among the biggest buyers and spenders in our Nation. These two branches of our Government are spending about a billion dollars of your money during the next 12 months and that won't be enough. They will both be able to show a deficit. The War Department appropriations for military activities for 1936 total approximately \$341,000,000. The 1936 Navy Department appropriations total approximately \$459,000,000. This is the largest Navy appropriation for 7 or more years past and next to the largest military activities or war appropriations in the same or more number of years. You are spending \$3,000,000 a

day for the Army and Navy. The War Department and the Navy Department have shown a strong opposition against any plan to consolidate these expensive branches of our Government.

In the Seventy-second Congress the War Department, in a report on H. R. 7012, said:

"In the matter of economies that might be expected under the reorganization, it does not appear possible to make an estimate in the absence of more exact information as to the details of the proposed department of national defense. While some savings might be made in the elimination of minor duplications, particularly in the performances of the administrative functions, these would, to a certain extent at least, be counterbalanced by greatly increased costs in overhead."

The Navy Department, in a report on H. R. 4742, Seventy-second Congress, denies that there would be any savings effected by merging the War and Navy Departments. They said:

"The economy of the suggested change cannot be proven either by deductive reasoning or by experience in this country or any other; * * *"

"In conclusion, this Department believes that the proposed department of national defense is certain to cause extra expense rather than economy; * * *"

But the ever-increasing appropriations for these two services are astounding. The annual appropriations for the War and Navy for the past few years are:

Year	Navy	War (military activities)
1930.....	\$365,736,056.32	\$332,250,918.50
1931.....	399,587,100.70	346,655,078.61
1932.....	360,101,593.00	334,781,865.00
1933.....	328,905,141.00	304,739,924.00
1934.....	310,169,558.93	278,104,974.22
1935.....	286,173,632.00	255,619,047.00
1936.....	459,000,000.00	341,000,000.00

The Adjutant General's Office in the War Department reports the cost of educating a cadet at West Point for 4 years is \$9,715.48. A total of \$12,630,124 on a basis of 1,300 cadets.

The Navy Department reports that the cost of educating a midshipman for 4 years at Annapolis is approximately \$15,000. A total of \$25,000,000 on basis of 1,700 midshipmen.

The annual cost of maintaining an average officer in the Army per year is estimated at \$4,420.40; in the Navy, \$4,500.

The average cost of maintaining an enlisted man in the Army is estimated at \$809.86 per year; in the Navy, \$1,100 per year.

Estimating the resources of the United States for an emergency war force is a complex problem. Some idea of the status of our armed or trained forces may be gained from the following figures:

Unit:	Strength
Army, Regular.....	135,011
National Guard.....	185,925
C. M. T. C.....	247,753
R. O. T. C.....	127,565
Reserve forces.....	124,513
Navy.....	88,655
Naval Reserve.....	40,867
Marine Corps.....	16,068
Marine Corps Reserve.....	9,384
Total.....	975,741

No account is taken in the above tabulation of trained Regular Army men who have been discharged, but who might be available for an emergency army; likewise, there are large numbers of trained National Guardsmen, uncommissioned R. O. T. C. students, discharged Navy and Marine Corps men, etc., who would probably be available for an emergency army.

And this is peace time. And when our national expenditures are over three and a half billion dollars more than the amount we take in and at a time when our national debt has passed the \$29,000,000,000 mark. At a time when we are taking \$5,000,000,000 of taxpayers' money in an effort to put three and a half million unemployed people to work. At a time when we estimate that we have 20,000,000 unemployed people. At a time when another bonus army has come to Washington begging for some of those billions in pay for adjusted-service certificates on the grounds that these former veterans fear the money so easily appropriated may be easily wasted. By the consolidation of the two most expensive branches of our Government the argument is put forward that great savings could be made through the purchases and expenditures through one efficient organization and by the elimination of many offices now doing duplicate work. All of us believe in preparedness to the extent of being prepared against invasion of our shores by a foreign enemy. But to build up an Army and Navy to such an extent that both branches become competing forces and grow beyond reasonable proportions at the expense of suffering taxpayers is wrong. It becomes a source of much waste in money and becomes the parade ground which borders closely on war propaganda and invites war. The people of the United States have had enough of war and will be suffering and paying the war debt for many years to come. They will be paying that in money and human suffering. Along with that their struggles against the depression with its ever-growing debt burden is becoming unbearable.

Already the voice of the people comes to Washington from all parts of the land urging some cessation of the wasting of public funds and a plea for the sane expenditures of people's money, with the ultimate hope of Budget balancing. Tremendous expenditures for war machinery in these times is unreasonable, and serious consideration should be given toward any movement which would promote consolidation of these two branches of the Government for the promotion of peace and economy.

This identical question was promoted in Congress in 1932 by the gentleman who is now Speaker of the House of Representatives, and on the same grounds. It was then urged to consolidate these two branches into a single department to be known as the "Department of National Defense", with a Secretary of National Defense who would have an assistant for the Navy, Army, and aviation.

The effort of JOE BYRNS in 1932 to consolidate the Departments of the War and the Navy into one single department failed because tremendous pressure was brought against the plan from the Chief Executive of that time, and also because of the attacks of powerful Army and Navy propagandists. This man, who now occupies the Speaker's chair and for whom every Member of the House has great respect, realized the ever-mounting appropriation for these two great branches of our service—namely, the Army and Navy. Even in 1932, with the appropriation for the fiscal year for 1933 amounting to \$643,000,000, this statesman with his many years of experience as a legislator realized that unless something was done to halt these tremendous expenditures we would be spending more of taxpayers' money for the Army and Navy than for any other necessity of our national life.

At that time Mr. BYRNS explained that there were numerous items of expense which could be excluded should a consolidation be brought about. He called attention of Congress to the fact that each department has maintained an air service, and under a merger these would be brought together under the control of one head, and he was certain that greater efficiency and considerable savings are bound to result from such a consolidation. A centralized purchase of large quantities of planes and accessories, unified operation of fields and stations, and the elimination of duplication of facilities for repair, supply, etc., would logically follow. The War and Navy Departments each have a service of purchase and supply which expend very large sums of money in the procurement and distribution of huge quantities of commodities of all kinds for the maintenance and operation of its forces and facilities. Operating separately, the Army and Navy often are in the market competing with each other for large quantities of identical items of supply. It was believed then, as it is now by many, that a consolidation would enable their reorganized purchasing agencies to buy, store, and distribute at considerably less cost than the two now can do it.

The departments necessarily use supplies and equipment that are common to each. The storage and size of the stocks of such supplies and equipment might very well result in decreases when placed under a single control and direction, thus reducing the amount invested in these stocks and the losses due to obsolescence. The present use of existing stocks should be a factor of saving immediately.

Each department is the purchaser and, to some extent, the manufacturer of munitions and armaments of various kinds. For this purpose each also maintains considerable establishments for the repair of such equipment. It seems to me that there is a large field that would yield results under a properly organized consolidation.

Transportation of materials, equipment, and personnel is also a very large expense common to both departments. The movement of men and materials both by land and water is expensive, and if not coordinated with a view to the most economical needs of both agencies can result in great waste as well as in preventing savings that a well-directed business organization would regard as essential to its proper management.

Each separate organization now maintains depots, warehouses, posts, stations, magazines, and other facilities for supply, repair, and maintenance purposes. It is believed that a survey of the joint aims of the two departments is bound to lead to consolidations, eliminations, and increased efficiency.

Each department maintains educational institutions and is carrying on courses of training for both the regular organizations and the reserve forces from civil life. While the field for joint use of these branches may be considerably limited some possible decreases may come from a proper unification of them.

The two departments maintain in Washington quite sizable organizations for the direction of the field operations and activities. Each department maintains in the field district or area organizations for the direction of its field activities. It is inconceivable that substantial economies should not result from a reorganization under a single head of all these directing and service offices.

The consolidation of these services has been discussed before. This is a time when drastic action is necessary in the interest of the taxpayer. If economies can be effected by a rearrangement of our national defense organizations and by greater efficiency the occasion demands the submergence of individuals and service prejudices.

The world is staggering today under the load of armaments. Approximately three-fourths of the ordinary expenditures of our Federal Government are to pay for past wars and the maintenance of a national defense. This huge proportion of the total cost of government and its burden on our people ought to be reduced in every possible manner.

9213. Also, petition of the Slovak Citizens' League of Michigan, endorsing House bill 8163; to the Committee on Immigration and Naturalization.

9214. By Mr. SAUTHOFF: Joint resolution of the State of Wisconsin, memorializing the Congress of the United States to enact legislation providing for unemployment insurance and old-age security; to the Committee on Ways and Means.

SENATE

TUESDAY, JULY 30, 1935

(Legislative day of Monday, July 29, 1935)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, July 29, 1935, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. LEWIS. I note the absence of a quorum, and ask for a roll call.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	La Follette	Radcliffe
Ashurst	Costigan	Lewis	Reynolds
Austin	Dickinson	Logan	Robinson
Bachman	Dieterich	Loneragan	Russell
Bankhead	Donahay	McAdoo	Schall
Barbour	Duffy	McCarran	Schwellenbach
Barkley	Fletcher	McGill	Sheppard
Black	Frazier	McKellar	Shipstead
Bone	George	McNary	Steiwer
Borah	Gerry	Maloney	Thomas, Okla.
Brown	Gibson	Metcalf	Townsend
Bullock	Glass	Minton	Trammell
Burke	Gore	Moore	Truman
Byrd	Guffey	Murphy	Tydings
Byrnes	Hale	Murray	Vandenberg
Capper	Harrison	Neely	Van Nuys
Caraway	Hastings	Norbeck	Wagner
Carey	Hatch	Norris	Walsh
Chavez	Hayden	Nye	Wheeler
Clark	Holt	O'Mahoney	White
Connally	Johnson	Overton	
	King	Pittman	

Mr. LEWIS. I announce the absence of the Senator from Utah [Mr. THOMAS], the Senator from Mississippi [Mr. BILBO], the Senator from Louisiana [Mr. LONG], the Senator from North Carolina [Mr. BAILEY], the Senator from Idaho [Mr. POPE], the Senator from South Carolina [Mr. SMITH], and the Senator from Massachusetts [Mr. COOLIDGE], all of whom are necessarily detained from the Senate.

Mr. VANDENBERG. I repeat the announcement heretofore made by me as to the absence of my colleague the senior Senator from Michigan [Mr. COUZENS] on account of illness.

Mr. AUSTIN. I announce that the Senator from Pennsylvania [Mr. DAVIS] and the Senator from New Hampshire [Mr. KEYES] are necessarily absent. I ask that the announcement as to the Senator from Pennsylvania stand until further notice.

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present.

HOURS OF DUTY OF POSTAL EMPLOYEES—RECONSIDERATION

Mr. McKELLAR. Mr. President, yesterday, when Order of Business 1087, the bill (H. R. 6990) to fix the hours of duty of postal employees, and for other purposes, was passed, I thought I entered a motion to reconsider, but it seems my statement was not in due form. I now enter a motion to reconsider the vote by which the bill was ordered to a third reading, read the third time, and passed.

ELECTRIC-RATE SURVEYS

The VICE PRESIDENT laid before the Senate letters from the Vice Chairman of the Federal Power Commission, transmitting, pursuant to law, compilations completed through the electric-rate survey of the domestic and residential rates in effect on January 1, 1935, in the States of Iowa, New York,

Ohio, and Pennsylvania, which, with the accompanying papers, were referred to the Committee on Interstate Commerce.

AGRICULTURAL ADJUSTMENT ADMINISTRATION

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBINSON. I move that the Senate insist on its amendments, agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. SMITH, Mr. BANKHEAD, Mr. MURPHY, Mr. NORRIS, and Mr. McNARY conferees on the part of the Senate.

PETITIONS

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Wisconsin, which was ordered to lie on the table:

Joint resolution memorializing the Congress of the United States to enact legislation providing for unemployment insurance and old-age security

Every workingman, in the dawn of life, has three great fears which affect not only himself and his dependents, but the State and Nation, namely, the fear of impairment through industrial accident, the fear of enforced unemployment, and the fear of old age. The first fear has been largely removed by the enactment of workmen's compensation laws in all but four States of the Union. While 28 States now have laws providing for some form of old-age security, the lack of uniformity, the restrictions upon eligibility and the inadequacy of benefits in many of these laws, together with the absence of any legislation in nearly one-half of the States, indicates the necessity for Federal legislation.

The third fear, unemployment, is greater than ever. The economic depression has brought an unprecedented amount of enforced idleness, has brought us face to face with the horrors and far-reaching consequences of unemployment, and has presented one of the most serious economic problems our Government has ever been confronted with. European countries met this problem a half century ago by enacting unemployment insurance laws. So far in this country, but one State, Wisconsin, has enacted this type of legislation. Because of the national character of the unemployment and old-age problems, and the interrelation of the two, Federal legislation on both is essential.

Under our economic system the desire and greed for profit in business and industry has led, is leading, and will continue to lead to the development and use of mass-production machinery and methods resulting in a reduction in the need for manual labor. Industry pursues an unjustifiable theory that the highest degree of efficiency must be maintained and, in many instances, assumes that as soon as a worker has reached a certain age he has passed the peak of efficiency and thenceforth his serviceability is less desirable; that the possible, though not definitely probable, reduction in profits justifies the banishment of such older employees.

Industry does not seem to realize that it owes its workers more than its immediate present obligation, which can be terminated momentarily, leaving the unemployed worker to shift for himself as well as he can with slight chance of securing other employment. Other employers have been known to say to such a worker: "Why should I employ you at your age when you have spent your most productive years with someone else?" What reward is this for long and faithful service?

It would be well for us to keep in mind at all times the thought expressed in the first section of the Declaration of Rights of the Wisconsin Constitution: That all men are born equally free and independent, and have certain inherent rights; among these are life, liberty, and the pursuit of happiness. Certainly the fears of unemployment and of dependency in old age are restraints upon the workingman's enjoyment of these inherent rights. He is necessarily compelled to think of the poorhouse or of the helping hand of charity when he is temporarily idle because of lack of work or permanently idle because of old age. Such a situation could never have been contemplated in the constitutional provision above referred to.

The time has come when all of the people of this Nation must invoke the spirit of brotherly love; to be willing and anxious to make provision for those who are more unfortunate and who have less of worldly goods. Those who possess wealth, more than they can ever hope to make use of, must realize that they cannot enjoy happiness while others are unhappy.

To thine own self be true,
And it must follow, as the night the day,
Thou canst not then be false to any man.

In a land of plenty, as in the United States, there should be no one who must go hungry and no one should be required to harbor the thought: What is going to befall me and how will I spend my days when I will no longer be useful to industry, and am compelled to take any kind of employment or go to the poorhouse?

Industry should voluntarily adopt a policy of cooperation on its part; its managers should realize that its workers produce its wealth and that it is only right and just that its workers enjoy their inherent rights of life, liberty, and the pursuit of happiness. Such policy of cooperation would not only make life worth living for both the fortunate and unfortunate, but it would tend to increase the safety of society in that it would reduce the commission of crime, especially the crimes in which greed and gain are the objective.

But in view of the probability that such a voluntary cooperative policy referred to will not readily be adopted, and in order to arouse those who have the power and ability to put such cooperative policy into effect, compulsory legislation should be enacted by the Federal Government to provide benefits for unemployment and old age. The necessary funds to provide such benefits should be secured: (a) By substantially increasing the rates of the estate tax and the gift tax in the higher brackets and providing adequate exemptions from the estates and gift tax so that heirs and donees may live according to their accustomed standards; (b) by taxing mass-production machinery on a basis to equalize loss of manual earning power through the use of mass-production machinery; (c) by providing for increased rates in the Federal income tax to supply deficiencies in the former; (d) by providing that none of the aforementioned taxes shall be deductible as a cost of production, and thereby avoiding the shifting of such taxes to the consumer. Provision should be made for allowing an offset of inheritance, estate, and gift taxes, mass-production machinery, and income taxes paid under the law of any State.

The estate and gift taxes are suggested as the most just method of raising this revenue because, first, the right to take property by inheritance is not an absolute right, but a right created by law; secondly, estate and gift taxes cannot be anticipated and therefore cannot be shifted; whereas income taxes can be anticipated, are included in the cost of doing business and are shifted to the consumer; and the other forms of taxes are recommended to provide sources of taxation to meet the deficiencies through estate and gift taxes: Therefore be it

Resolved by the assembly (the senate concurring), That this legislature respectfully memorializes the Congress of the United States as to the necessity for Federal legislation providing for unemployment compensation and old-age security, and that such legislation be enacted substantially along the lines hereinbefore stated; be it further

Resolved, That properly attested copies of this resolution be sent to the President and Vice President of the United States, each member of the Committee on Economic Security, the Speaker of the House of Representatives, and to each Wisconsin representative in the Congress.

Mr. WALSH presented resolutions adopted by the board of directors of the Florence Crittenton Rescue League, Inc., of Swampscott, and the board of directors of the Community Fund Association of Greater Lynn, Inc., both in the State of Massachusetts, favoring the adoption of an amendment to the income-tax law allowing deductions from gross income of all charitable and other similar contributions, which were referred to the Committee on Finance.

He also presented a petition of sundry citizens of the State of Massachusetts, praying for the enactment of legislation discontinuing the 10-percent excise tax on sporting goods, which was referred to the Committee on Finance.

He also presented the petition of members of North Shore Lodge, No. 749, Brotherhood of Railroad Trainmen, of Beverly, Mass., praying for the enactment of pending legislation providing a retirement system for railroad employees, which was referred to the Committee on Interstate Commerce.

He also presented a paper in the nature of a petition from members of Local Union No. 511, National Federation of Post Office Clerks, of Fall River, Mass., praying for the enactment of the bill (S. 3221) to fix the hours of duty for postal employees, and for other purposes, which was ordered to lie on the table.

FORT KNOX MILITARY RESERVATION, KY.

Mr. LOGAN. From the Committee on Military Affairs I report back favorably with amendments the bill (S. 3329) to authorize the transfer to the jurisdiction of the Secretary of the Treasury of portions of the property within the Fort Knox Military Reservation, Ky., for the construction thereon of certain public buildings, and for other purposes, and I submit a report (No. 1169) thereon. I ask unanimous consent for the consideration of the bill at this time.

The War Department and the Treasury Department recommend the passage of the bill, which is designed to effec-

tuate a transfer of certain property on the military reservation to the Treasury Department in order that a building for the use of the Treasury Department may be constructed thereon. It is necessary that the bill should be passed. I have called the attention of the Senator from Arkansas [Mr. ROBINSON] and the Senator from Oregon [Mr. McNARY] to the bill.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. McNARY. Mr. President, I discussed this matter with the Senator from Kentucky this morning, and I have no objection to the immediate consideration of the measure.

There being no objection, the Senate proceeded to consider the bill.

The amendments of the Committee on Military Affairs were, on page 1, line 4, after the word "authorized", to strike out "and directed", and on page 2, line 6, after the name "Treasury Department", to insert a colon and the following proviso: "Provided, That upon cessation of such use the premises or any part thereof so transferred shall revert to the jurisdiction of the War Department", so as to make the bill read:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to make transfers to the jurisdiction and control of the Secretary of the Treasury of such portions of the property at present included within the Fort Knox Military Reservation, Ky., and upon such conditions, as may be mutually agreed upon by the Secretary of War and the Secretary of the Treasury. The Secretary of the Treasury is hereby authorized to construct within the limits of the property so transferred such building or buildings, appurtenances, and approaches thereto as he may deem adequate and suitable for the use of the Treasury Department as a depository, and for use in carrying out any other functions or duties of the Treasury Department: *Provided,* That upon cessation of such use the premises or any part thereof so transferred shall revert to the jurisdiction of the War Department.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

REPORTS OF COMMITTEES

Mr. WALSH, from the Committee on Finance, to which was referred the bill (S. 3286) to abolish the oath required of customs and internal-revenue employees prior to the receipt of compensation, and for other purposes, reported it with amendments and submitted a report (No. 1170) thereon.

Mr. SHEPPARD, from the Committee on Commerce, to which was referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 2977. A bill authorizing the George Washington Memorial Bridge Public Corporation, its successors and assigns, to construct, maintain, and operate a bridge across the Potomac River at or near Dahlgren, Va. (Rept. No. 1172);

S. 3107. A bill to exempt publicly owned interstate highway bridges from State, municipal, and local taxation (Rept. No. 1173);

S. 3130. A bill granting the consent of Congress to the State of Tennessee and certain of its political subdivisions to construct, maintain, and operate a toll bridge across the Tennessee River at or near a point between Dayton and Decatur, Tenn. (Rept. No. 1174);

S. 3131. A bill to extend the times for commencing and completing the construction of a bridge and causeway across the water between the mainland at or near Cedar Point and Dauphin Island, Ala. (Rept. No. 1175);

S. 3164. A bill authorizing the county of Atchison, State of Missouri, and the county of Nemaha, State of Nebraska, singly or jointly, to construct, maintain, and operate a toll bridge across the Missouri River at or near Brownville, Nebr. (Rept. No. 1176);

S. 3244. A bill relating to the Oregon-Washington Bridge Board of Trustees (Rept. No. 1177);

S. 3245. A bill to extend the times for commencing and completing the construction of a bridge across the Columbia River at Astoria, Clatsop County, Oreg. (Rept. No. 1178);

S. 3277. A bill authorizing a preliminary examination of the Nehalem River and tributaries in Clatsop, Columbia, and Washington Counties, Oreg., with a view to the controlling of floods (Rept. No. 1179);

74TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } No. 1757

AGRICULTURAL ADJUSTMENT ACT AMENDMENTS

AUGUST 12, 1935.—Ordered to be printed

Mr. Jones, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H. R. 8492]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 36, 37, 38, 65, 66, 67, 94, 95, 120, 133, 156, and 157.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 25, 26, 27, 28, 32, 33, 34, 40, 41, 44, 46, 47, 49, 50, 51, 54, 55, 56, 58, 61, 62, 63, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 92, 93, 97, 98, 101, 103, 106, 107, 108, 109, 110, 111, 112, 116, 117, 118, 121, 130, 131, 134, 136, 137, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 153, and 154, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

On page 3 of the House bill, line 19, strike out "such" and insert *an*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *which directly burdens, obstructs, or affects*; and on page 9 of the House bill, line 9, after "commerce" strike out the comma; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

On page 14 of the House bill, line 18, after "fruits" insert , *other than olives* and a comma; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *(not including vegetables, other than asparagus, for canning), soybeans*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection (5).

And the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions

therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

And the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert or in any manner limit, in the case of the products of milk and a comma; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof and a comma; and the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof and a comma; and the Senate agree to the same.

Amendment numbered 35:

That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows:

On page 16 of the House bill, line 17, strike out "(B)" and insert (C); and the Senate agree to the same.

Amendment numbered 39:

That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows:

On page 17 of the House bill, line 5, strike out the comma following "which"; and the Senate agree to the same.

Amendment numbered 42:

That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert a comma and the following: *except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement; and the Senate agree to the same.*

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

: Provided, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

"(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

"(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order

And the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *(except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum); and the Senate agree to the same.*

Amendment numbered 48:

That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *(except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum); and the Senate agree to the same.*

Amendment numbered 52:

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

"(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

And the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

No order shall be issued under this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

And the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows:

On page 23 of the House bill, line 6, strike out "is" and insert *are*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: Provided, That such majority have, during such representative period, produced for*

market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by said amendment strike out "8(c)" and insert in lieu thereof 8c; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert

"SPECIFIC TAX RATE—FLOOR STOCKS—BARLEY

"(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 16 of this title shall not apply in the case of barley.

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during

any twelve months period ending after the date of the adoption of this amendment consisting of the two months immediately preceding and the first ten months of any marketing year ~~and the last two months~~

"(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

"(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

"(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

"(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

"(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

"(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

"(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

"(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied,

assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

And the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

Omit the matter proposed to be inserted by said amendment, and on page 53 of the House bill, after line 10, after the matter proposed to be inserted by Senate amendment numbered 139, insert the following:

SEC. 42. Section 4 of such Act of April 21, 1934, as amended, is amended by inserting at the end thereof the following new subsection:

“(h) The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this Act, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household.”

And the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert *as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and;* and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 27; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

“(g) No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and

twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10."

And the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 28; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 29; and the Senate agree to the same.

Amendment numbered 104:

That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows:

In the matter proposed to be inserted by said amendment strike out "(c)" and insert (d); and the Senate agree to the same.

Amendment numbered 105:

That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 30; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"(c) The making of rental and benefit payments under this title, prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 8 (1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if such

such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.

And the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

“(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.

“(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the

hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

"(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy.

And the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned

under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

And the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(g) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930."

And the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 31. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds

the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: Provided, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

"(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

"(d) Any decision of the President as to facts under this section shall be final.

"(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

And the Senate agree to the same.

Amendment numbered 123:

That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated under this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to increase the exportation of agricultural

commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: Provided, That no part of the funds appropriated by this section shall be expended pursuant to clause (3) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: Provided further, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton.

And the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In the matter proposed to be inserted by the Senate amendment strike out "34" and insert 33; and the Senate agree to the same.

Amendment numbered 125:

That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows:

In the matter proposed to be inserted by the Senate amendment strike out "35" and insert 34; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment strike out "36" and insert 35; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment strike out "37" and insert 36; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert 38; and the Senate agree to the same.

Amendment numbered 132:

That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: or (c) *invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8 (1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement,*

either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: Provided, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937 except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act; and the Senate agree to the same.

Amendment numbered 135:

That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment strike out "41" and insert 39; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(d) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such Act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935-1936 that may be marketed exempt from payment of the tax levied by such Act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by Act of Congress.

(e) Section 7 of such Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) For each crop year subsequent to the crop year 1934-1935 in which this Act is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 956 pounds or less of lint cotton an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935-1936, the amount of each such allotment (and for the crop year 1935-1936 and subsequent crop years, the additional amount required for apportionment under the provisions of the Public Resolution entitled "Public Resolution To provide for certain State allotments under the Cotton Control Act") which is in excess of the allotment which, without regard to this subsection or such Public Resolution, would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935-1936 which allotment was made under regulations of the Secretary

of Agriculture prior to the date of the adoption of this amendment, or to require any reallocation."

And the Senate agree to the same.

Amendment numbered 139:

That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 40. Section 17 of such Act of April 21, 1934, as amended, is amended by inserting "(a)" before the first sentence thereof and by inserting at the end thereof the following new subsection:

"(b) Appropriations for administrative expenses under this Act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this Act with respect to cotton ginned during the crop year 1935-1936 or any subsequent crop year in which this Act is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever."

SEC. 41. Section 9 (d) of such Act of April 21, 1934, as amended (relating to transfer of exemption certificates), is amended by inserting after the first sentence thereof the following new sentence. "No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State."

And the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment strike out "57" and insert 56; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 57. In order to effectuate the policy declared in section 56 of this Act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are hereafter in this Act referred to as "handlers". The making of any such agreement shall not be held to be in violation of any of the

antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

And the Senate agree to the same.

Amendment numbered 160:

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment strike out "59" and insert 58; strike out "58" wherever it appears and insert 57; and strike out "57" and insert 56; and the Senate agree to the same.

Amendment numbered 161:

That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment as follows:

In the matter proposed to be inserted by the Senate amendment strike out "60" and insert 59; and strike out "58" and insert 57; and the Senate agree to the same.

Amendment numbered 162:

That the House recede from its disagreement to the amendment of Senate numbered 162, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

Sec. 60. Subject to the policy declared in section 56 of this Act, the provisions of subsections (6), (7), (8), and (9) of section 8a and of subsections (14) and (15) of section 8c of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with orders issued pursuant to section 59 of this Act, and the provisions of section 8d of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with marketing agreements entered into pursuant to section 57 and orders issued pursuant to section 59 of this Act. The provisions of subsections (a), (b) (2), (c), (f), (h), and (i) of section 10 of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with the administration of sections 56 to 60, inclusive, of this Act.

And the Senate agree to the same.

The committee of conference report the following amendments in disagreement:

Amendments nos. 128, 152, 155, and 163.

MARVIN JONES,
H. P. FULMER,
WALL DOXEY,
CLIFFORD R. HOPE,
J. ROLAND KINZER,

Managers on the part of the House

E. D. SMITH,
J. H. BANKHEAD,
CHAS. L. McNARY,
LOUIS MURPHY,

Managers on the part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment no. 1: The House bill required, as a prerequisite to the exercise with respect to any basic agricultural commodity of any of the powers conferred upon the Secretary of Agriculture under section 8 of the Agricultural Adjustment Act, that the Secretary find, in case the current average farm price of such commodity at the time of the finding is not less than the fair exchange value thereof, that the current average farm price is likely to be less than the fair-exchange value during the current or next succeeding marketing year for such commodity. The Senate amendment requires, in such a case, that the Secretary find that the average farm price for such commodity is likely to be less than the fair exchange value for the period in which the production of the commodity during the current or next succeeding marketing year—i. e., the crops of such commodity produced during both such years—is normally marketed. The House recedes.

Amendment no. 2: The House bill required, as a prerequisite to the exercise of any of the powers conferred upon the Secretary of Agriculture by section 8 of the Agricultural Adjustment Act, that he find that the exercise of one or more of such powers would be administratively practicable. The Senate amendment strikes out this requirement. The House recedes.

Amendment no. 3: This amendment imposes the duty on the Secretary of Agriculture to proclaim his determination (which is the proclamation referred to in section 9 (a) of the Agricultural Adjustment Act) that he has found the existence of the facts which are required to be found prior to his exercising any one or more of the powers conferred upon him by section 8 of the Agricultural Adjustment Act. (See amendment no. 7.) The House recedes with an amendment the effect of which is to permit the exercise of one or more of such powers upon the basis of an investigation which may be had subsequent to the original investigation.

Amendment no. 4: This amendment makes certain that payments in kind under section 8 of the Agricultural Adjustment Act may be made only with the consent of the producer to whom such payment is made, and the House recedes.

Amendment no. 5: The House bill required that, in case the current average farm price for a basic agricultural commodity was not less than the fair exchange value thereof, the Secretary of Agriculture should cease to exercise the powers conferred upon him by section 8 of the Agricultural Adjustment Act if he found that the current average farm price for such commodity was not likely during the

current or next succeeding marketing year for the commodity to be less than its fair exchange value. The Senate amendment, in such a case, requires that the Secretary cease exercising such powers if he finds that the average farm price for the commodity is not likely to be less than its fair exchange value during the period in which the products of the commodity during the marketing year current at the time of such finding, or the marketing year next succeeding, is normally marketed. This amendment applies to the provisions for termination of the exercise of the powers under section 8 the same basis as is applied by amendment no. 1 for the exercise of such powers. The House recedes.

Amendment no. 6: Under the House bill, the Secretary of Agriculture was required to cease the exercise of the powers conferred upon him by section 8 of the Agricultural Adjustment Act if he found that the continued exercise of such powers would not be administratively practicable. The Senate amendment strikes out this requirement. (See amendment no. 2.) The House recedes.

Amendment no. 7: This amendment imposes the duty on the Secretary of Agriculture to proclaim his determination that he has found the existence of the facts which, if found, require him to terminate the exercise of the powers conferred upon him by section 8 of the Agricultural Adjustment Act. (See amendment no. 3.) The House recedes.

Amendment no. 8: Under the House bill, the Secretary of Agriculture could not exercise his powers to make payments to producers with respect to a commodity after the end of the marketing year current at the time when he made the finding on the basis of which such payments were to be terminated and prior to a new finding which is the prerequisite to resumption of payments. Under the Senate amendment the policy of the House bill is retained but the significant time is the time of his proclamation rather than the time of his finding. The House recedes.

Amendment no. 9: This amendment inserts a provision not found in the House bill which expressly permits the Secretary, after the end of the marketing year current at the time of his proclamation terminating the exercise of the powers conferred upon him by section 8 of the Agricultural Adjustment Act, to exercise those powers in order to carry out obligations assumed prior to making the proclamation to terminate the exercise of such powers. The House recedes.

Amendment no. 10: The House bill vested in the Secretary of Agriculture the power to enter into marketing agreements with "processors, producers, associations of producers, and others, engaged in the handling of any agricultural commodity or product thereof" in interstate or foreign commerce. The Senate amendment strikes out the comma following the word "others." The effect of this change is to remove any possibility of construing the word "others" so as to comprehend only processors, producers, associations of producers, other persons engaged in similar occupations, and to make clear that "others" comprehends any person engaged in the handling of any agricultural commodity or product thereof in interstate or foreign commerce. The House recedes.

Amendments nos. 11 and 12: The House bill vested power in the Secretary of Agriculture to enter into marketing agreements with persons engaged in the handling of any agricultural commodity or

product thereof in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce. The Senate amendments make it clear that agreements with such persons cannot relate to any handling which is not in the current of interstate or foreign commerce or which does not directly burden, obstruct, or affect interstate or foreign commerce. The House recedes on amendment no. 11, and recedes with a clarifying amendment on amendment no. 12.

Amendment no. 13: This is an amendment to the provision directing the Secretary to issue orders which makes a clarifying change in this provision which is identical with the change made in the marketing agreement provision by Senate amendment no. 10. The House recedes.

Amendment no. 14: This is a clarifying amendment. The House recedes with an amendment making a clerical change.

Amendment no. 15: Under the House bill, all fruits for canning were exempt from the provisions of the bill relating to orders. Under the Senate amendment, orders may be applicable to olives for canning. The House recedes with a clarifying amendment.

Amendments nos. 16, 19, 25, and 26: Under the House bill, all vegetables for canning were excluded from the provisions of the bill relating to orders. Under these Senate amendments orders may be applicable to asparagus for canning. The conference agreement adopts the Senate provision.

Under the House bill, the provisions relating to orders were applicable to all beans (including soybeans) as in the case of vegetables. The Senate amendments exclude beans (except soybeans) from the orders provisions. The conference agreement adopts the House provision. In the House bill and the Senate amendments soybeans are subject to orders and the conference agreement makes no change in this respect.

Amendments nos. 17, 18, 27, and 28: The Senate amendments clarify the application of the order provision to naval stores by specifically limiting its application to such naval stores as are included in the Naval Stores Act and standards established under that act, and to refined or partially refined oleoresin. The House recedes.

Amendment no. 20: Under the House bill orders relating to milk and its products were to include, among other provisions, provisions for classifying milk in accordance with the form in which it is ultimately used or consumed. The comparable provision in the Senate amendment provides for classification in accordance with the form in which, or the purpose for which, the milk is used. The House recedes.

Amendment no. 21: Under the House bill the uniform prices to be paid to producers for milk under the orders were to be subject to adjustments, among other adjustments, to accomplish the result of equitable apportionment of the total value of milk sold by any or all handlers. This amendment provides for the same apportionment but it is on the basis of the milk "purchased" by any or all handlers. The House recedes.

Amendment no. 22: Under the House bill, orders applicable to the handlers of milk and its products might contain a provision that all handlers should pay the price specified in the order for milk used for manufacturing purposes for all milk delivered to them by producers

who were not, upon the effective date of the order, regularly selling milk for consumption in the area covered by the order. Such producers were to receive this price for a period of 90 days after the commencement of deliveries by them. The Senate amendment provides that payments to a producer who was not, on the effective date of the order, regularly selling milk shall be at the price specified in the order for the lowest use classification of milk, for the period beginning with the first regular delivery by such producer and continuing for three full calendar months from the first day of the month next succeeding the first regular delivery. The conference agreement clarifies the Senate amendment by making the provision applicable to producers who did not regularly sell milk during a period of 30 days next preceding the effective date of the order, reduces the period during which such a producer shall receive the price for the lowest use classification to two full calendar months following the first day of the calendar month next succeeding the first regular delivery by such a producer, and provides that the price received by such producers shall be subject to the adjustments in producer prices authorized in paragraph (B) of subsection (5) of section 8c.

Amendment no. 23: Under the House bill, orders applicable to the handlers of milk and its products might provide for the verification of weights, sampling, and testing of milk purchased, and for security for the payment for milk purchased. The Senate amendment in addition authorizes the inclusion in such orders of provisions for furnishing market information to producers and for making appropriate deductions from payments to producers to cover such market information and such verification of weights, sampling, and testing of milk. These provisions (except those relating to security for payment) do not apply to producers for whom the services are rendered by a cooperative marketing association qualified under the Capper-Volstead Act. The House recedes with clarifying amendments.

Amendment no. 24: Under the House bill, no marketing agreement or order applicable to milk and its products in any marketing area could prohibit the marketing in that area of any milk or product thereof produced in any production area in the United States. The Senate amendment extended this provision so that no marketing agreement or order so applicable could limit in any manner the marketing in the marketing area of milk or its products produced anywhere except that certain limitations on the marketing of milk were specifically permitted. The conference agreement retains the House provision with respect to prohibitions on marketing of both milk and products of milk. The conference agreement also denies the authority to limit in any manner the marketing in any area of milk products (butter, cheese, cream, etc.) produced anywhere in the United States. The language adopted by the conference agreement does not refer to milk, and so does not negative the applicability to milk, for use in fluid form or for manufacturing purposes, of the provisions of the bill relating to milk, such as the provisions on price fixing, price adjustment, payments for milk, etc.

Amendments nos. 29, 30, and 31: The House bill provided that orders applicable to the handlers of commodities, other than milk and its products, might contain terms and conditions limiting the total quantity of any such commodity or product which could be

marketed in or transported to any or all markets, and allotting this total quantity among the handlers subject to the order. The Senate amendments make it clear that these terms and conditions, like all other terms and conditions which may be included in orders, are applicable only to such handling as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce. The conference agreement reinserts the words "to any or all markets", which were stricken out by the Senate amendments, but retains, with clarifying changes, the language of the Senate amendments, thus making certain that the applicability of these provisions is limited to such marketing in or transporting to any or all markets as is in the current of interstate or foreign commerce, or as directly burdens, obstructs, or affects such commerce.

Amendment no. 32: The House bill set forth as one of the terms or conditions one or more of which should be included in orders applicable to handlers of commodities (other than milk and its products) to which the order provisions applied, provisions fixing or providing methods for fixing minimum prices paid at which the commodity or product should be purchased by the first handlers. This provision applied only in cases where the first handlers subject to the order, as a group, acquired not less than 50 percent of the total quantity of the commodity or product covered by the order directly from producers or associations of producers. The Senate amendment strikes out this provision and the House recedes.

Amendment no. 33: This amendment makes a technical change to indicate that, in the subsection containing the provisions of the bill which are common to orders, the terms of orders specified in the succeeding paragraphs of the subsection are the terms referred to in the introductory language of the subsection. The House recedes.

Amendment no. 34: This Senate amendment inserts a provision not found in the House bill under which orders applicable to all commodities or products (except milk and cream to be sold for consumption in fluid form) may contain terms under which the commodity or product, or any grade, size, or quality thereof is to be sold by the handlers subject to the order only at prices filed by them in the manner provided in the order. The House recedes.

Amendments nos. 35 and 40: These amendments change paragraph letters. The House recedes on amendment no. 40 and recedes with an amendment on no. 35 correcting a paragraph reference.

Amendments nos. 36 and 37: These amendments authorize the appointment (under the orders) of agencies to carry out duties under the orders. The comparable provision of the House bill authorized the selection of such agencies. The conference agreement omits, as surplusage, the Senate provision.

Amendment no. 38: This amendment forbids the selection of cooperative associations of producers to act as agencies to administer orders applicable to milk. The Senate recedes.

Amendment no. 39: This amendment provides that the powers of the agencies which carry out orders shall be limited to the powers specifically set forth in the bill. Under the House bill, the powers of such agencies could include, but were not limited to, those so set forth. The House recedes with a clerical amendment.

Amendment no. 41: The House bill required, in the case of orders effective only with marketing agreements signed by a majority by

volume of the handlers, that the handlers of not less than 50 percent of the volume of the commodity or product covered by the order must have signed the marketing agreement. The Senate amendment clarifies this requirement by providing that, where the order is applicable to a production area, the handlers of not less than 50 percent of the volume of the commodity which is produced within the production area must have signed the agreement, and that where the order is applicable to a marketing area, the handlers of not less than 50 percent of the volume of the commodity which is marketed within the marketing area must have signed the agreement. The House recedes.

Amendments nos. 42, 45, and 48: Senate amendment no. 42 provides that, in the case of California citrus fruits, the handlers of at least 80 percent of the volume of the commodity or product (in lieu of the 50 percent in the case of other commodities (see amendment no. 41)) must have signed the marketing agreement before an order effective only with a marketing agreement signed by a majority by volume of the handlers can become effective. Senate amendments nos. 45 and 48 require that, before an order effective without regard to such a marketing agreement and applicable to California citrus fruits is issued, the Secretary of Agriculture, with the approval of the President, must determine that the failure of 80 percent (in lieu of 50 percent in the case of other commodities) of the handlers of California citrus fruits to sign the agreement tends to prevent the effectuation of the declared policy of the Agricultural Adjustment Act. The House recedes on all three amendments with amendments substituting for the phrase "California citrus fruits" the phrase "citrus fruits produced in any area producing what is known as California citrus fruits".

Amendment no. 43: The Senate amendment added a requirement, not contained in the House bill, that no order effective only with a marketing agreement signed by a majority by volume of the handlers could be issued unless the Secretary of Agriculture, with the approval of the President, determined that its issuance was approved or favored by two-thirds of the producers engaged within the production area covered by the order in the production of the commodity covered thereby for market in interstate commerce, and specified that their approval be determined by a referendum vote of the producers. The conference agreement strikes out the Senate amendment, substitutes with respect to the approval or disapproval of the producers language identical with that contained in the conference agreement on amendment no. 52, and eliminates the requirement that the President approve the Secretary's determination with respect to such producer approval or disapproval.

Amendments nos. 44, 47, and 50: These amendments correct errors in subsection and paragraph letters and numbers, and the House recedes.

Amendments nos. 46 and 49: The House bill required the issuance of an order, despite the failure of the handlers of more than 50 percent of the volume of the commodity or product covered by the order to sign a marketing agreement if the Secretary, with the approval of the President, determined, among other things, that such failure of the handlers tends to prevent the effectuation of the declared policy of the act with respect to such commodity or product. The Senate amendments clarify this requirement by inserting the language

of Senate amendment no. 41. The House recedes in conformity with the action on amendment no. 41.

Amendments nos. 51 and 52: The House bill required, as a prerequisite to the issuance of an order effective without regard to a marketing agreement signed by a majority by volume of the handlers, that the Secretary of Agriculture, with the approval of the President, determine that such issuance is approved or favored by two-thirds, by number or volume, of the producers of the commodity covered by the order. The Senate amendment raises the required percentage to three-fourths in the case of California citrus fruits, and specifies that the producers whose approval or disapproval must be determined are, if the order is applicable to a production area, those producing the commodity within such area, or, if the order covers handlers marketing within a marketing area, those producers who produce the commodity for sale in such area. The House recedes on amendment no. 51 and recedes with an amendment on no. 52, which makes the same clarifying change with respect to the phrase "California citrus fruits" as is made by Senate amendments nos. 42, 45, and 48, and with further clarifying changes.

Amendment no. 53: This amendment provides that no order shall be issued prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, and that no marketing agreement shall contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by the agreement. The House recedes with clerical changes.

Amendment no. 54: This amendment changes the heading of the subsection dealing with regional factors as they affect orders from "regional rule" to "regional application." The House recedes.

Amendment no. 55: This amendment makes mandatory on the Secretary of Agriculture the requirement that he consider, in connection with the ascertainment of producer sentiment, the approval or disapproval of cooperative associations as the approval or disapproval of their members. Under the House bill this provision was permissive. The House recedes.

Amendment no. 56: The House bill provided that no person should be convicted because of any violation of an order or an obligation imposed in connection therewith if the violation occurred between the date upon which such person filed with the Secretary a petition for modification of or exemption from the order and 5 days after the Secretary entered a ruling thereon. The Senate amendment strikes out this provision and inserts a provision that no penalty shall be imposed for such violations as occurred between the date upon which the defendant's petition was filed and the date upon which notice of the Secretary's ruling was given to the defendant, if the court finds that the petition was filed and prosecuted by the defendant in good faith and not for delay. The House recedes.

Amendment no. 57: This is a clarifying amendment. The House recedes with a clerical change.

Amendment no. 58: This amendment makes a clerical change, and the House recedes.

Amendment no. 59: The House bill required the Secretary to terminate any marketing agreement or order at the end of the marketing period for the commodity covered thereby, if he found that such termination was favored by a majority, by number and volume, of

the producers of such commodity, provided that such termination was announced on or before such date, prior to the end of the marketing period, as the agreement or order specified. The Senate amendment makes the same specifications for determining whether the producers in production or marketing areas favor termination as are inserted by Senate amendment no. 52. The House recedes with clarifying changes.

Amendment no. 60: This amendment provides that notice of a hearing on a proposed amendment to an order issued under the provisions of the bill relating to orders shall be deemed due notice if the notice is given not less than 3 days prior to the date fixed for the hearing. No comparable provision is found in the House bill. The House recedes with an amendment making a clerical change in a section reference.

Amendments nos. 61, 69, 70, 71, 72, 73, 76, 78, 79, 82, 87, 88, 90, 96, 100, 102, 105, 109, and 116: These amendments make changes in section, subsection, and paragraph numbers and letters and cross-references thereto. The House recedes on nos. 61, 69, 70, 71, 72, 73, 76, 78, 79, 82, 87, 88, 90, 109, and 116. The House recedes with amendments making further changes in such numbers and letters on amendments nos. 96, 100, 102, and 105.

Amendment no. 62: The House bill imposed the processing tax on wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (with exceptions) sugar beets and sugarcane, at the rate specified by regulations of the Secretary of Agriculture in effect on June 1, 1935, from the date of the enactment of the bill until December 31, 1937, both inclusive. The Senate amendment strikes out the date June 1, 1935, and substitutes therefor the date of the enactment of the bill. The House recedes.

Amendment no. 63: This Senate amendment imposes a processing tax on rye of 30 cents per bushel of 56 pounds. This tax applies for the period August 15, 1935, to December 31, 1937, both inclusive. The first marketing year is fixed as August 15, 1935, to June 30, 1936. Thereafter the marketing year is to be July 1 to June 30. The amendment removes rye from the operation of section 16 of the Agricultural Adjustment Act, relating to taxes and refunds with respect to floor stocks. There is no comparable provision in the House bill. The House recedes.

Amendment no. 64: This amendment provides that in the event that a processing tax becomes effective pursuant to proclamation as provided in section 9 (a) of the Agricultural Adjustment Act with respect to barley prior to December 31, 1937, the tax for the period from the time when it is made effective until December 31, 1937, both inclusive, shall be at the rate of 25 cents per bushel of 48 pounds. The amendment also eliminates barley from the floor-stocks tax and refund provisions. The House recedes with clerical amendments.

Amendment no. 65: This Senate amendment provides that, during such time as flaxseed production in the United States is less than the domestic consumption, there shall be no reduction or limitation on acreage devoted to flaxseed or on flaxseed production. The amendment also provides that no grower of flaxseed may be denied benefit payments by reason of his failure to grow flaxseed during any preceding year. There is no comparable provision in the House bill. The Senate recedes.

Amendment no. 66: This Senate amendment provides for a marketing year for flaxseed and imposes a processing tax on perilla seed and on hempseed during the time that a processing tax on flaxseed is in effect. There is no comparable provision in the House bill. The Senate recedes.

Amendment no. 67: This Senate amendment prohibits the imposition, under section 15 (d) of the Agricultural Adjustment Act, of a compensating processing tax on tung seed or its products, including tung oil. There is no comparable provision in the House bill. The Senate recedes.

Amendment no. 68: The House bill provided that the taxes imposed by the bill at specified rates until December 31, 1937, and, in the case of rice, until July 31, 1936, might be reduced (including a reduction to zero) in accordance with the standards prescribed in the act, in order to prevent an accumulation of surplus stocks of a commodity or its products, to prevent such a reduction in domestic consumption as would result in such an accumulation, or to prevent depression of the farm price of a commodity. It also provided that such rates of tax so fixed might, in accordance with the standards prescribed in the act, be increased, and that such taxes should terminate pursuant to a proclamation that payments authorized by section 8 of the act were no longer to be made, or pursuant to termination or partial termination of the act itself. It also provided that, after the dates specified above, rates of tax should be determined by the Secretary of Agriculture and thereafter be effective.

It further provided that if the applicability to any person or circumstances of any tax the rate of which had been altered in pursuance of the powers to alter such rates should finally be held invalid by reason of any provision of the Constitution, or by reason of the Secretary of Agriculture's exercising or failing to exercise any power conferred on him by the Agricultural Adjustment Act, there should be imposed, in lieu of all rates of tax altered in pursuance of this provision, with respect to all tax liabilities incurred on or after the effective date of such altered rates, taxes at the rates fixed specifically by the bill. The taxes at such rates were to remain in effect, unless terminated by reason of a proclamation or termination of the act as indicated above. It was, however, provided that, if the rate as altered were lower than the rate fixed in the bill, the amount of tax representing the difference between such rates should not, for the period prior to the effective date of the holding of invalidity, be levied or collected.

The Senate bill struck out all of the House provision and inserted in lieu thereof a new subsection authorizing adjustment in the rates of the taxes imposed by the bill. Under the Senate provision, the prescribed rates may be decreased (including a reduction to zero) in accordance with the standards prescribed in the Agricultural Adjustment Act, in order to prevent such a reduction in the quantity of a commodity or its products domestically consumed as will result in the accumulation of surplus stocks of such commodity or its products, or a depression in the farm price of the commodity. Such rates so fixed in the bill must, under the Senate amendment, be decreased to such rate as equals 20 percent of the fair exchange value of the commodity in question, if, during the 12-month period consisting of the 2 months immediately preceding and the first 10 months of any marketing year, the average

farm price of such commodity is less than the fair exchange value by not more than 10 percent, or is equal to such fair exchange value or exceeds it by 20 percent or less. If, during any such 12-month period, the average farm price exceeds the fair exchange value by more than 20 percent, the rate of tax must be reduced to such rate as equals 10 percent of the fair exchange value. The Senate amendment, like the provision of the House bill, provides that any tax imposed at the rate fixed in the bill may be increased in accordance with the standards prescribed in the act.

The Senate amendment also provided that any rate of tax which had been decreased pursuant to the provisions of the amendment, should remain at such decreased rate until further decreased or until increased. The Senate amendment, like the House provision, specified that any tax imposed at a fixed rate by the bill should terminate pursuant to proclamation or termination of the act itself, but contained a further provision that any tax so imposed which terminated pursuant to a proclamation that payments authorized under section 8 of the act were to be discontinued should again become effective at the rates fixed in the bill from the beginning of the marketing year for the commodity in question next following the date of a new proclamation as a result of which the payments authorized by section 8 of the act might be made, if such marketing year began prior to December 31, 1937, and that such taxes should remain at such rates fixed in the bill until altered pursuant to the provisions of the act. The Senate amendment contained the same provision with respect to determination of rates of tax after December 31, 1937, or after July 31, 1936, in the case of rice, and the same provisions with respect to the imposition of taxes in case taxes at rates altered in accordance with the Senate provision were finally held invalid, as were contained in the House bill.

The conference agreement adopts the Senate amendment with certain further amendments:

(1) It is provided that a rate of tax which has been adjusted in pursuance of the provisions adopted by the conference agreement, as well as any tax imposed at a fixed rate by the bill, may be decreased (including a decrease to zero) in order to prevent such reduction of a quantity domestically consumed as will result in an accumulation of surplus stocks of such commodity or in a depression of its farm price.

(2) It is provided that any rate of tax which has been so adjusted in order to prevent such accumulation of surplus stocks or such depression of the farm price, may thereafter be increased in accordance with the provisions elsewhere contained in the bill, but subject to the provisions governing adjustment in the rate of tax in cases where the average farm price of a commodity is not more than 10 percent below or equal to or in excess of its fair exchange value.

(3) It is provided that if, during any 12-month period ending after the date of enactment of the bill and consisting of the first 2 months immediately preceding and the first 10 months of any marketing year, the average farm price of any commodity is equal to or exceeds by 10 percent or less its fair exchange value or, in the case of tobacco, is less than the fair exchange value by not more than 10 percent, or is equal to or exceeds by 10 percent or less the fair exchange value of tobacco, the rate of tax on the commodity shall, subject to the provisions for reduction of the rate in order to prevent an accumu-

lation of surplus stocks, be adjusted at the beginning of the next succeeding marketing year, to equal such rate as equals 20 percent of the fair exchange value. If during any such period the average farm price of any commodity exceeds its fair exchange value by more than 10 percent but by not more than 20 percent, the rate of tax on such commodity shall, subject to the provisions for reduction in order to prevent an accumulation of surplus stocks, be adjusted at the beginning of the next succeeding marketing year, to such rate as equals 15 percent of the fair exchange value of such commodity. If during any such period the average farm price of any commodity exceeds the fair exchange value by more than 20 percent, the rate of tax shall, subject to the provisions for reduction in order to prevent an accumulation of surplus stocks, be adjusted at the beginning of the next succeeding marketing year, to such rate as equals 10 percent of the fair exchange value of such commodity.

(4) It is provided that any rate of tax which has been adjusted pursuant to the provisions of the conference agreement shall remain at such adjusted rate unless further adjusted or terminated pursuant to such provisions, until December 31, 1937, or in the case of rice until July 31, 1936.

(5) It is provided that any tax which has been adjusted in pursuance of the provisions of the conference agreement may be increased, in accordance with the standards prescribed in the Agricultural Adjustment Act.

(6) It is provided that any tax the rate of which has been adjusted in pursuance of the provisions of the Senate amendment shall terminate pursuant to a proclamation or pursuant to termination or partial termination of the Agricultural Adjustment Act.

(7) The provisions of the conference agreement make certain further clarifying changes.

Amendment no. 74: This amendment applies to rye and barley the provision in the present Agricultural Adjustment Act which defines "processing" in the case of wheat and corn. The effect of the amendment is to remove rye and barley from the applicability of the general definition of processing and to apply to these commodities the provision which defines "processing" as "milling or other processing (except cleaning and drying) * * * for market, including custom milling for toll as well as commercial milling, but shall not include the grinding or cracking thereof not in the form of flour for feed purposes only". The House recedes.

Amendment no. 75: This amendment adds to section 9 of the present Agricultural Adjustment Act a subsection providing that nothing in that act shall be construed to authorize any tax on the processing of any commodity which processing results in the production of newsprint. The House recedes.

Amendment no. 77: The House bill provided that the recognition and encouragement which the Secretary of Agriculture was required to accord to producer-owned and producer-controlled cooperative associations should be without discrimination against other producers, processors, and handlers. The Senate amendment strikes out this provision, and the House recedes.

Amendments nos. 80 and 81: Under the House bill the Secretary of Agriculture was authorized, in order to effectuate the declared policy and to obtain uniformity in Federal and State programs relating to the

regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with State authorities and to cooperate with such authorities and take certain other specified cooperative action. The Senate amendments direct the Secretary upon the request of State authorities to confer with them and hold joint hearings, and authorize the Secretary to cooperate with such authorities and to take such other action. The House recedes.

Amendment no. 83: This amendment strikes out the provision of the House bill which amends section 12 of the Agricultural Adjustment Act so as to provide that amounts expended for payments under section 8 of that act and administrative expenses in connection with any basic agricultural commodity shall not be less than a sum equal to the proceeds of the taxes levied with respect to such commodity, and that for such purposes amounts collected and expended from taxes the proceeds of which are held for, or paid for use in, any possession of the United States shall not be included, the amount of all refunds and abatements of taxes shall not be included, and hogs and field corn may be considered as one commodity. The House recedes.

Amendment no. 84: Under the House bill the Secretary of the Treasury was directed to refund any processing tax paid on and before June 12, 1934, with respect to cotton used in the manufacture of large cotton bags between June 13 and July 7, 1934. The Senate amendment gives the Secretary of the Treasury the additional power to credit any such processing tax. The House recedes.

Amendment no. 85: This amendment amends section 15 (b) of the Agricultural Adjustment Act by adding a sentence authorizing the Secretary of Agriculture to exempt by regulation from the payment of tax on the ginning of cotton levied under the Bankhead Cotton Control Act of April 21, 1934, an amount of lint cotton not in excess of 110 pounds produced by or for any producer and retained for domestic use in his household. The House recedes with an amendment which directs the Secretary to exempt the cotton specified in the amendment, and a further amendment which does not change the substance of the provision, but makes the matter an amendment to section 4 of the Bankhead Act and places the amendment in that part of the bill which amends the Bankhead Act.

Amendment no. 86: The Senate amendment amends the provision of section 15 of the Agricultural Adjustment Act which authorizes the Secretary to ascertain whether the payment of processing taxes upon any basic agricultural commodity is causing or will cause to the processors thereof disadvantages in competition from any competing commodity by reason of excessive shifts in consumption, and, in case he so finds, to specify the competing commodity, upon the processing of which a compensating tax is thereafter imposed at such a rate as will prevent such disadvantages in competition. The effect of the amendment is to authorize an inquiry to ascertain if disadvantages in competition are being caused or may be caused to producers and to impose a similar compensating tax if the Secretary finds that such disadvantages in competition are caused or will be caused. The House recedes.

Amendment no. 89: This is a clarifying amendment, and the House recedes.

Amendments nos. 91, 92, and 93: The Agricultural Adjustment Act provides that, upon termination of the processing tax, there shall

be no floor stocks refunds upon the retail stocks of persons engaged in retail trade. The House bill excepts from this provision articles processed wholly or in chief value from cotton or wheat. These amendments limit such refunds, in the case of articles made from wheat, to flour, prepared flour, and cereal preparations made chiefly from wheat, as classified in the existing Wheat Regulations, series 1, supplement 1. The amendments also provide that refunds to holders of floor stocks generally shall be limited in the case of wheat to the foregoing products of wheat and in the case of sugar to sugar processed from sugarcane or sugar beets. The House recedes on amendments 92 and 93 and recedes with a clarifying amendment on amendment 91.

Amendments nos. 94 and 95: These amendments duplicate matter covered in other provisions of the bill (see amendments nos. 90, 91, 92, and 93; and amendments nos. 96, 97, and 98), and the Senate recedes.

Amendment no. 97: This is a clerical change, and the House recedes.

Amendment no. 98: This amendment limits the adjustment which is to be made with respect to floor stocks when the processing tax rate is increased or decreased. In the case of wheat the adjustment is to be made only with respect to flour, prepared flour, and cereal preparations made chiefly from wheat, as classified in the existing Wheat Regulations, series 1, supplement 1; and in the case of sugarcane and sugar beets the adjustment is to be made with respect to sugar only. The House recedes.

Amendment no. 99: This amendment provides that no floor stocks refund, credit, or abatement shall be allowed, unless a claim therefor is duly filed by the person entitled thereto within 120 days after the right accrues. It also prohibits any such refund, credit, or abatement in an amount less than \$10. The House recedes with clerical changes and with an amendment which starts the 120-day period running from the date of the enactment of the new bill or the accrual of the right, whichever is the later.

Amendment no. 101: The House bill provided for the refund or credit of any amount of tax due and paid or due and payable with respect to a product exported to any foreign country or to certain possessions. The refund or credit was to be made to the consignor named in the bill of lading under which the product was exported, or, if such bill of lading bore the proper disclaimer by the consignor, to the exporter of the product, or, if the bill of lading bore the proper disclaimer by the consignor and the exporter, to the manufacturer of the product. The Senate amendment authorized the refund or credit of the tax upon the exportation to any foreign country, or to certain possessions, of any product processed wholly or partly from a commodity with respect to which product or commodity such tax was paid or due and payable. The Senate amendment provides that, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported, or, if such consignor waives any claim to the tax in favor of the shipper or the person liable for the tax, the refund or credit may be allowed to such shipper or person. The House recedes.

Amendment no. 103: The House bill limits the 180-day extension of time for payment of taxes which can be granted by making such extension permissible with respect to not exceeding three-fourths of

the amount of the tax. This amendment provides that an extension of time for payment of the full amount of taxes due may also be permitted for not exceeding 180 days in those cases where the Secretary of the Treasury authorizes taxes to be paid each month on the amount of the commodity marketed during the next preceding month. The House recedes.

Amendment no. 104: This amendment authorizes the Commissioner of Internal Revenue to require returns to be filed with and the tax to be paid to the collector for the district in which the processing was done or the tax liability was incurred and also authorizes him to require those handling or dealing in a commodity with respect to which a processing tax is imposed to make returns, render statements under oath, and keep such records as he deems necessary to determine tax liability. The House recedes with a clerical amendment.

Amendments nos. 106 and 114: The House bill dealt with refunds and credits of taxes and suits relating to the recovery of taxes paid or accrued under the Agricultural Adjustment Act in two separate provisions.

The first provision (sec. 21 (a)) related to suits with respect to taxes assessed, paid, collected, or accrued prior to the adoption of the amendatory act. In such cases no suit or proceeding was to be brought or maintained for such taxes, nor was any court to allow any recoupment, set-off, or refund of, or credit or counter claim for, any such tax. Pursuant to a final judgment or decree entered prior to the adoption of the amendatory act, such claims could be allowed. The limitations herein discussed were not to relate to overpayments of tax resulting from an error in computation, duplicate payments of tax, or to certain refunds and credits allowed by the Secretary in connection with processing of low value products, deliveries of products for charitable and other similar uses, or exportations. This provision was stricken out by Senate amendment no. 106 and the Senate matter relating to the same subject matter to it was inserted by Senate amendment no. 114.

The second provision of the House bill relating to refunds and credits of taxes was contained in section 21 (d) of that bill. This applied to refunds and credits of taxes accruing on or after the adoption of the amendatory act. Here the refund or credit was to be made or allowed only if the claimant established to the satisfaction of the Commissioner of Internal Revenue that the amount of tax claimed was not passed on to the buyer or that the claimant had repaid such amount to the buyer or ultimate purchaser. The refund or credit could also be made if the claimant filed with the Commissioner the consent of the ultimate purchaser to the allowance. In the case of the tax on hogs, the claimant had to establish to the satisfaction of the Commissioner that the amount claimed was not deducted from the price to the producer or he had to file with the Commissioner the producer's consent to the allowance of the refund or credit. The provision contained exceptions relating to low-value products, products for charitable uses, and exportations similar to those in section 21 (a). This provision was stricken out by amendment no. 114 and the Senate matter corresponding to it was inserted in the new matter in that amendment.

In the matter proposed to be inserted by the Senate amendment no distinction is made between claims and suits thereon on the basis

of whether the taxes accrued before or after the adoption of the amendatory act. The conference agreement adopts this principle.

The Senate amendment does not deny access to the courts on back taxes as did the House bill. The conference agreement adopts this principle.

The Senate amendment required, in the case of both back taxes and future taxes, that the claimant (in order to have his claim prevail either before the Commissioner or before the court) establish that he had not passed the amount of tax claimed on to the purchaser or back to the producer. This provision embodies the doctrine that no taxpayer ought to be unjustly enriched by a return of the tax if in fact he had not borne it. The conference agreement adopts the substance of this provision and expands and clarifies it to require the claimant to show that no person under the claimant's control or in control of the claimant passed on or back to any person the amount of tax claimed, that such amount was not included in a charge or fee for processing, and that the price paid by the claimant or any other person was not reduced by any part of such amount.

Under the Senate amendment, the facts required to be established to obtain the relief could be established before the Commissioner or before the court in any judicial proceeding relating to the claim. Under the Senate amendment the matter is determined on the basis of evidence taken by the court. Under the conference agreement a transcript of the hearing before the Commissioner is filed with and certified to the court and that record constitutes the evidence in the proceeding. No trial de novo on the facts by the court is provided for as is provided in the Senate amendment nor can judicial proceedings be brought in the absence of the prior administrative hearing and record. This provision applies to suits against the collector as well as against the United States and applies if the issue comes up in connection with any other suit involving the United States or the collector and the claimant.

The provisions of the conference agreement heretofore discussed do not apply to the following refunds or credits: (1) Refunds or credits with respect to the processing of low value products under section 15 (a) of the act; (2) refunds or credits of tax on products for charitable use under 15 (c); (3) floor stocks tax refunds or credits under section 16; (4) refunds or credits of taxes on articles exported to foreign countries or to certain possessions under section 17 of the act; or (5) refunds or credits of tax on tobacco products for consumption beyond the jurisdiction of Federal revenue laws under section 317 of the Tariff Act of 1930.

The conference agreement strikes out a provision not contained in the House bill but inserted by the Senate amendment which required the establishment of the facts with respect to absorption of the tax by the taxpayer in Federal and State court suits for damages for the collection of the tax.

The conference agreement also inserts a provision relating to refunds and credits of floor-stocks taxes. The refunds or credits authorized under this provision are to be made to persons other than the processor or other person who paid the tax. The provision is applicable, for the most part, to wholesalers and retailers. If the processing tax is held invalid by reason of the Constitution, such persons having floor

stocks on hand are entitled to the same refund or credit which they would be entitled to under section 16 (a) and (b) of the act had the tax terminated by proclamation. The claimant must establish to the satisfaction of the Commissioner, after notice and opportunity for hearing, that the tax was included in the price to the claimant. In judicial proceedings relating to such claims the findings and record of the Commissioner constitute the evidence as in the case of suits by processors heretofore discussed.

The conference agreement also inserts a provision providing a special statute of limitations on suits for taxes based on the invalidity of the act. A claim must be filed with the Commissioner within 6 months after the tax has been finally held invalid. No suit can be begun before 1 year after the filing of such claim, unless the Commissioner renders a decision thereon within that time, or after 5 years after payment unless suit is begun within 2 years after disallowance of the part of the claim to which the suit relates. The Commissioner is required to send notice of disallowance to the taxpayer within 90 days after disallowance.

The conference agreement also removes, in cases to which the subsection relates, the limitations of the present law on the jurisdiction of United States district courts under which they cannot entertain suits of this character against the United States, if the claim exceeds \$10,000. The effect of the agreement is to authorize such courts to take jurisdiction, if otherwise within district court jurisdiction, regardless of the amount in controversy.

Amendment no. 107: This amendment makes clerical changes in section number and subsection letter. The House recedes.

Amendment no. 108: Under the House bill, in probate, administration, bankruptcy, or other similar proceedings the claim of the United States for taxes under the Agricultural Adjustment Act and interest and penalties thereon was required to be allowed and ordered to be paid. The House bill permitted the reservation in the court's order, notwithstanding such allowance and payment, of the right to maintain a claim for credit or refund of such amount and suit thereon. In such cases the claim and suit were reserved for disposition according to the provisions of law made applicable thereto by section 19 of the Agricultural Adjustment Act. This amendment broadens the provision to include all applicable provisions of law including those discussed in connection with amendments nos. 106 and 114. The House recedes.

Amendment no. 110: This is a clarifying amendment, and the House recedes.

Amendment no. 111: The House bill legalized and ratified taxes imposed under the Agricultural Adjustment Act prior to the adoption of the bill. This amendment includes tax penalties and interest within the provision. The House recedes.

Amendment no. 112: The House bill, in providing for legalization and ratification of taxes imposed under the act, states that they shall be validated as fully as if each such tax had been specifically fixed by Congress on May 12, 1933 (the date of the enactment of the original Agricultural Adjustment Act). This amendment strikes out the specific date, May 12, 1933, and makes the provision read "by prior

act." The effect of the amendment is to make this legalization and ratification effective as if there had been in existence, immediately prior to the occurrence of the particular action ratified and legalized, an act of Congress authorizing such action. The House recedes.

Amendment no. 113: This amendment legalizes and ratifies all rental and benefit payments, all agreements with producers, and the adoption of other voluntary methods, prior to the date of the amendment. The legalization and ratification is made effective as if there had been in existence, immediately prior to the taking of the particular action ratified and legalized, an act of Congress authorizing such action. The House recedes with an amendment including within the types of action legalized and ratified the initiation, if formally approved by the Secretary of Agriculture prior to the date of the adoption of the amendment, of adjustment programs under section 8 (1) of the Agricultural Adjustment Act.

Amendment no. 115: This amendment authorizes the Commissioner of Internal Revenue or his agents designated for the purpose, in connection with the establishment, by any claimant, of the facts required to be established by Senate amendment no. 114 as a prerequisite to obtaining any recovery, recoupment, set-off, refund, or credit, to examine books, papers, records, or memoranda bearing upon such facts, to require the attendance of the claimant or any officer or employee of the claimant or any other person having knowledge in the premises, and to take their testimony, with the power to administer oaths. The information thus obtained by the Commissioner is to be made available to the Secretary of Agriculture upon written request therefor; but must be kept confidential by the Department of Agriculture. Penalty is provided for violation of this requirement by any officer or employee of the Department. There was no comparable provision in the House bill. The conference agreement retains the substance of the Senate amendment with an additional provision specifically authorizing the Commissioner or any collector designated by him to summon witnesses on behalf of the United States or any claimant, to appear and produce books, papers, correspondence, memoranda, or other records deemed relevant or material by the Commissioner, and give testimony or answer interrogatories. The provisions of Revised Statutes 4174 and 4175, relating to service of summons and proceedings upon failure to obey a summons, are made applicable to any summons issued under the subsection, and witnesses summoned are to be paid the same fees and mileage as are paid witnesses in the courts of the United States.

Amendment no. 117: This amendment is designed to make the statutory period for filing claims for refund or credit of the amount of any tax under section 15 or 17 of the Agricultural Adjustment Act (relating to exemptions, compensating taxes, and exportations) applicable to an abatement of tax under such sections. The House recedes.

Amendment no. 118: Under the House bill the provisions of the subsection fixing the statutory period for refunds or credits applied to refunds or credits under section 16 of the Agricultural Adjustment Act (relating to floor stocks). In view of the action on amendment no. 99 which provides the statutory period for refunds or credits under section 16, the House recedes.

Amendment no. 119: The House bill extended the provisions of section 3226 of the Revised Statutes, as amended (which requires the filing of claims for refund or credit with the Commissioner of Internal Revenue and fixes a period of limitation on suits), to apply to any suit to recover taxes which accrued under the Agricultural Adjustment Act on or after the date of adoption of the amendment, and to any suit for recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax. The Senate amendment extends the application of section 3226 to include suits for any penalty or interest, as well as tax, which accrued before, on, or after the date of the adoption of the amendment and to refunds or credits authorized in the case of certain exempted transactions and in the case of certain exportations and floor stocks. The House recedes with clarifying amendments.

Amendment no. 120: This amendment provides that nothing in the section relating to the legalization and validation of taxes and administrative action under the Agricultural Adjustment Act and relating to limitations on suits shall be construed to validate or legalize acts, taxes, penalties, or regulations or proceedings thereunder, that were done, imposed, had, or issued contrary to acts prior to this amendatory act or any action not in conformity with the terms of acts prior to this amendatory act. There was no comparable provision in the House bill. The Senate recedes.

Amendment no. 121: Under the House bill it was provided that whenever a refund of any tax was authorized to be made to a person other than the person required to pay the tax with respect to which application for refund is made, upon statement under oath by the applicant that he has no knowledge, information, or belief that the tax had not in fact been paid, then for the purpose of such refund the tax was deemed to have been due from and paid by the person liable therefor. Penalty of fine or imprisonment or both was provided for false statements under oath in connection with any such application or refund. The Senate amendment strikes out this provision; and the House recedes.

Amendment no. 122: The House bill added to the Agricultural Adjustment Act a new section providing that whenever the President has reason to believe that any article or articles are being imported or are likely to be imported under such conditions and in sufficient quantities to render ineffective or materially interfere with any operation or program under the act, he is to order an investigation to determine these facts. It was provided that the United States Tariff Commission should conduct the investigation and give precedence to such investigations; and the investigation was to be made after such notice and hearing and subject to such regulations as the President specified. If the President should find the existence of the facts required, after the investigation and report to him, he was to direct that the article or articles causing such situation should be imported subject to such terms and conditions, such limitations on quantity, or the payment of such compensating taxes, as he might find necessary to prescribe so that the entry of the articles specified would not render or tend to render ineffective or materially interfere with the operation or program; and if compensating taxes were levied, they were to become available for expenditure under the act. The President's decision on facts was to be final, the Secretary of the Treasury was required to carry out the order of the President, and the President,

after investigation and finding, might suspend, revoke, or modify an order issued under the section.

The Senate amendment retains the substance of the House provision, the action of the President being limited, however, to the imposition of limitations on the total quantities of articles imported, with the provision that no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 percent of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933. The amendment further provides that the President may initiate the investigation whenever he has reason to believe that the conditions of importation of any articles might reduce or tend to reduce the amount of any commodity processed in the United States subject to the Agricultural Adjustment Act.

The conference agreement retains the Senate provision except that the provision relating to reduction in the amount of commodities processed is rewritten so that the finding and action by the President in such case relates to importation which substantially reduces the amount of any product processed in the United States from any commodity with respect to which an adjustment program is in operation under the Agricultural Adjustment Act.

Amendment no. 123: The House bill provided for an authorization of an annual appropriation for each fiscal year of 30 percent of the gross receipts from duties collected during the preceding calendar year. This sum was to be held in a separate fund to be used by the Secretary of Agriculture only for encouraging exportation of major agricultural commodities and products thereof by payment of benefits in connection with exportation or indemnifying losses (including guaranteeing credits) in connection therewith; for encouraging domestic consumption of such commodities by diverting them from the normal channels of trade; for purchase or lease of submarginal agricultural and grazing lands; and for financing adjustments in the quantity planted or produced for market of agricultural commodities. Standards were provided under which the Secretary was to determine the time, kind, and amount of payments to be made. No payments were to be made to finance adjustments in amounts planted or produced or for submarginal land acquisition unless the Secretary determined that the use of such amount for the other two purposes was not necessary to accomplish the purposes of the section. The Senate amendment strikes out this section.

Under the conference agreement the authorization is changed to an appropriation. This appropriation is made for each fiscal year beginning with the current fiscal year. The agreement strikes out any authorization of expenditure for the acquisition of submarginal land, and language relating to such expenditure, and strikes out the limitations on the applicability of the section to major agricultural commodities. The agreement provides for payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption. The agreement also prohibits the payment of benefits in connection with the exportation of unmanufactured cotton, but does not prohibit indemnifying losses or guaranteeing credits in connection with the exportation of any commodity. In other respects the substance of the agreement is the same as the provision of the House bill.

Amendment no. 124: This is an amendment to section 7 of part 1 of the Agricultural Adjustment Act, which deals with cotton option contracts. No similar provision appeared in the House bill. Section 7 of the present law requires the Secretary of Agriculture to sell all the cotton held by him by March 1, 1936. The Senate amendment removes this requirement and directs him to sell all cotton acquired or held by him under the act at his discretion, subject only to conditions elsewhere contained in the act. It also expressly authorizes the Secretary to prescribe the manner in which option contracts entered into by him with producers may be transferred or assigned. It further provides that, notwithstanding any provisions contained in option contracts entered into prior to the adoption of the amendatory bill, and notwithstanding any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that the assignment was in good faith of the full interest in the contract, and for full value, and free from evidence of fraud or speculation by the assignee. The House recedes.

Amendment no. 125: This section repeals section 6 of the Agricultural Adjustment Act relating to cotton-option contracts. This section is repealed because its provisions have, in part, been executed, and also because it has been superseded by section 7 of that act. The House recedes with an amendment changing the section number.

Amendment no. 126: Under the present law, the appropriation in section 4 (6) of the Agricultural Adjustment Act for paying off debts, discharging liens, paying carrying and other charges, and for other expenses in connection with cotton-option contracts under part 1 of that act is available until March 1, 1936. This amendment makes such sum available until the cotton acquired by the Secretary of Agriculture and the cotton futures so acquired are finally marketed by any agency established or to be established to handle, carry, insure, or market such cotton. The House recedes with an amendment changing the section number.

Amendment no. 127: This amendment inserts a clarifying definition of the word "obligation" as used in section 4 of the cotton-option contracts part of the Agricultural Adjustment Act. This word is defined under the amendment to include, but without limitation to, administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other expenses incident to handling, carrying, insuring, and marketing the cotton. The House recedes with an amendment changing the section number.

Amendment no. 129: This amendment makes a change in a section number, and the House recedes with an amendment making a further change in the number.

Amendments nos. 130 and 131: These amendments make clerical changes, and the House recedes.

Amendment no. 132: This amendment provides that nothing in this amendatory act shall invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of the amendatory act, or subsequent to the enactment of the amendatory act in connection with a program initiated prior thereto under section 8 (1), or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of the amendatory act, or any change in the terms and conditions of any such agreement,

or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate the program. The House recedes with an amendment making clarifying changes and further providing that the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937, except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by the amendatory act.

Amendment no. 133: This amendment provides that no cotton cooperative association shall be eligible for loans to cooperatives made by any agency of the Government unless the cooperative handles the products or supplies of bona fide cotton-producing members (or of bona fide cotton-producing members of member associations) in an amount at least equal in value to the amount handled for others. Federal business is not to be included in such determinations. The Senate recedes.

Amendment no. 134: This amendment inserts a heading indicating that certain amendments following this heading are amendments to the Bankhead Cotton Act. (These subsequent amendments embody the major features of the so-called "Doxey bill" which recently passed the House.) The House recedes on this amendment.

Amendment no. 135: This amendment authorizes the continuation of the Bankhead Cotton Control Act for the crop years 1936-37 and 1937-38, subject, however, in the case of each year, to the provisions of the act itself under which the President must have found that the emergency in cotton production and marketing continues or is likely to continue, the approval of continuance by producers is required, and a finding by the Secretary of Agriculture that the tax is necessary to carry out the declared policy of the act is required. The House recedes with an amendment changing the section number.

Amendment no. 136: This amendment provides that in the ascertainment of producer sentiment for continuance of the Bankhead Cotton Control Act for 1936-37 and 1937-38, the vote of two-thirds of the producers voting in each such year shall be sufficient to fulfill the requirements of producer approval. The House recedes.

Amendment no. 137: This amendment inserts in the section of the Bankhead Cotton Control Act under which State allotments are made a new provision under which, after the year 1935, no State shall receive an allotment of less than 80,000 bales if in any 1 of the 5 years preceding the passage of that act its production equaled 100,000 bales. The House recedes.

Amendment no. 138: This amendment ratifies and legalizes the national allotment of 10,500,000 bales fixed as the maximum of tax-exempt cotton under the Bankhead Cotton Control Act by the Secretary of Agriculture for the crop year 1935-36, and ratifies the apportionments and other action taken pursuant to the ascertainment and proclamation of such amount. There is no comparable provision in the House bill. The conference agreement makes technical perfecting changes in the language of this provision. The conference agreement also inserts a provision which provides for an allotment of tax-exempt cotton to each farm the base production of which is 956 pounds or less of lint cotton in an amount equal to its base production and an allotment of 956 pounds if its base production is more than 956 pounds. This provision applies to this crop year and each subsequent crop year.

This exemption is the same as that administratively applied by the Secretary for this year and does not add to the exemption so applied or require reallocation. The conference agreement also provides that after the crop year 1935-36 the additional amount of cotton made tax-exempt under the provisions discussed above shall be in addition to the national allotment and to the allotments of the State and county in which the farms affected are situated. The conference agreement also provides that the additional amount made tax-exempt under the resolution (H. J. Res. 258), recently passed by both Houses but not yet signed by the President, shall, for the crop year 1935-36, and each subsequent year, be in addition to the national allotment and to the allotments of the State and county in which the farms affected are situated.

Amendment no. 139: This amendment authorizes appropriations to enable the Secretary of Agriculture to pay ginner for their additional expenses incurred in connection with the administration of the Bankhead Cotton Control Act at the rate of 25 cents per bale ginned. There is no comparable provision in the House bill. The conference agreement changes the section number, makes the provision applicable to the cotton ginned during the crop year 1935-36 and subsequent years, limits the compensation to the additional expense incurred (but not in excess of 25 cents per bale), and requires proof that this additional expense has not been passed on. The conference agreement also inserts a section amending the Cotton Act to provide that no rule or regulation of the Secretary can prohibit the transfer or assignment by a cotton producer of exemption certificates issued or reissued to him if the transfer or assignment is to another producer who is a resident of the same State.

Amendment no. 140: This amendment inserts a heading indicating that certain amendments following this heading are amendments to the Kerr Tobacco Act. The House recedes.

Amendment no. 141: This amendment amends the title of the Kerr Tobacco Act by inserting in the title the words "to raise revenue". The House recedes.

Amendments nos. 142, 143, and 144: These amendments add to the definitions in the Kerr Tobacco Act definitions of Puerto Rican tobacco and cigar-wrapper tobacco. These definitions adopt the classifications of the Department of Agriculture. The House recedes.

Amendment no. 145: This amendment adds to the specification of purposes in the declaration of policy in section 2 of the Kerr Tobacco Act the purpose of raising revenue. The House recedes.

Amendment no. 146: Section 3 (b) of the Kerr Tobacco Act now provides that the tax levied by that act shall be applicable to all tobacco harvested during the crop year 1934-35, with the exception of Maryland and Virginia sun-cured and cigar-leaf tobacco. Thereafter the tax is to apply to any type of tobacco with respect to which the Secretary of Agriculture determines (1) that the persons who own, rent, share-crop, or control three-fourths of the land customarily engaged in the production of such type of tobacco favor the levy of the tax on such type, and (2) that the imposition of the tax on such type is necessary for the orderly marketing of such type in interstate and foreign commerce and to effectuate the declared policy of the Kerr Act. As a result of determinations of the Secretary as provided in this subsection, the tax levied by the act was applied for the crop year 1935-36 to all types of tobacco except Maryland,

Puerto Rican, and cigar-wrapper tobacco. The Senate amendment validates the determinations of the Secretary as a result of which the tax is in effect for the crop year 1935-36 by specifically providing that the tax shall apply to all tobacco harvested in that year with the exception of Maryland, Puerto Rican, and cigar-wrapper tobacco. It also strikes out the present provision of the Kerr Act limiting the possible duration of the tax to April 30, 1936, and substitutes for that date April 30, 1939. It also strikes out the present provision requiring the Secretary to determine that the persons owning, renting, share-cropping, or controlling three-fourths of the land customarily engaged in the production of a particular type of tobacco favor the levy of the tax, and substitutes a new requirement. Under this new provision, the Secretary must determine that two-thirds of the land engaged, during the crop year in which the Secretary's determination is made, in the production of the particular type of tobacco, is voted in favor of the levy of the tax. All persons who have the right, during such crop year, to sell or receive a share of the proceeds derived from the sale of tobacco, of the particular type with respect to which the Secretary is to make a determination, produced by them or produced on land owned or leased by or to them, are entitled to vote. The proportion of votes cast in each county in favor of the tax determines the proportion of the total amount of land engaged in the production of tobacco of such type in such county which shall be deemed to have been voted in favor of the levy of the tax upon such type of tobacco. The House recedes.

Amendment no. 147: This amendment amends section 5 (a) of the Kerr Tobacco Act so as to provide that the Secretary shall issue to any person who, because of religious or moral scruples, is unable or unwilling to become a contracting producer, tax-payment warrants equal to his production. This can be done only if the Secretary determines that such person has not planted a greater acreage of tobacco or sold more tobacco than he could have planted or sold as a contracting producer. The House recedes.

Amendment no. 148: Section 5 (b) of the Kern Tobacco Act, in its present form, authorizes the issuance, by the Secretary of Agriculture, in any county, of tax-payment warrants, covering an amount of tobacco of any type not in excess of 6 percent of the amount of tobacco of such type covered by the warrants issued to contracting producers in such county. These warrants are to be issued to persons engaged in the production of tobacco of such type in such county as to whom the Secretary of Agriculture determines that no equitable allotment is possible under tobacco-reduction contracts offered under the Agricultural Adjustment Act. The Senate amendment makes available for issuance, in each crop year, without regard to county lines, warrants covering an amount of tobacco of any type equal to 3 percent of the amount of such type covered by warrants issuable or issued in such crop year to contracting producers. These warrants are to be issued, upon application therefor, to persons engaged in the production of tobacco who do not enter into tobacco contracts under the Agricultural Adjustment Act and as to whom the Secretary of Agriculture determines that no equitable allotment is possible under such contracts. The issuance is to be upon such basis as the Secretary deems will effectuate the declared policy of the Kerr Act, be fair and just, and apply to all eligible persons uniformly on the basis or classification adopted. It is provided that warrants

covering two-thirds of the amount of each particular type of tobacco to cover which warrants are made available by this provision shall be issued, upon application, only to persons who receive warrants covering 1,500 pounds or less of such type of tobacco. The House recedes.

Amendment no. 149: This amendment amends section 5 (d) of the Kerr Tobacco Act under which erroneously issued tax-payment warrants are to be void on written demand for their return. The amendment adds to the present law a provision under which if the Secretary of Agriculture determines that the person to whom a warrant is issued has failed to comply, during the same crop year in which the warrant was issued, with any provision of any agreement entered into under the Agricultural Adjustment Act or any rule or regulation issued by the Secretary under such act or the Tobacco Act, such warrant shall be void on written demand for its return. The amendment also adds to the present law a provision under which, if the tax-payment warrant which has been accepted in payment of tax becomes void, the person to whom it was issued is liable for the full tax. The House recedes.

Amendment no. 150: This amendment adds a new subsection to section 8 of the Kerr Tobacco Act, under which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulation prescribe the information to be contained in returns required to be made by persons having information with respect to tobacco produced or sold. The House recedes.

Amendment no. 151: This amendment amends the Kerr Tobacco Act by inserting a new provision the effect of which is to authorize persons designated by the Secretary to act as his agents to administer oaths in connection with tax and other forms under the act. No fee is to be charged for such administration of oaths. The House recedes.

Amendment no. 153: This amendment amends section 11 (a) of the Kerr Tobacco Act which places a 6-month period of limitation on claims for refund of taxes, penalties, and interest so as to make such period 1 year. The House recedes.

Amendment no. 154: This amendment amends section 14 of the Kerr Tobacco Act under which the application of a producer to become a contracting producer is not to be refused if the application is filed within 30 days after the enactment of the act so as to provide that the 30-day period begins to run from the date of the Secretary's proclamation that the tax is to be in effect. The House recedes.

Amendment no. 156: This amendment provides that submarginal lands in reclamation projects with respect to which lands settlers are obligated to the United States for payment may be eliminated from the projects and the reclamation charges against the land canceled. The Senate recedes.

Amendment no. 157: This amendment provides that any person (not in the classified civil service) other than an attorney who receives under any act of Congress compensation at the rate of \$7,500 or more per annum, and any administrator or other officer or the members of any central board or other agency having supervision at the seat of Government over activities provided for under any act of Congress and receiving compensation at the rate of \$6,000 or more per annum, and any State or regional administrator receiving compensation at

the rate of \$3,600 or more per annum, in pursuance of any such acts, shall be appointed by the President, by and with the advice and consent of the Senate; and provides that section 1761 of the Revised Statutes shall apply to all persons so required to be confirmed. The Senate recedes.

Amendment no. 158: This amendment inserts the first of the amendments to the bill relating to regulation of the marketing of anti-hog-cholera serum and hog-cholera virus in interstate and foreign commerce. There are no provisions relating to this matter in the House bill. This amendment declares the policy of Congress to insure the maintenance of an adequate supply of these articles by regulating their marketing in interstate and foreign commerce and to prevent undue and excessive fluctuations and unfair trade practices and unfair methods of competition in such marketing. The House recedes with an amendment changing the section number.

Amendment no. 159: This amendment authorizes the Secretary of Agriculture, in order to effectuate the policy declared in the first section relating to serum and virus, to enter into marketing agreements with manufacturers and others engaged in handling anti-hog-cholera serum and virus in or affecting interstate or foreign commerce. These agreements may be entered into only after due notice and opportunity for hearing and the making of the agreements shall not be held to be in violation of the Federal antitrust laws. Such agreements are to be deemed to be lawful. The House recedes with an amendment changing the section number and with clarifying changes, similar to those made by amendment no. 14 in connection with orders applicable to agricultural commodities under the Agricultural Adjustment Act, the effect of which is to make certain that the agreements relate only to handling which is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects such commerce.

Amendment no. 160: This amendment provides for the terms and conditions of marketing agreements (relating to serum and virus) authorized to be made under Senate amendment no. 159. These agreements are to contain only such terms and conditions as the Secretary of Agriculture finds (on the basis of the hearing held) will tend to effectuate the policy set forth in amendment no. 159. These terms and conditions are those specified in 8c (7) of the Agricultural Adjustment Act. These relate to (1) prohibiting unfair methods of competition and unfair trade practices; (2) providing for sales only at filed prices; and (3) selection of agencies to carry out the agreements and defining their duties. Such agreements may also contain terms and conditions requiring each manufacturer to have available on May 1 of each year a supply of completed serum equal to not less than 40 percent of his previous year's sales. The House recedes with an amendment which changes the section number.

Amendment no. 161: This amendment provides for the issuance by the Secretary of Agriculture of orders regulating the handling of anti-hog-cholera serum and hog-cholera virus in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect such commerce. Such orders shall be issued when and only when all the handlers of not less than 75 percent by volume of such serum and virus have signed a marketing agreement described in connection with amendment no. 159. Such orders are to regulate such handling in the

same manner as, and contain only such terms and conditions as are contained in, the marketing agreements. Amendments to the orders are to be made in conformity with amendments to the marketing agreement. The order is to terminate upon the termination of the marketing agreement as provided in the agreement. The House recedes with an amendment making changes in section numbers.

Amendment no. 162: This amendment makes applicable to orders relating to serum and virus issued under authority of the provisions discussed in connection with amendment no. 161 certain provisions which are applicable to orders with respect to agricultural commodities under the Agricultural Adjustment Act. These provisions provide for jurisdiction of courts to enforce the orders, require prosecution of cases by district attorneys, make available legal remedies provided for in the Agricultural Adjustment Act, define the term "person", provide penalties for violations, and provide for judicial review of administrative action. The amendment makes applicable to marketing agreements or orders relating to such serum and virus the books and records provision applicable to marketing agreements or orders under the provisions of the Agricultural Adjustment Act relating to orders with respect to agricultural commodities. The amendment also makes applicable to the administration of the provisions relating to serum and virus certain provisions of the Agricultural Adjustment Act relating to the administration of that act. The amendment also appropriates out of sums appropriated for the Agricultural Adjustment Act sums for the administration of the sections of the bill relating to such serum and virus. The House recedes with an amendment which corrects certain clerical errors and omits the appropriation.

The committee of conference report the following amendments in disagreement:

Amendment no. 128 (relating to appropriations to eliminate diseased dairy and beef cattle);

Amendment no. 152 (relating to appropriations to carry out the Tobacco Act);

Amendment no. 155 (relating to appropriations for the acquisition of submarginal land); and

Amendment no. 163 (relating to potato control).

MARVIN JONES,
H. P. FULMER,
WALL DOXEY,
CLIFFORD R. HOPE,
J. ROLAND KINZER,

Managers on the part of the House.



Mannagan	Kee	Moran	Shanley
Ford, Calif.	Kennedy, N. Y.	Nelson	Sirovich
Ford, Miss.	Kenney	Norton	Sisson
Frey	Kerr	O'Connell	Smith, Conn.
Fuller	Kloeb	O'Connor	Smith, Va.
Fulmer	Kocalkowski	O'Day	Smith, Wash.
Gambrill	Kopplemann	O'Leary	Snyder
Gasque	Kramer	O'Neal	South
Gehrmann	Kvale	Owen	Spence
Gildea	Lambeth	Palmisano	Stack
Gillette	Lanham	Parsons	Starnes
Gingery	Larrabee	Patman	Tarver
Goldsbrough	Lea, Calif.	Patterson	Taylor, Colo.
Gray, Ind.	Lee, Okla.	Patton	Taylor, S. C.
Green	Lesinski	Pearson	Terry
Greenway	Lewis, Colo.	Peterson, Fla.	Thomason
Greenwood	Lewis, Md.	Peterson, Ga.	Tolan
Greever	Lloyd	Pettengill	Tonry
Gregory	Luckey	Pfeiffer	Turner
Griswold	McAndrews	Pierce	Umstead
Haines	McClellan	Quinn	Utterback
Hamlin	McCormack	Rabaut	Vinson, Ga.
Hancock, N. C.	McFarlane	Ramsay	Vinson, Ky.
Harlan	McGehee	Ramspeck	Wallgren
Hart	McGrath	Randolph	Walter
Harter	McKeough	Rankin	Warren
Healey	McLaughlin	Reilly	Wearin
Hennings	McReynolds	Richards	Werner
Higgins, Mass.	McSwain	Richardson	West
Hildebrandt	Mahon	Robertson	Whelchel
Hill, Ala.	Maloney	Robinson, Utah	White
Hill, Knute	Mansfield	Russell	Whittington
Hill, Samuel B.	Martin, Colo.	Sabath	Wilcox
Hobbs	Massingale	Sanders, La.	Williams
Houston	Maverick	Sanders, Tex.	Withrow
Huddleston	Mead	Sandlin	Wood
Imhoff	Meeks	Schaefer	Woodrum
Jacobsen	Merritt, N. Y.	Schulte	Zimmerman
Johnson, Okla.	Miller	Scott	Zioncheck
Johnson, Tex.	Mitchell, Tenn.	Scrugham	
Johnson, W. Va.	Monaghan	Sears	
Jones	Montet	Secrest	

NAYS—93

Allen	Darrow	Lambertson	Ransley
Andresen	Dirksen	Lehlbach	Reed, Ill.
Andrew, Mass.	Dondero	Lemke	Rich
Arends	Ekwall	Ludlow	Robison, Ky.
Bacharach	Engel	Lundeen	Rogers, Mass.
Bacon	Englebright	McLeod	Ryan
Binderup	Focht	Maas	Sauthoff
Blackney	Gavagan	Mapes	Schuetz
Bolton	Gearhart	Marcantonio	Seger
Brewster	Gifford	Marshall	Short
Buchanan	Gilchrist	Martin, Mass.	Snell
Buckbee	Guyer	Mason	Somers, N. Y.
Buckler, Minn.	Gwynne	May	Stefan
Burdick	Halleck	Merritt, Conn.	Taber
Burnham	Hancock, N. Y.	Michener	Taylor, Tenn.
Carlson	Hoeppe	Millard	Thurston
Cavichia	Hollister	Moritz	Threadway
Christianson	Holmes	Mott	Turpin
Church	Hope	O'Brien	Wigglesworth
Collins	Hull	O'Malley	Wolcott
Cooper, Ohio	Jenkins, Ohio	Pittenger	Woodruff
Crawford	Kinzer	Plumley	
Crowther	Kleberg	Polk	
Culkin	Knutson	Powers	

NOT VOTING—99

Adair	Ditter	Kennedy, Md.	Schneider
Andrews, N. Y.	Dockweiler	Kimball	Shannon
Arnold	Doutrich	Kniffin	Smith, W. Va.
Bankhead	Dunn, Miss.	Lamneck	Stegall
Beam	Dunn, Pa.	Lord	Stewart
Bell	Eaton	Lucas	Stubbs
Berlin	Elcher	McGroarty	Sullivan
Blanton	Fenerty	McLean	Summers, Tex.
Brown, Mich.	Ferguson	McMillan	Sutphin
Buckley, N. Y.	Fernandez	Mitchell, Ill.	Sweeney
Bulwinkle	Fish	Montague	Thom
Burch	Fletcher	Murdock	Thomas
Cannon, Wis.	Gassaway	Nichols	Thompson
Carter	Goodwin	Oliver	Tinkham
Cartwright	Granfield	Parks	Tobey
Claborn	Gray, Pa.	Perkins	Underwood
Clark, N. C.	Hartley	Peyser	Wadsworth
Cochran	Hess	Rayburn	Weaver
Cole, N. Y.	Higgins, Conn.	Reece	Welch
Corning	Hoffman	Reed, N. Y.	Wilson, La.
Crosby	Hook	Rogers, N. H.	Wilson, Pa.
Daly	Jenckes, Ind.	Rogers, Okla.	Wolfenden
Dietrich	Kahn	Romjue	Wolverton
Dingell	Keller	Rudd	Young
Disney	Kelly	Sadowski	

So the joint resolution was agreed to.

The Clerk announced the following additional pairs:
On this vote:

Mr. Rudd (for) with Mr. Goodwin (against).
Mr. Arnold (for) with Mr. Hess (against).
Mr. McMillan (for) with Mr. Fish (against).
Mr. Rogers of New Hampshire (for) with Mr. Lord (against).
Mr. Weaver (for) with Mr. Thomas (against).
Mr. Sullivan (for) with Mr. Cole of New York (against).

Mr. Romjue (for) with Mr. Reece (against).
Mr. Dockweiler (for) with Mr. Perkins (against).
Mr. Cartwright (for) with Mr. Hartley (against).
Mr. Buckley (for) with Mr. Stewart (against).
Mr. Hook (for) with Mr. McLean (against).
Mr. Kniffin (for) with Mr. Wilson of Pennsylvania (against).
Mr. Ferguson (for) with Mr. Wolfenden (against).
Mr. Parks (for) with Mr. Doutrich (against).
Mr. Fletcher (for) with Mr. Fenerty (against).
Mr. Smith of West Virginia (for) with Mrs. Kahn (against).
Mr. Stubbs (for) with Mr. Tobey (against).
Mr. Kennedy of Maryland (for) with Mr. Eaton (against).
Mr. Lucas (for) with Mr. Wadsworth (against).
Mr. Rayburn (for) with Mr. Reed of New York (against).
Mr. Sadowski (for) with Mr. Tinkham (against).
Mr. Clark of North Carolina (for) with Mr. Ditter (against).
Mr. Steagall (for) with Mr. Andrews of New York (against).
Mr. Disney (for) with Mr. Hoffman (against).

Until further notice:

Mr. Crosby with Mr. Kelly.
Mr. Murdock with Mr. Gray of Pennsylvania.

The result of the vote was announced as above recorded.
On motion of Mr. McREYNOLDS, a motion to reconsider was laid on the table.

MINES AND MINING

Mr. DEROUEN, from the Committee on the Public Lands, submitted a conference report and statement on the bill (S. 3311) to amend an act entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437; U. S. C., title 30, secs. 185, 221, 223, 226), as amended, for printing in the Record.

AGRICULTURAL ADJUSTMENT ACT

Mr. JONES. Mr. Speaker, I call up the conference report on the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, and ask that the reading of the report be dispensed with. The report has been printed and is available to everyone.

Mr. TARVER. Mr. Speaker, reserving the right to object, there are 163 Senate amendments to the bill which was passed by the House. There should be ample time for the discussion of these amendments, preferably by Members of the conference committee, who may be able to explain them.

Mr. JONES. A great many of the amendments are formal amendments.

Mr. TARVER. The gentleman should ask unanimous consent to extend the usual time for the discussion of a conference report to at least 2 hours. This is a bill which affects vitally agriculture throughout this entire country, and we ought not to hasten through it before we thoroughly understand what we are voting on.

Mr. JONES. The bill, except in two or three respects, has not been very greatly changed from what it was as it passed the House. Some additional provisions have been added.

Mr. TARVER. It seems to me it has been very vitally changed. Some of the amendments are very vital.

Mr. JONES. I will yield the gentleman time if he wants it.

Mr. TARVER. I am not asking this consideration for myself, but I am of the opinion the conference report should have full consideration.

Mr. JONES. I shall undertake to make an explanation of the provisions of the material Senate amendments.

Mr. TARVER. I doubt the ability of the gentleman, although I know it is great, to fully explain this bill if he took the entire hour that is allowed for the consideration of a conference report.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HOPE and Mr. O'MALLEY objected.

The Clerk read the conference report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 36, 37, 38, 65, 66, 67, 94, 95, 120, 133, 156, and 157.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 25, 26, 27, 28, 32, 33, 34, 40, 41, 44, 46, 47, 49, 50, 51, 54, 55, 56, 58, 61, 62, 63, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81,

82, 83, 84, 86, 87, 88, 89, 90, 92, 93, 97, 98, 101, 103, 106, 107, 108, 109, 110, 111, 112, 116, 117, 118, 121, 139, 131, 134, 136, 137, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 153, and 154, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: On page 3 of the House bill, line 19, strike out "such" and insert "an"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "which directly burdens, obstructs, or affects"; and on page 9 of the House bill, line 9, after "commerce", strike out the comma; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: On page 14 of the House bill, line 18, after "fruits" insert ", other than olives" and a comma; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "(not including vegetables, other than asparagus, for canning), soy beans"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection (5)."

And the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(E) Providing (1) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (1) for assurance of, and security for, the payment by handlers for milk purchased."

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "or in any manner limit, in the case of the products of milk" and a comma; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof" and a comma; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof" and a comma; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: On page 17 of the House bill, line 17, strike out "(B)" and insert "(C)"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment, as follows: On page 17 of the House bill, line 5, strike out the comma following "which"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert a comma and the following: "except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

" : Provided, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

"(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

"(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order."

And the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "(except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum)"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "(except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum)"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

"(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order."

And the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"No order shall be issued under this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement."

And the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: On page 23

of the House bill, line 6, strike out "is" and insert "are"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In the matter proposed to be inserted by said amendment strike out "8(c)" and insert in lieu thereof "8c"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert:

"SPECIFIC TAX RATE—FLOOR STOCKS—BARLEY

"(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 16 of this title shall not apply in the case of barley."

And the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any twelve months period ending after the date of the adoption of this amendment consisting of the two months immediately preceding and the first ten months of any marketing year—

"(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

"(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

"(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

"(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

"(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

"(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the

rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

"(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

"(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid."

And the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows: Omit the matter proposed to be inserted by said amendment, and on page 53 of the House bill, after line 10, after the matter proposed to be inserted by Senate amendment numbered 139, insert the following:

"Sec. 42. Section 4 of such act of April 21, 1934, as amended, is amended by inserting at the end thereof the following new subsection:

"(h) The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this Act, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household."

And the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and"; and the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "27"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "28"; and the Senate agree to the same.

Amendment numbered 102: That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "29"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In lieu of the

matter proposed to be inserted by said amendment strike out "(c)" and insert "(d)"; and the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "30"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(c) The making of rental and benefit payments under this title, prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 8 (1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress."

And the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.

"(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regula-

tions as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

"(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy."

And the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office."

And the Senate agree to the same.

Amendment numbered 119: That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(g) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930."

And the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 31. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested

parties and shall be conducted subject to such regulations as the President shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

"(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

"(d) Any decision of the President as to facts under this section shall be final.

"(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

And the Senate agree to the same.

Amendment numbered 123: That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated under this section shall be expended for such of the above-specified purposes, and at such time, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds appropriated by this section shall be expended pursuant to clause (3) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton."

And the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "34" and insert "33"; and the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "35" and insert "34"; and the Senate agree to the same.

Amendment numbered 126: That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "36" and insert "35"; and the Senate agree to the same.

Amendment numbered 127: That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "37" and insert "36"; and the Senate agree to the same.

Amendment numbered 129: That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "38"; and the Senate agree to the same.

Amendment numbered 132: That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "(c) Invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8 (1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937, except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act"; and the Senate agree to the same.

Amendment numbered 135: That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "41" and insert "39"; and the Senate agree to the same.

Amendment numbered 138: That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such Act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935-1936 that may be marketed exempt from payment of the tax levied by such Act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by Act of Congress.

"(e) Section 7 of such Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) For each crop year subsequent to the crop year 1934-1935 in which this Act is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 956 pounds or less of lint cotton an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935-1936, the amount of each such allotment (and for the crop year 1935-1936 and subsequent crop years, the additional amount required for apportionment under the provisions of the Public Resolution entitled "Public Resolution To provide for certain State allotments under the Cotton Control Act") which is in excess of the allotment which, without regard to this subsection or such Public Resolution, would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935-1936 which allotment was made under regulations of the Secretary of Agriculture prior to the date of the adoption of this amendment, or to require any reallocation."

And the Senate agree to the same.

Amendment numbered 139: That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 40. Section 17 of such act of April 21, 1934, as amended, is amended by inserting '(a)' before the first sentence thereof and by inserting at the end thereof the following new subsection:

"(b) Appropriations for administrative expenses under this act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this act with respect to cotton ginned during the crop year 1935-36 or any subsequent crop year in which this act is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever."

"Sec. 41. Section 9 (d) of such act of April 21, 1934, as amended (relating to transfer of exemption certificates), is amended by inserting after the first sentence thereof the following new sentence: 'No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State.'"

And the Senate agree to the same.

Amendment numbered 158: That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "57" and insert "56"; and the Senate agree to the same.

Amendment numbered 159: That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 57. In order to effectuate the policy declared in section 56 of this Act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti-hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are hereafter in this Act referred to as 'handlers.' The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful."

And the Senate agree to the same.

Amendment numbered 160: That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "59" and insert "58"; strike out "58" wherever it appears and insert "57"; and strike out "57" and insert "56"; and the Senate agree to the same.

Amendment numbered 161: That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "60" and insert "59"; and strike out "58" and insert "57"; and the Senate agree to the same.

Amendment numbered 162: That the House recede from its disagreement to the amendment of the Senate numbered 162, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 60. Subject to the policy declared in section 56 of this Act, the provisions of subsections (6), (7), (8), and (9) of section 8a and of subsections (14) and (15) of section 8c of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with orders issued pursuant to section 59 of this Act, and the provisions of section 8d of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with marketing agreements entered into pursuant to section 57 and orders issued pursuant to section 59 of this Act. The provisions of subsections (a), (b), (2), (c), (f), (h), and (i) of section 10 of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with the administration of sections 56 to 60, inclusive, of this Act."

And the Senate agree to the same.

The committee of conference report the following amendments in disagreement: Amendments nos. 128, 152, 155, and 163.

MARVIN JONES,
H. P. FULMER,
WALL DOXEY,
CLIFFORD R. HOPE,
J. ROLAND KINZER,

Managers on the part of the House.

E. D. SMITH,
J. H. BANKHEAD,
CHAS. L. McNARY,
LOUIS MURPHY,

Managers on the part of the Senate.

Mr. MAVERICK (interrupting the reading of the conference report). Mr. Speaker, I ask unanimous consent that further reading of the conference report may be dispensed with.

Mr. HOPE. Mr. Speaker, I object.

The Clerk resumed the reading of the conference report.

Mr. ANDRESEN (interrupting the reading of the conference report). Mr. Speaker, I ask unanimous consent that further reading of the conference report may be dispensed with, and that the chairman of the committee explain the amendments.

Mr. HOPE. Mr. Speaker, I am compelled to object.

The SPEAKER. This request has been submitted to the House twice and the Chair declines to submit it again unless the gentleman from Kansas will agree in advance to withdraw his objection. We are merely consuming time in considering these requests.

The Clerk resumed the reading of the conference report.

Mr. MARTIN of Massachusetts (interrupting the reading of the conference report). Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and twenty-three Members are present, a quorum.

The Clerk concluded the reading of the conference report.

The SPEAKER. The gentleman from Texas [Mr. JONES] is recognized for 1 hour.

Mr. JONES. I am going to submit a unanimous-consent request.

Mr. Speaker, I ask unanimous consent that the House do now adjourn to meet at 11 o'clock tomorrow, this conference report and the amendments to have the right-of-way until disposed of.

Mr. SNELL. The gentleman's request is that the House adjourn at once to meet tomorrow at 11 o'clock?

Mr. JONES. Yes.

Mr. TAYLOR of Colorado. Mr. Speaker, I object.

Mr. Sisson. Mr. Speaker, reserving the right to object—

The SPEAKER. Objection has been made.

Mr. TAYLOR of Colorado. Mr. Speaker, if I may be heard—

The SPEAKER. Objection has been made. The gentleman from Texas has the floor.

Mr. JONES. Mr. Speaker, this bill is largely in the form in which the House passed it. It is true there are 163 amendments. A great many of these amendments are largely changes in section numbers and formal changes that do not amount to a great deal. They are all fully explained in the conference report.

In its essential parts the bill is as it passed the House. One exception is the provision for suits. The bill as it passed the House placed a ban on all suits on the part of processors for the recovery of taxes heretofore collected in the event the taxes should be held illegal. The Senate adopted an amendment which permitted taxes to be recovered in suits by any processor in the event that taxes should be held illegal. A compromise was adopted. The Senate amendment made no provision whatever for recovery on the part of wholesalers or retailers on stocks on hand which had absorbed the taxes. A compromise was reached which provides that the wholesaler and retailers may recover on stocks which they have on hand unsold at the time the tax becomes ineffective. It then permits the processors to file claims for refund with the Commissioner of Internal Revenue who conducts hearings and makes findings of fact. In order to recover the processors must show that they neither passed the tax on in the price of the product which they sold nor charged it back to the farmer in the form of a reduced price which they paid him for his article. They may then file suit for recovery of the taxes, but the commissioners' hearings and findings become the record in the case. This, in a general way, is the explanation of the suit provision.

Mr. ANDRESEN. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Minnesota.

Mr. ANDRESEN. Does that apply to all commodities upon which a processing tax has been collected, and relating particularly to floor stocks?

Mr. JONES. That particular provision applies to all commodities on which a tax has been collected.

Mr. ANDRESEN. The House bill provided for a recovery of the tax on cotton goods and wheat.

Mr. JONES. The House provision referred only to stocks that were on hand at the termination of the tax. The House provision did not cover the question of an illegal tax.

Mr. MARTIN of Massachusetts. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Massachusetts.

Mr. MARTIN of Massachusetts. As I understand it, a processor can make application for a refund at any time after the Supreme Court says this law is unconstitutional.

Mr. JONES. We think the Supreme Court will not say that.

Mr. MARTIN of Massachusetts. But we are going on the theory the Supreme Court will.

Mr. JONES. That is only in the event of an adverse decision.

Mr. MARTIN of Massachusetts. In the event of an adverse decision, then a processor may put in an application for a refund?

Mr. JONES. Yes.

Mr. MARTIN of Massachusetts. There is no time limit within which he must do that?

Mr. JONES. Yes. He must file an application for a refund within 6 months; I believe that is the time.

Mr. MARTIN of Massachusetts. Six months after the decision?

Mr. JONES. Yes. He must file an application within 6 months, and has 1 year within which to file suit.

Mr. MARTIN of Massachusetts. After what time?

Mr. JONES. After the final decision of the Commissioner, in the event the tax should be held illegal.

Mr. FITZPATRICK. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from New York.

Mr. FITZPATRICK. This processing tax is finally passed on to the consumer?

Mr. JONES. As a matter of fact, the processing tax is absorbed in the price of the article. In some instances a part of it is passed back in the way of a reduced price and a part of it goes on. It certainly is absorbed in the price structure of the country.

Mr. FITZPATRICK. But it finally reaches the consumer. He is the one who pays the entire tax?

Mr. JONES. Whoever ultimately consumes that article, whether it is a manufactured article, an article manufactured from a farm product or from any other character of product, pays the price and, of course, the ultimate price must cover the costs all along the line. This applies to the tariff, as well as to the processing tax.

Mr. MARTIN of Massachusetts. I may say I believe the gentleman is entirely mistaken when he says that the processor always passes the tax along, because there are many competitive lines in the textile industry, for instance, where it is impossible for the manufacturer to pass it on.

Mr. JONES. If the processor does not pass the tax on or pass it back, and he is still able to operate, then he must have been taking an abnormally wide margin before the tax went on.

Mr. MARTIN of Massachusetts. The gentleman understands, for instance, that the Japanese competition at the present time is so keen and the prices so low that a manufacturer cannot begin to get a proper price for his article; consequently he cannot raise it and in many instances he is selling his article at a loss.

Mr. BOILEAU. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. Is there a provision providing for a compensating tax?

Mr. JONES. Yes; there is a provision relating to that matter.

Mr. MARTIN of Massachusetts. That would not make it possible for the American manufacturer to pass it on.

Mr. JONES. I may say to the gentleman that there is a provision in this bill not only for compensating taxes but also a provision that would permit quotas to be fixed upon any competing commodity, if it interferes materially with the operations of the farm program or if it tends to materially reduce the amount of the article processed in this country. I think a proper application of that provision would go far toward handling the situation. The gentleman from Massachusetts, of course, was complaining of that sort of competition long before we had a farm program.

Mr. MARTIN of Massachusetts. Absolutely. I admit that very frankly, but as far as the quota is concerned, I would like to ask the gentleman to try to get a quota on any American goods, whether it be farm goods or manufactured goods. He will not find much sympathy for that kind of proposition.

Mr. JONES. It has been done in connection with the sugar program and is working beautifully.

Mr. CONNERY. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Massachusetts.

Mr. CONNERY. The power referred to was also put in the N. R. A. Act, but the imports were never stopped from coming in to interfere with the textile and other industries. They were allowed to come flying in just the same.

Mr. JONES. Of course, I have not charge of that particular matter. The question of the tariff and imports is much older than the farm bill. In fact, the operation of the tariff made a farm program necessary as a matter of fairness and justice.

Mr. GIFFORD. Will the gentleman yield?

Mr. JONES. I yield to the gentleman from Massachusetts.

Mr. GIFFORD. The gentleman is aware of the fact that already the textile interests, and I refer to them especially, are in a terrible state. Business is not only at a standstill, but in a very bad condition, largely on account of this non-understanding. The wholesalers are demanding of the processors a full and complete statement of all taxes that were handed on to them. May I ask the gentleman whether he understands that a processor or wholesaler can prove to the Commissioner that he handed on the whole or any part of a processing tax in order to meet competition? Does he realize what an awful job that would be to prove to the Commissioner?

Mr. JONES. I suspect in most cases he did pass it on, in which cases he should not be allowed to recover. As a matter of fact, the prices of most of these commodities on which the processing taxes are levied, including the processing fee, are below the parity price that existed prior to the war period.

Mr. GIFFORD. I am trying to say to the gentleman that both the wholesaler and the processor of the same article may demand the right to recover, and there is going to be difficulty there.

Mr. JONES. Of course, I take it that if an effort is made to recover double they may have hearings covering both before they give an award to either. They both could be made parties to the suit, if a suit is filed. I want to tell the gentleman that I hope they will not allow the processors and the wholesalers to make this a racket in order to recover processing fees more than once, or to recover fees that have been passed on to the public. As a matter of fact, the processing fee added on to the price of the farm product is no more than the tariff law which is carried on these commodities that we have talked about being imported.

Mr. GIFFORD. The gentleman fully understands that the Commissioner may have grave opposition and say that they handed on this or that amount, when in order to meet competition they may not have handed it all on. They may endeavor to show they did not hand on the actual cost of manufacturing, but the Commissioner is the one who will hear the facts and determine the right or wrong of it as he pleases, and then when they go into court the action of the court must be based on the facts presented by the Commissioner.

Mr. JONES. Why should they want to pass on the facts twice? There are 49,000 processors in America, and if they swamp the country with suits there would be interminable delay. Both the Government and the processors probably would be better off if they used a method similar to the one used in the refunding of income taxes through having a hearing, and that is what is provided here.

Mr. GIFFORD. The gentleman is aware of the awful mess that will be created by this situation during the years before they recover under any such treatment, and I would like to ask the gentleman a question about the amendment on which I spoke and about which I offered an amendment on the floor of the House relating to allowing these suits. Why did the House reverse its position so entirely in the matter of allowing these suits? What persuasive argument was presented?

Mr. JONES. I may say to the gentleman that the mess to which he has referred is not of our own making. It has been made by the favoritism in legislation that has existed for a half century, and this is an effort to complete the cycle

and put everybody on the same deal level of equality. If there had been no tariffs, if there had been no trade barriers, if there had been no commercial regulations and no corporations and no group legislation, the farmer would have needed no such legislation to put him on an equality.

Mr. GIFFORD. The gentleman is now referring to the tariff. We have \$300,000,000 from the tariff and the gentleman wants to spend \$700,000,000 in processing taxes—

Mr. JONES. That is what the Government collects, but the amount the people pay in the form of increased prices on tariff-laden articles is much more than that. If your people will pay the parity price for the commodity which you use, which would be a fair price, there will not be any processing fee.

Mr. GIFFORD. The tariff has been used here many times in these arguments, but there is no comparison between the tariff and the processing tax.

Mr. JONES. I may say that, in fairness, we put a ceiling on the amount of these taxes. We put a ceiling beyond which the processing tax will not stay on the article, and I believe the same thing ought to be done with the tariff. When the prices of commodities reach a certain level, I think the tariff ought to go off. I think the gentleman ought to join us and let us sit around the table instead of fighting. I think we ought to figure out a program that is fair to everybody. We should have a tariff for all or a tariff for none. Then if we are going to have a ceiling on the processing fee and have it come off when the price of the commodity reaches a certain point, the tariff ought to come off on an article when it reaches a certain point. This would be fair to the consumer in both instances.

Mr. GIFFORD. As much as we would like to go along with the gentleman, when we read this bill—

Mr. JONES. Does not the gentleman think that would be a fair proposition?

Mr. GIFFORD. Oh, the tariff is a matter of keeping foreigners from dumping their products into this country. There is no comparison of the tariff with this processing tax, and why does the gentleman bring that up as a comparison?

Mr. JONES. That is the gentleman's point of view. I think there is a comparison between them. The cotton grower must pay the tariff on the supplies he buys.

Mr. GIFFORD. I would like to ask the gentleman this question: With 30 cents a bushel on rye and with millions of bushels being imported each day, how can we follow the gentleman on that proposition?

Mr. JONES. If the two were added together, they would not put the price of that commodity above parity, and I think that is fair.

Mr. SNELL. Mr. Speaker, will the gentleman yield for a question?

Mr. JONES. I yield.

Mr. SNELL. I am very much interested in the amendment on page 16—amendment 24—applicable to milk and milk products. I do not understand exactly what this means, "No marketing agreement or order applicable to milk and its products", and so forth.

Mr. JONES. That simply applies to fluid milk. You cannot make any limitation at all on the amount of butter or cheese or milk products that are shipped from any one area to another, and the limitation that may be applied on milk is only such limitation as puts each area on an equality with the other areas after a certain period of about 2½ months.

Mr. SNELL. Then do I understand from the gentleman's statement that if we had a marketing agreement relative to fluid milk in the vicinity of New York, within a certain number of miles around there, that would not be allowed under the provisions of this bill?

Mr. JONES. Yes; you could have that marketing agreement on milk, and anyone wanting to bring in milk from the outside for a period of 2 months would be compelled to take the manufacturer's price while shipping in there, and after that he would then have to submit to the same restriction as to quotas and character and classification as the others within the area.

Mr. SNELL. How does that change the situation from the present law?

Mr. JONES. The provisions of this particular bill would enable that area to be protected from being swamped with fluid milk from the outside, bought at any old price. For instance, if you do not have the protection of this bill they would run into the same trouble they ran into in the New York milk cases, where they went into New Hampshire and bought milk at a lower price and came in and broke down your milk agreements. Under the provisions of this bill if a price were fixed in this particular area in New York, then if anyone bought milk from an outside area and brought it in he would be compelled to pay the producer the same price that was being paid the producers within the area and comply with all regulations and requirements of that area. For the first 2 months he would be required to take the manufacturer's price.

Mr. HOPE. Mr. Speaker, will the gentleman yield?

Mr. JONES. Yes.

Mr. HOPE. Is not this the change this amendment makes? Under the original Agricultural Adjustment Act power was given the Secretary of Agriculture to prescribe any rules or regulations which he might care to respecting the introduction of milk into any particular area; that is, bringing in milk from the outside.

Mr. JONES. But the original amendments did not permit any orders governing the price to the producers?

Mr. HOPE. No; but otherwise the Secretary could make orders which would regulate the bringing in of milk from the outside into any particular milkshed, but under the amendments we are now considering the Secretary's power is limited. He cannot prohibit milk from coming in?

Mr. JONES. That is correct.

Mr. HOPE. But he can prescribe some limitations?

Mr. JONES. Yes; and he cannot prohibit the products of milk being brought into any area.

Mr. HOPE. No; but he can prescribe limitations on the importation of fluid milk.

Mr. SNELL. Then, as far as fluid milk is concerned, it is protected in certain markets, but, as far as the other products are concerned, they are not protected.

Mr. JONES. That is correct.

Mr. Speaker, I yield 10 minutes to the gentleman from Georgia [Mr. TARVER].

Mr. TARVER. Mr. Speaker, I shall undertake to discuss this proposed legislation from the standpoint of a Member of this House who has voted for every item included in the administration's farm program. I regret very much that the consideration of this conference report comes up at an hour of the day when only perhaps one-third of the membership of the House is in attendance, and when those who are here have become so tired in the proceedings of the day, and have had their patience worn to such an extent, that they are hardly in the proper frame of mind to give to this measure the consideration it deserves.

Mr. Speaker, I am unable to agree with the statement of the chairman of the committee to the effect that most of these 163 amendments are of a minor character. I feel that in the discussion which he has given to the Membership of the House he has been unable in the limited time at his disposal to refer to more than two or three of the scores of concrete propositions which are included in this conference report. All that one has to do to determine the nature and extent of the new laws and changes in existing laws contemplated by this report is to make casual examination of them. You will find that it proposes new law and changes in existing law of such a wide-spread nature as to materially and vitally affect almost every phase of agriculture throughout the entire United States. I feel that with the changes contemplated in these 122 pages of proposed legislation, added to the legislation on the farm subject which has already been enacted by Congress, a man in this country is hardly safe in engaging in the business of general farming without retaining the services of a firm of skilled attorneys to advise him what he can or cannot do. I do not believe there is a Member of this House who is today familiar with

the contents of this entire bill and able to explain them. With all due respect to the chairman of the committee, and conceding the great ability he has and the profound interest he has shown and the sympathy he has with the problems of the farmer, I do not believe the chairman of the committee, if he had hours of time, could come before this House today and explain in detail the meaning of every provision of this complicated measure.

Let me call your attention to one fact, and especially the attention of Members from the South. The gentleman from Texas [Mr. JONES], chairman of the committee, has presented a statement as to what he says is involved in this conference report, and has made no reference whatever to the fact that in amendment 134 and the following amendments it is proposed to reenact for a term of 2 years the provisions of the Bankhead Cotton Control Act. In the name of fairness, is that a minor amendment? Is that an amendment of such unimportance that the Chairman of the great Committee on Agriculture in presenting to the House the contents of this conference report is justified in ignoring it in its entirety and making no reference to it? Some time ago, in the early spring, this House passed by a great majority, and the almost unanimous vote of Members from the cotton-producing States, at least nine-tenths of whom voted for it, a bill known as the "Doxey bill", proposing to liberalize to some extent the provisions of the Bankhead Control Act so as to lessen the hardships which we all agreed had been visited upon the small tenant farmers and the share-croppers throughout the South. Nobody undertook to say upon the passage of that bill, as far as I now recall, that such amendatory legislation was not necessary. We undertook to provide in that bill for a small exemption—not to every farm, as provided by the exemptions promulgated by the Secretary of Agriculture, but to every cotton-producing farmer, upon whose cotton to the extent of the exemption no tax should be levied. We undertook to provide in that bill for arbitration of differences which might arise between individual farmers who were dissatisfied with their allotment, and the county committees, one arbitrator to be appointed by the county committee and one by the farmer, and those two to select a third, and their judgment to be final, thereby substituting an effective provision for arbitration as against an ineffective provision provided by the regulations of the Secretary of Agriculture for appeal.

None of those appeals instituted under the provisions of those regulations, as far as I have ever been advised, has been of any benefit to the farmer. The Doxey bill, representing the judgment of the House, was buried in the Senate on account of the hostile attitude of the Chairman of the Senate Committee on Agriculture and Senator Bankhead.

Now, what do the House conferees, who were instrumental in the passage of the Doxey bill, do when they meet in the Senate the demand of the author of the Bankhead Compulsory Cotton-Control Act for a continuance of that act for a period of 2 years? Do they insist that before we shall grant a continuance of this law, which has been found in many respects to work a hardship, that we shall incorporate in it for these next 2 years the liberalizations which the House of Representatives, by almost unanimous vote, found were necessary in order to insure justice to the small farmer? Not at all. The Bankhead Cotton-Control Act, with all of its injustices, with all of its hardships upon the small farmer, the tenant farmer, and the share-cropper, is injected into this bill through a Senate amendment which has been agreed to by the conferees.

Mr. MARTIN of Massachusetts. Will the gentleman yield?

Mr. TARVER. I yield, gladly.

Mr. MARTIN of Massachusetts. Is it not a fact that the stringencies of this particular Bankhead cotton bill have been instrumental in forcing many thousands of small farmers onto the relief rolls of the country?

Mr. TARVER. I think the stringencies of the Bankhead Cotton Control Act have resulted in very grave injustices to the tenant farmers and to the share-croppers of the South. I would not go so far as to say that many of that class of

our population have been forced, through this means, onto the relief rolls, but I will undertake to say that thousands of them have suffered hardships which were not justly their due.

Mr. CONNERY. Will the gentleman yield?

Mr. TARVER. I yield.

Mr. CONNERY. I want to say to the distinguished gentleman from Georgia that up in New England thousands have been put onto the relief rolls from the textile mills, and they cannot eat as farmers can. They are on the relief rolls on account of this processing tax.

Mr. TARVER. As far as the processing tax is concerned, I consider it a fair antidote for the tariff. I voted for it, and I am glad I did so. I believe that that portion of the legislation which has been enacted by the Congress has been of more benefit to the farming population of this country than any other legislation which has been enacted. [Applause.] I do not believe we ought to force upon the cotton farmers of this country the Bankhead Control Act without amendment. When they voted for it in December of last year, they had been assured by men who they thought were authorized to speak for the administration that the act would be amended and that a reasonable minimum exemption from taxation would be provided. The exemption provided for in the conference report which is before you is an exemption which had been previously provided by the regulations of the Secretary of Agriculture. That exemption is an exemption not to the farmer but to the farm. There might be 3, 4, 5, 6, or 7 tenants on a farm; yet the exemption provided for in this conference report, approving the regulations of the Secretary of Agriculture, would be divided between all of those living on the farm and would not be an exemption to each individual farmer.

The SPEAKER. The time of the gentleman from Georgia [Mr. TARVER] has expired.

Mr. TARVER. May I have three additional minutes?

Mr. JONES. We are trying to get through with this.

Mr. TARVER. I know you are, but there are millions of people affected by this bill. May I not have the courtesy of 3 additional minutes?

Mr. JONES. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. TARVER. Now, they may say and probably will say that the Bankhead Cotton Control Act, which is to be extended by the provisions of this bill as amended in conference, shall not become effective in the next 2 years unless voted for by the cotton farmers themselves; but what I am asking you to do is to give the cotton farmers some choice as to what they shall vote for. These conferees could have provided in the amendments which they have brought before you, for submission to the cotton farmer of the question whether they preferred the Bankhead bill in its present form or the Bankhead bill with the amendments offered by the Doxey bill. If that question were presented to the farmers, I venture the assertion that the amendments presented by the Doxey bill would be voted upon favorably by 90 percent of the cotton farmers. Why restrict the cotton farmer to the consideration of ideas offered by the Senator from Alabama, who undertakes to be the mouthpiece for the cotton-producing sections of this country?

There are other people in this country who have an interest in the producers of cotton and the areas which produce it besides the Senator from Alabama, yet it appears in this conference report that the viewpoint of a large majority of the Members of the House and an overwhelming majority of the Representatives from the cotton-producing section of the country has been disregarded and the ideas of the author of this compulsory legislation adopted instead.

I cannot discuss in detail the conference report. It relates to a bill whose character has entirely changed since it passed the House. One hundred and sixty-three amendments have been added by the Senate. Some of these amendments are several pages in length and the bill, with its provisions relating to every conceivable form of agriculture, now comprises 122 pages. I have endeavored to go

along with all legislation in good faith intended for the benefit of our farmers. I have felt, and now feel, that the welfare of no other class of our citizenry is as essential to national prosperity and well-being. But I am not prepared to agree that everything undertaken in the farmer's behalf is for his benefit, nor to accept the judgment of the theorists, some of whom are not members of Congress, but connected with the Department of Agriculture, as to the propriety of trying out further agricultural experiments, or, for that matter, continuing unchanged some experiments already undertaken.

There are many features of the bill which are of very doubtful constitutionality. Its authors do not seem to have heard of the Schechter case, and apparently have only dimly remembered the Constitution of the United States in a general way.

Despite the judgment of many good lawyers to the contrary, I am hopeful that the constitutionality of the processing taxes may be upheld by the Supreme Court of the United States. In my judgment, the processing tax and the payments of benefits to the farmers from its proceeds have constituted the main benefit received by agriculture under the current program. I am not willing to abandon this feature of the program. The continuance of the Bankhead Act, and other compulsory crop programs, constitute a question which may be decided separate and apart from the question of continuing to the farmer benefits collected from the consumer upon the same principle that aid has been accorded throughout the years to our manufacturing interests through the medium of the tariff. A compulsory program has not been adopted for wheat, hogs, corn, and many other commodities, producers of which appear to have benefited from the pending program to a far greater extent even than the cotton farmer.

The Bankhead Cotton Control Act was adopted after the A. A. A., which is not dependent in its benefits to cotton farmers on the Bankhead Act, and represents largely the ideas of its author. Its enforcement last year was not in accord with what most of those who voted for it felt would be the procedure.

In this conference report it is stated that amendment no. 134 and subsequent amendments "embody the major features of the so-called 'Doxey bill.'" I challenge anyone to point out any "major features" of the Doxey bill included in these amendments except the proposition of paying ginners for extra service and expense. Aside from this, the Doxey bill has been abandoned in its entirety. Even the complicated and expensive method of appeal from decisions of county committees provided by regulations has been apparently nullified, for this conference report provides in amendment no. 138, as modified by the conference report, as follows:

(d) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935-36 that may be marketed exempt from payment of the tax levied by such act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by act of Congress.

It is therefore decreed by this amendment that upon every allocation of tax-exempt cotton, however unjust, however discriminatory, this Congress places the stamp of approval, and in effect makes such an allocation the law of the land. It is doubtful, if we pass this, whether the complicated appeal regulations of the Secretary of Agriculture could be made to function at all. How could the appellate authorities of the Cotton Division change an allocation upon which Congress had set the seal of law?

When the Doxey bill was in the House the section which continued the Bankhead Act for another year was abandoned by unanimous consent. Nobody insisted on it. The chairman of the committee expressly abandoned it, and such abandonment unquestionably represented the judgment of the House. Yet here, in this conference report, the House

conferees bring back not only that section but a continuance of the Bankhead Act for 2 years. And yet they say it is one of the major features of the Doxey bill. It was no part of the Doxey bill as passed by this House. I know that the Bankhead Act cannot be continued except by vote of the farmers themselves. But I believe that the farmers themselves would like to vote upon a better Bankhead Act if they vote at all; upon an act amending the existing law to eliminate some of its hardships.

I am willing for the farmer to have whatever law regulating his business that he wants. But I am opposed to cramming the ideas of some agriculturist, who never plowed a furrow, down his throat and saying in effect, "Take this or nothing." Further, I do not believe that the farmers ought to be required to vote on the Bankhead Act again until the Supreme Court has rendered its pending decision as to its constitutionality. I do not want to vote on it again myself until we have the light of that decision. It is to be expected during the coming fall. Why not wait until that decision is rendered and then legislate next January in the light of that decision, whatever it may be? The farmers of the country do not want to vote to impose a tax even on a minority in violation of the Constitution. Neither do I; and before I vote to extend the Bankhead Act I want to know what the Supreme Court says as to whether or not that act is in violation of the Constitution of the United States. If it is not, then within a few days after Congress meets in January all necessary steps to allow the farmers to vote on it again can be taken.

There has been also added to this bill in the Senate a "potato-control bill." It is true we are to vote on it separately. But if this House adopts this conference report, it will undoubtedly adopt the potato amendment also. Under that amendment the following language, in addition to other parts of the long and complicated scheme for potato control, is written into the law:

SEC. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced or sold may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

Under that provision, the most humble citizen who plants a few rows of potatoes in his garden might be required "to make such returns, render such statements, give such information, and keep such records" as the Commissioner directed, or else be guilty of a crime. Potatoes are more generally produced than any other major agricultural product produced, not only on farms but in the town or village gardens, and by scores of millions of people. All of these would have to have "an allotment" or pay tax if they should by chance want to sell a peck or two to a neighbor. Under the terms of the bill, a workingman living in a town and producing a bushel or so more than his needs would not only have to have an allotment or pay tax, but he must sell it in a certain kind of package, and with certain stamps attached. What are we coming to when we attempt to put people in jail for raising or selling potatoes unless they do it in a certain kind of way satisfactory to the Secretary of Agriculture? The provisions of this long and complicated potato amendment defy analysis, but I know enough about it to know that it constitutes a sort of regulation of the honest and industrious citizen repugnant to the ideals of a democracy, and so far as I am concerned, I am not going to vote for it, or for any bill which has such provisions in it.

I believe that a continuance of the benefits derived by the farmer from processing taxes is necessary and fair to that great class of our people. Despite criticism of the processing taxes, which has been wide-spread, I am willing to continue that feature of the agricultural program. It has meant a great deal to our farmers and is largely responsible for the existing improvement in their condition. But I am not willing, for the reasons I have given and for others which time does not permit me to offer, to place the stamp of legislative approval upon every scheme of agricultural theorists

hatched outside the Halls of Congress and brought here in order that we may act the part of "yes" men and give it the effect of law. In that connection, permit me to point out that the Secretary of Agriculture does not always wait until Congress gives him authority before changing or modifying laws. The existing Bankhead Act contains the following provision:

SEC. 4. (f) The tax shall not be collected upon the ginning of cotton which is to be stored by the producer thereof either on the farm or such other place as may be permitted by regulations prescribed by the Secretary of Agriculture and the Secretary of the Treasury.

Yet county agents throughout the South are now notifying farmers that such ginning and storing without paying the tax will not be permitted this year. The Secretary of Agriculture has repealed the law apparently. I have searched this conference report to find if there is anything in it which repeals the existing law, but have not discovered it. I thought the Secretary of Agriculture might merely have been anticipating obedience to his desires as to amendatory legislation by Congress, but apparently he has decided that not even that formality is necessary.

I believe that on the whole the agricultural program of this administration has been helpful. I believe that no administration in history has made greater efforts in behalf of the American farmer. I have helped enact the laws which constitute that program. I believe, however, that in some of them, notably the Bankhead Act, errors have become apparent, and I feel that it is the duty of Congress to endeavor to correct those errors, rather than to foist an additional complicated series of laws on the people. I am in most hearty accord with the purposes of the administration as to agriculture, but that does not mean that I am willing to accept the ipse dixit of every employee of Secretary Wallace as to what should be written into the statute law of the land. This bill contains so much that is either of doubtful benefit to the farmer or, in my judgment, will be positively harmful to him, that I cannot vote for it and then attempt to justify my vote upon the ground that somebody else, however sincere, thought that it would be helpful. In voting against it, I believe that I am serving the interests of my people; and, however my action may be disapproved in some quarters, I believe that that is the essence of my responsibility.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks and in connection therewith to insert some brief excerpts from the conference report and from the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. JONES. Mr. Speaker, I think if my good friend had read a little more carefully the amendments which the conferees put on this bill, and some of the explanations, he would have modified his statements to some degree. As a matter of fact, the conferees added to the Senate amendment the major feature of the Doxey bill. They added the 2-bale exemption in accordance with the President's statement.

Mr. TARVER. Mr. Speaker, will the gentleman yield?

Mr. JONES. I am sorry I cannot yield; we are trying to get through. They also added an additional 110 pounds of lint cotton for personal use. They also added that the Secretary of Agriculture should not be permitted to forbid the transfer of the certificates of allotment between farmers residing within the same State. They also added a 25 cents per bale allowance to the ginners. All of those provisions were embodied that were included in the Doxey bill as it passed the House, and Mr. Doxey deserves much credit for his good work in behalf of the farmers in these and other matters. We insisted that they be included in the amendments, and they were included in the amendments.

Mr. TARVER. The gentleman's statement is very unfair. I ask him to yield.

Mr. JONES. No. I will put the exact provisions of the bill in my statement. They speak for themselves. The gentleman has given his interpretation of them. The amendments are in the bill, and if the gentleman would read them—

Mr. TARVER. If the gentleman's statement will not stand interruption, I will not insist.

Mr. JONES. They are matters of record. If he will read amendment no. 134 and then read the explanation that is in the statement he will find they speak for themselves. They will bear their own construction rather than my opinion or the gentleman's opinion. I have my opinion; I have explained it to the House. The gentleman has his opinion, and he has explained it to the House. I simply ask anyone interested to read the bill.

Now, we do not extend the bill 2 years, nor do we extend it any time. We provide simply that if two-thirds of those producing cotton vote to extend it, it may be extended. In the last vote they voted about 8 to 1. We do not extend it 1 minute, we simply provide that those who are producing this great Southern commodity shall have the privilege of extending it if they want to.

Mr. TABER. Mr. Speaker, will the gentleman yield for a question?

Mr. JONES. I yield.

Mr. TABER. Of course, I do not know anything about the cotton vote, but I do know that when they had a wheat vote up in my country they only permitted about 300 out of 10,000 wheat farmers in the State to vote. If they conducted the other votes in the same way, the gentleman can tell us whether or not he thinks they were fair votes.

Mr. JONES. I do not know how it was handled in the gentleman's State. His State is not a great wheat-producing State.

Mr. TABER. I take issue with the gentleman on that.

Mr. JONES. I do know personally that in the great wheat-producing areas they were all given an opportunity to vote, and the vote was so overwhelming that there could not be any question about it whatever.

Mr. TABER. But New York State is a very large agricultural producing State.

Mr. JONES. I do not know the facts about New York State. If they were not permitted to vote, it was a very exceptional situation.

Mr. TABER. That is the regular situation, as I understand it. [Cries of "Vote! Vote!"]

Mr. MICHENER. Mr. Speaker, will the gentleman yield for a question?

Mr. JONES. I yield.

Mr. MICHENER. On that side of the House the Members are shouting "Vote! Vote!" We have a very important bill, the potato bill, hitched onto this bill. How late does the gentleman intend to go this evening; and is he going to allow this side any consideration?

Mr. JONES. I am going to yield 5 minutes to the gentleman from Massachusetts [Mr. GIFFORD], and after his 5 minutes are up, I shall move the previous question. Then if we adopt the conference report it is expected that we will proceed no further with this bill this evening. Then I propose to ask unanimous consent that the House meet at 11 o'clock tomorrow and consider these four amendments.

Mr. MICHENER. The point of my inquiry is this: We have before us one of the most important bills of the Congress.

Mr. JONES. I have just told the gentleman I expect to move the previous question and then if the conference report is adopted to let further consideration go over until tomorrow morning.

Mr. MICHENER. The gentleman intends to move the previous question and stop debate and consideration. That is the thing to which I object.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. JONES. I yield.

Mrs. ROGERS of Massachusetts. Is it not true that cotton farmers are very much worried about their cotton markets at home and abroad?

Mr. JONES. I think the cotton farmers are infinitely better off than they were before we had a farm program.

Mrs. ROGERS of Massachusetts. They are worried about their markets.

Mr. JONES. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. GIFFORD].

Mr. GIFFORD. Mr. Speaker, I want the gentleman from Texas fully to understand that the conference report on the whole pleases me very much as compared with the bill as it left the House; in nearly all these amendments we read, "the House recedes."

While I am pleased that the House Members in conference have changed their attitude on allowing suits for refunds I wish to remind the House of the very complicated situation we are to have in the procedure of recovery of these taxes. Who is the party to be reimbursed? The processor, wholesaler, or retailer, if all may claim that they collected only a fraction of the tax from the others or from the ultimate consumer?

Mr. Speaker, I read in today's paper that the sales of textiles have decreased recently 50 percent in the textile industry; that there are only about 75 percent of the spindles active, but piling up more floor stocks. Never has there been so much confusion in this industry. Future contracts must be carefully placed to guard against complications in the tax. How long to wait for a ruling by the Commissioner? Of what avail the court after an adverse report from him? You cannot enter a suit before 1 year and it may be several years before a recovery of the tax is actually consummated. At least the moral side of this question has been remedied and the citizen is now allowed to go into court, but the bill is so framed that there is going to be no end of trouble for those who attempt to recover the tax.

Another feature of this tax should be further commented upon. This is called the "farmer's tariff." Is it? Is this really comparable to a tariff? I quote briefly from a recent publication:

Anyone who will take the trouble to study the comparison himself for a moment will not have much trouble in seeing the unsoundness of it. The protective tariff is not designed to curtail the supply of a product, but only to cut down that part of the supply which comes to us from foreign lands where it has been made by poorly paid workers, and to protect American jobs and the American standard of living for our own people by increasing the American supply. The protective tariff encourages home industry.

The same is true of every other industry which is created in America by barring out a flood of cheaply made foreign goods. On the other hand, the processing tax is raised directly to cut down American production. And its effect on foreign production is exactly the opposite of that of the protective tariff. By reducing crops at home it encourages production in foreign countries.

We are building up a processing tax on food products so high that the tariff against the importation of them is not effective. Is it a benefit to our people that millions of pounds of pork and butter and millions of bushels of rye are now imported to feed our people as the direct result of this tax scheme?

Mr. CONNERY. Will the gentleman yield?

Mr. GIFFORD. I yield to the gentleman from Massachusetts.

Mr. CONNERY. A president of a steamship company informed me the other day that their company had taken six American mills to South America. Now, when they start these textile mills down there what is going to happen to the American market?

Mr. GIFFORD. I understand that the machinery of one of the best mills in my district was recently loaded on a vessel and taken down to the Argentine.

Mr. Speaker, I appreciate the great ability of the Chairman of the Agricultural Committee of the House. He has been willing to meet the Senate changes in the bill with fairness. I greatly honor him in that he was willing to acknowledge error and agree to allow those having paid taxes illegally collected to at least have the right to sue for recovery even under such difficult procedure as outlined in this report. He knows full well there will be almost insurmountable difficulties between processors and wholesalers and others especially if this bill is eventually invalidated by the Supreme Court. If it has been handed along either wholly or partially, then who is really entitled to recover the taxes and how much? As I said before, it is an awful

mess, and the industry is suffering severely from the confusion for which this tax is responsible.

[Here the gavel fell.]

Mr. JONES. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the adoption of the conference report.

The question was taken; and on a division (demanded by Mr. MARTIN of Massachusetts) there were—ayes 174, noes 40. So the conference report was agreed to.

A motion to reconsider was laid on the table.

HOURLY MEETING

Mr. JONES. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow, and that immediately after the reading of the Journal it shall be in order to consider the four amendments in disagreement.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MAVERICK. Mr. Speaker, reserving the right to object, tomorrow is Calendar Wednesday. A bill I have been interested in for some 6 weeks has been passed over from week to week. Now, is Calendar Wednesday going to be passed forever?

Mr. JONES. The reason I submitted a unanimous-consent request to meet at 11 is because there will be considerable division of opinion over one of the amendments, the so-called "potato bill", which will take an hour. The other amendments I hope will take very little time. There might be a little disagreement on one of them, but I do not think we will take very much time on any of the other amendments. We have adjustments in connection with those amendments that I think will satisfy everyone.

Mr. MAVERICK. Would the gentleman be willing to amend his request and meet at 10 o'clock?

Mr. JONES. I do not think the Members would be willing to agree to that. I think we will get through in a reasonable time.

Mr. MAVERICK. Will the gentleman finish by 1 o'clock?

Mr. JONES. I think so.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXTENSION OF REMARKS

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent that the members of the minority may have 5 legislative days within which to revise and extend their remarks on the World Power Conference bill.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. GASSAWAY (at the request of Mr. JOHNSON of Oklahoma), for today, on account of illness.

To Mr. THOMPSON, for 1 week, on account of important business.

To Mr. HANCOCK of North Carolina, for 2 days, on account of death in family.

SESQUICENTENNIAL CONSTITUTION COMMISSION

Mr. O'CONNOR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate Joint Resolution 59, providing for the celebration on September 17, 1937, of the one hundred and fiftieth anniversary of the adoption of the Constitution of the United States of America by the Constitutional Convention; establishing a commission to be known as "Sesquicentennial Constitution Commission", with a House amendment, insist on the House amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the Senate joint resolution.

Mr. MAPES. Mr. Speaker, reserving the right to object, what is the amendment?

The SPEAKER. The amendment is a House amendment, and the gentleman from New York asks unanimous consent

William Little, Infantry.
 William Massello, Jr., Coast Artillery Corps.
 Arthur Walter Blair, Field Artillery.
 Daniel Stone Campbell, Air Corps.
 Richard Johnson Hunt, Infantry.
 Stephen Michael Mellnik, Coast Artillery Corps.
 Louis Watson Truman, Infantry.
 Dale Eugene Means, Field Artillery.
 Hugh Willard Riley, Field Artillery.
 William Sammis Coit, Coast Artillery Corps.
 Curtis Alan Schrader, Field Artillery.
 William Fletcher Spurgin, Coast Artillery Corps.
 Kenneth Burton Hobson, Air Corps.
 John Reynolds Sutherland, Air Corps.
 Donald Linwood Hardy, Air Corps.
 Richard Tide Coiner, Jr., Cavalry.
 Floyd Allan Hansen, Field Artillery.
 James Edward Godwin, Field Artillery.
 Harold Walmsley, Infantry.
 Gerald George Epley, Infantry.
 Bernard William McQuade, Infantry.
 Ashton Herbert Manhart, Infantry.
 Harald Simpson Sundt, Field Artillery.
 Horace Freeman Bigelow, Field Artillery.
 Charles Albert Clark, Jr., Air Corps.
 Francis Arkadysz Liwski, Coast Artillery Corps.
 James Bates Rankin, Field Artillery.
 David Emory Jones, Field Artillery.
 Harvey Porter Huglin, Air Corps.
 Robert Folkes Moore, Coast Artillery Corps.
 Bernard Thielen, Field Artillery.
 George Dowery Campbell, Jr., Air Corps.
 Karl Laurance Scherer, Cavalry.
 Charles Hardin Anderson, Air Corps.
 Dwight Drenth Edison, Coast Artillery Corps.
 Jefferson Davis Childs, Infantry.
 John Aloysius Gavin, Infantry.
 Todd Humbert Slade, Field Artillery.
 John Ramsey Pugh, Cavalry.
 Joseph Edward Stearns, Infantry.
 Charles Ratcliffe Murray, Field Artillery.
 Wallace Hawn Brucker, Coast Artillery Corps.
 Francis Garrison Hall, Field Artillery.
 Charles Louis Williams, Jr., Field Artillery.
 William Barnes Moore, Infantry.
 William Russell Huber, Field Artillery.
 Bogardus Snowden Cairns, Cavalry.
 Delbert Abraham Pryor, Infantry.
 Charles Edward Wheatley, Junior, Cavalry.
 Meyer Abraham Braude, Infantry.
 Chester Hammond, Infantry.
 John George Ondrick, Infantry.
 Byram Arnold Bunch, Air Corps.
 Isaac Sewell Morris, Infantry.
 Gerard Charles Cowan, Cavalry.
 Hunter Harris, Jr., Air Corps.
 Gordon Whitney Seaward, Field Artillery.
 Henry Graham McFeely, Coast Artillery Corps.
 Walter Marquis Tisdale, Field Artillery.
 Charles Albert Piddock, Field Artillery.
 Nelson Landon Head, Field Artillery.
 Walker Raitt Goodrich, Field Artillery.
 William Harvie Freeland, Infantry.
 Thomas Henry Harvey, Coast Artillery Corps.
 William Halford Maguire, Infantry.
 David Hamilton Kennedy, Air Corps.
 Merle Robbins Williams, Infantry.
 William Whitfield Culp, Cavalry.
 Kenneth Edward Tiffany, Infantry.
 Nicholas Earnest Powel, Air Corps.
 Norman Herbert Lankenau, Infantry.
 William Bing Kunzig, Infantry.
 Andrew Meulenberg, Air Corps.
 Charles Marvin Isley, Cavalry.
 Edwin Guldin Simenson, Air Corps.

Sam Houston Wiseman, Air Corps.
 William Gordon Beard, Air Corps.
 Harvey Herman Fischer, Infantry.
 Robert Haynes Terrill, Air Corps.
 Avery Madison Cochran, Infantry.
 Samuel Arthur Daniel, Infantry.
 Franklin Vines Johnston, Jr., Infantry.
 Albert Edward Reif Howarth, Infantry.
 James Lee Massey, Infantry.
 Albert Edward Stoltz, Infantry.
 Thomas Connell Darcy, Air Corps.
 Edmond Michael Rowan, Infantry.
 Edward Green Winston, Infantry.
 Milton Skerrett Glatteer, Infantry.
 William Henry Mikkelsen, Infantry.
 Hugh Thomas Cary, Infantry.
 Sewell Marion Brumby, Infantry.
 Clifford Harcourt Rees, Air Corps.
 Arnold Leon Schroeder, Air Corps.
 Graves Collins Teller, Infantry.
 Richard Henry Smith, Infantry.
 Roscoe Constantine Huggins, Infantry.
 Francis Deisher, Infantry.
 Eugene Porter Mussett, Air Corps.
 Lon Harley Smith, Infantry.
 Edward Willis Suarez, Air Corps.
 Paul Delmont Bunker, Jr., Air Corps.
 Edward Joseph Burke, Infantry.
 Walden Bernald Coffey, Infantry.
 George Reynolds Grunert, Cavalry.
 James Ellison Glatly, Infantry.
 David Peter Schorr, Jr., Infantry.
 William George Davidson, Jr., Infantry.
 John Clinton Welborn, Infantry.
 Edwin Charles Momm, Infantry.
 Herbert Bishop Thatcher, Infantry.
 Charles Salvatore D'Orsa, Infantry.
 Frederick Milton Hinshaw, Infantry.
 Robert Broussard Landry, Air Corps.
 William Hyatt Bache, Infantry.
 William Anderson McNulty, Infantry.
 Joe Edwin Golden, Infantry.
 Eldon Frederick Ziegler, Infantry.
 Frank Greenleaf Jamison, Air Corps.
 James Winfield Coutts, Infantry.
 Dan Gilmer, Infantry.
 Wilfred Joseph Lavigne, Infantry.
 George Thigpen Duncan, Infantry.
 Harry Celistine Quartier, Infantry.
 Roy Edwin Moore, Infantry.
 Harley Niles Trice, Infantry.
 James Ernest Beery, Field Artillery.
 Arville Ward Gillette, Infantry.
 Harold Edward Shaw, Infantry.
 Charles Gates Herman, Quartermaster Corps.
 Charles Alexander Carrell, Infantry.
 Lawrence Bartlett Babcock, Infantry.
 William Roy Thomas, Field Artillery.
 Loris Ray Cochran, Infantry.
 Robert Lynn Carver, Air Corps.
 Henry Chesnutt Britt, Infantry.
 Thomas Randall McDonald, Infantry.
 Orville Wright Mullikin, Infantry.
 Romulus Wright Puryear, Air Corps.
 David Harrison Armstrong, Infantry.
 Earl Sipple Eckhart, Coast Artillery Corps.
 John William Keating, Infantry.
 John Garnett Coughlin, Infantry.
 Thomas Robertson Hannah, Infantry.
 William Madison Garland, Air Corps.
 William Elwood Means, Infantry.
 George Louis Descheneaux, Jr., Infantry.
 Thomas Charles Morgan, Air Corps.
 John William Bowen, Infantry.
 Frank Ward Ebey, Coast Artillery Corps.

James Walter Gurr, Air Corps.
James Madison Churchill, Jr., Infantry.
Robert Lee Scott, Jr., Air Corps.
Harold Randall Everman, Infantry.
Thomas Benjamin Spratt, Jr., Infantry.
Erskine Clark, Coast Artillery Corps.

VETERINARY CORPS

To be captains

Arvo Theodore Thompson, Veterinary Corps.
Harvie Russell Ellis, Veterinary Corps.
Ralph William Mohri, Veterinary Corps.
Austin Taylor Getz, Veterinary Corps.
Wesley Watson Bertz, Veterinary Corps.
Edgerton Lynn Watson, Veterinary Corps.
George Townley Price, Veterinary Corps.

To be first lieutenants

Richard George Yule, Veterinary Corps.
Wayne Otho Kester, Veterinary Corps.
Robert Arthur Boyce, Jr., Veterinary Corps.
Clarence Leonard Taylor, Veterinary Corps.
William Edwin Jennings, Veterinary Corps.
Curtis William Betzold, Veterinary Corps.
James Bernhard Nichols, Veterinary Corps.
Albert Arthur Roby, Jr., Veterinary Corps.
Andrew Jesse Sirilo, Veterinary Corps.
Daniel Stevens Stevenson, Veterinary Corps.
Ray Swartley Hunsberger, Veterinary Corps.
William Francis Collins, Veterinary Corps.

CHAPLAINS

To be colonel

Julian Emmet Yates, United States Army.

To be captains

Peter Christian Schroder, United States Army.
John Henry August Borleis, United States Army.
Hudson Bissell Phillips, United States Army.

PROMOTIONS IN THE PHILIPPINE SCOUTS

TO BE LIEUTENANT COLONELS

Frank Brezina, Philippine Scouts.
Seth Harold Frear, Philippine Scouts.
Abraham Garfinkel, Philippine Scouts.
John Frederick Daye, Philippine Scouts.
Esteban Boadilla Dalao, Philippine Scouts.
Thomas Kenneth Collins, Philippine Scouts.
Conrad Skladal, Philippine Scouts.

TO BE MAJORS

John Daniel Cook, Philippine Scouts.
Karol Bronislaw Kozlowski, Philippine Scouts.
Mateo Mananjaya Capinpin, Philippine Scouts.
Robert A. Barth, Philippine Scouts.
Frederick Adelmard Ward, Philippine Scouts.

TO BE CAPTAINS

James Wilson Smith, Philippine Scouts.
Pastor Martelino, Philippine Scouts.
Mariano Santos Sulit, Philippine Scouts.
Eleuterio Susi Yanga, Philippine Scouts.
Melecio Manuel Santos, Philippine Scouts.
Narciso Lopez Manzano, Philippine Scouts.
Juan Segundo Moran, Philippine Scouts.
Pacifico Castor Sevilla, Philippine Scouts.
Amado Martelino, Philippine Scouts.
Victor Zalamea Gomez, Philippine Scouts.
Nemesio Catalan, Philippine Scouts.
Pio Quevedo Caluya, Philippine Scouts.
Alejandro D. Garcia, Philippine Scouts.
Santiago Garcia Guevara, Philippine Scouts.
Jose Emilio Olivares, Philippine Scouts.
Ricardo Poblete, Philippine Scouts.

TO BE FIRST LIEUTENANTS

Maximiano Saqui Janairo, Philippine Scouts.
Rufo Caingat Romero, Philippine Scouts.

HOUSE OF REPRESENTATIVES

WEDNESDAY, AUGUST 14, 1935

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Heavenly Father, we thank Thee that we may pause to pray amid the pressure of our activities. Thou alone knowest our needs, and we ask for a touch of that spirit that exalts, enriches, and purifies. Grant that we may be clothed with an earnest and patriotic desire to do great things for a great people; help us to demonstrate the wisdom of popular government. Be with us, gracious Lord, lest we forget that nothing endures which is not in accordance with the laws which Thou hast ordained; therefore make us wise and just in our conceptions as revealed in the incomparable life and character of Thy only begotten Son, Jesus Christ, our Savior and Redeemer. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H. J. Res. 290. Joint resolution to amend an act entitled "An act providing for the ratification of Joint Resolution No. 59 of the Legislature of Puerto Rico, approved by the Governor May 5, 1930, imposing an import duty on coffee imported into Puerto Rico", approved June 18, 1934.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 8870. An act to further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and enforce the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House thereon, and appoints Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. KEYES, and Mr. LA FOLLETTE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed, with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 7659. An act to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes.

AGRICULTURAL-ADJUSTMENT ACT

The SPEAKER. The unfinished business is the amendments in disagreement on the bill H. R. 8492, to amend the Agricultural Adjustment Act, and the Chair recognizes the gentleman from Texas [Mr. JONES].

Mr. JONES. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. DOUGHTON].

FEDERAL CONTROL OF ALCOHOLIC LIQUORS

Mr. DOUGHTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8870) to further protect the revenue derived from distilled spirits, wine, and malt beverages, to regulate interstate and foreign commerce and before the postal laws with respect thereto, to enforce the twenty-first amendment, and for other purposes, disagree to the Senate amendments, and agree to the conference asked for.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER appointed as conferees on the part of the House Mr. DOUGHTON, Mr. SAMUEL B. HILL, Mr. COLLINS, Mr. TREADWAY, and Mr. BACHARACH.

AGRICULTURAL ADJUSTMENT ACT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment 128: Page 76 of the bill, strike out all of section 32 and insert the following:

"Sec. 38. In addition to all funds heretofore appropriated there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$40,000,000 to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds authorized to be appropriated by this section and the funds appropriated by the second paragraph of Public Resolution No. 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the act entitled 'An act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes', approved April 7, 1934. Such funds shall remain available to carry out the purposes of this section and such section 6 until December 31, 1937, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution No. 27 to carry out the purposes of section 2 of such act of April 7, 1934, shall remain available for the purposes of such section 2 until December 31, 1937."

Mr. JONES. Mr. Speaker, I move to recede and concur with an amendment, as follows:

The Clerk read as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 37. There is hereby authorized to be appropriated the sum of \$40,000,000, of which sum \$10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds appropriated by or in pursuance of the authorization contained in this section and the funds appropriated by the second paragraph of Public Resolution No. 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the act entitled 'An act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes', approved April 7, 1934. The sums appropriated or reappropriated by this section shall remain available until June 30, 1936, and such sums and the sums appropriated in pursuance of the authorization contained in this section shall be available to carry out the purposes of both this section and such section 6, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution No. 27 to carry out the purposes of section 2 of such act of April 7, 1934, shall remain available for the purposes of such section 2 until June 30, 1936."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment 152: Page 87, after line 18, insert section 52, as follows:

"Sec. 52. The first sentence of subsection (a) of section 10 of said act is amended to read as follows: 'The proceeds heretofore and hereafter derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for rental and benefit payments under the Agricultural Adjustment Act to contracting producers, for administrative expenses, refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 3 of this act, and other payments under this act.'"

Mr. JONES. Mr. Speaker, I move that the House recede from its disagreement and concur in the Senate amendment.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Amendment no. 155: Page 88, after line 17, insert:

"Sec. 55. In order to develop a national program of land conservation and land utilization, there is hereby appropriated, out of the money made available by the Emergency Relief Appropriation Act of 1935, to be used in the discretion and under the direction of the President, to be immediately available and to remain available until expended, the sum of \$50,000,000. This appropria-

tion shall be available for the acquisition of submarginal lands and its retirement from agricultural use other than for grazing purposes.

"In carrying out the provisions of this section the President is authorized:

"(a) To establish and prescribe the duties and functions of governmental agencies;

"(b) To utilize and prescribe the duties and functions of any governmental agency;

"(c) To delegate the powers conferred upon him under this section to any governmental agency;

"(d) To make contracts and grants; and

"(e) To acquire, by purchase, any real property or any interest therein in accordance with the policy herein set forth.

"Any proceeds or receipts derived by the President by virtue of the activities conducted pursuant to this section shall be available to the President as a revolving fund to be used in the furtherance of this section: *Provided*, That no lands shall be so acquired unless prior to the effective date of this act options had already been made for their purchase."

Mr. JONES. Mr. Speaker, I move to recede and concur with an amendment which I send to the desk and ask to have read.

The Clerk read as follows:

Mr. JONES moves that the House recede from its disagreement to the amendment of the Senate, no. 155, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 55. There is hereby made available, out of any money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and land utilization. The sums so allotted may be used, in the discretion and under the direction of the President, for the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

"In carrying out the provisions of this section the President is authorized:

"(a) To make contracts and grants; and

"(b) To acquire, by purchase, any real property or any interest therein (with or without reservations) in accordance with the policy herein set forth."

The SPEAKER. The question is on the motion to recede and concur.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. JONES. Yes.

Mr. TABER. It seems to me that going into this situation and appropriating a lot of money to be used to purchase submarginal lands, or rather to be wasted, as most of it has been so far, building structures and houses, transplanting people and all that sort of thing, is ridiculous, and I think the House ought not to agree to this amendment.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. JONES. Yes.

Mr. RICH. As I understand this, the Senate recommended that \$50,000,000 be appropriated for the purpose of purchasing submarginal lands and now the committee of the House asks that the \$50,000,000 be taken from the \$4,880,000,000 heretofore appropriated.

Mr. JONES. We take out the appropriation altogether, and simply make such sums available as the President may allot under the power of the emergency act, to be taken out of that appropriation.

Mr. RICH. Without any stipulation as to the amount?

Mr. JONES. Yes; that is correct.

Mr. RICH. Does the gentleman believe that under the present conditions, and with the thought in the mind of Mr. Wallace, Secretary of Agriculture, and Mr. Ickes, Secretary of the Interior, whereby they want to go buy up all the lands and even take them from farmers in this country who do not want to sell their property, that we ought to stipulate some amount so that we can prohibit them from going to the extent that they are liable to go and perhaps purchase a whole State, or even more than that?

Mr. JONES. We do not confer authority on any of the departments. It is to be used in the discretion and under the direction of the President, and may be used for public purposes. This amendment that we are offering is very much a limitation upon the Senate amendment, and confers no authority for taking property except by purchase.

Mr. RICH. The gentleman means it has already been contracted for?

Mr. JONES. No; I do not know that any has been contracted for. I understand some options have been taken.

That is not affected here in any way. This simply specifies the purpose for which any moneys that may be allotted under the emergency relief bill—the provision already being in that bill—by the President, may be used in the discretion of the President.

Mr. RICH. The only thought I have is that you ought to put a stopcock on buying submarginal lands, because we do not know how far they are going to go in buying lands. They are purchasing lands all over this country, and that is increasing the burden on the taxpayer. Then, in other departments of the Government, they are building dams to irrigate additional lands to put them into cultivation, costing the taxpayers hundreds of millions of dollars.

Mr. JONES. We do not confer the additional right to purchase lands. That is in the Emergency Relief Act. We do away with the appropriation and confine it to funds from the emergency relief measure which may be allocated under the President under previous authority for that purpose.

Mr. RICH. I think the gentleman is doing a good work by taking this money away from the departments, and I hope he will do a lot more. I think you must realize that a good many Members of Congress who voted for the bill think that power should never have been given to the President to spend \$4,880,000,000. It will do harm to the country at this time. It is going to do a great deal of damage to the Federal Treasury. What good will it do?

Mr. ANDRESEN. Mr. Speaker, will the gentleman yield?

Mr. JONES. Yes.

Mr. ANDRESEN. What is the limitation in the relief act upon the amount provided for funds of this character?

Mr. JONES. That is lumped in with a number of other powers. There is no definite limitation except that submarginal lands are listed with a number of other things in a lump appropriation.

Mr. CHRISTIANSON. Mr. Speaker, will the gentleman yield?

Mr. JONES. Yes.

Mr. CHRISTIANSON. As I understand it, the only effect of this amendment is to place a limitation on the President's existing power to buy submarginal lands.

Mr. JONES. It limits the Senate amendment, it confers certain authority, and it also puts a further limitation on the delegation of authority as stipulated by the Senate amendment.

Mr. CHRISTIANSON. The limitation placed on that power is that the lands must be acquired for public purposes?

Mr. JONES. Yes.

Mr. CHRISTIANSON. Is there any definition of "public purposes" as used in that connection?

Mr. JONES. No; there is no limit placed on that. It is a general provision.

Mr. CHRISTIANSON. Does the gentleman have any idea what the term "public purposes" might be interpreted as meaning?

Mr. JONES. Of course it might mean a number of things, including parks and game preserves, reforestation, and other public purposes. I would not undertake to enumerate them all at this time.

Mr. CHRISTIANSON. But the President is the sole judge as to whether any land which he may acquire is suitable for the purposes the gentleman has enumerated?

Mr. JONES. The entire matter is in the discretion of the President.

Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. HOPE].

Mr. HOPE. Mr. Speaker, I am somewhat surprised at the opposition which has been expressed to this amendment by Members on the Republican side, in view of the fact that the Republican Party platform in 1932 specifically endorsed a program for the acquisition of marginal lands.

Mr. TABER. Will the gentleman yield for a question?

Mr. HOPE. I yield.

Mr. TABER. I do not believe any Republican ever had in mind such wasteful program with reference to marginal lands as has been conducted by this administration.

Mr. HOPE. Evidently the gentleman is not familiar with what has been done, because, as a matter of fact, there has been comparatively little marginal land purchased as yet, although a considerable amount has been placed under option. I am somewhat familiar with the program and cannot agree with the gentleman that it has been wasteful, nor do I believe that if continued along present lines it will be wasteful.

The particular plank in the platform to which I have referred is as follows:

The national welfare plainly can be served by the acquisition of submarginal lands for watershed protection, grazing, forestry, public parks, and game preserves. We favor such acquisitions.

That is exactly what this land will be used for if purchased under this amendment. It is true that under the work-relief bill which was passed last spring, funds are allocated which can be used for the purchase of marginal lands, but since those funds come from the relief bill, the Comptroller General has ruled that such purchases must be carried out as a work-relief program. If carried out in that way, there will be little money for actual purchases, because a large part of it would have to be spent on the development of the land after it is purchased in order to furnish work. All that this amendment does is to make money available for the actual purchase of the land to be used for public purposes, which would include watershed protection, game preserves, reforestation, public parks, and so forth.

Mr. GIFFORD. Will the gentleman yield?

Mr. HOPE. I yield.

Mr. GIFFORD. I think we already have the machinery for game preserves. Some Members of both branches have had something to say under another act with reference to that. Does this carry full authority to the President or to Mr. Tugwell or to whomever he may designate, outside of that previous authority? Can he enter upon my district and take certain sections for a game preserve?

Mr. HOPE. All this does is to set aside the money and prescribe the purposes for which it can be used. There is no power of condemnation given. All purchases must be made by agreement with the parties.

Mr. GIFFORD. But the committee already set up by Congress would not be consulted?

Mr. HOPE. They might or they might not be. There is nothing in the amendment that would require them to be consulted.

Mr. Speaker, I think particularly those of us who are interested in a permanent agricultural program ought to be for this amendment, because it does in a permanent way what the Agricultural Adjustment Administration is doing in a temporary way. There is land under cultivation in this country that should never have been opened to settlement. It is that land, in particular, in the West which the Government is now purchasing under this program. There are marginal lands in other sections of the country which have been worn out through long and, in many cases, improper use. There is no use leaving those lands in cultivation for people to make a pitiable attempt to earn a living upon them when it cannot be done. Yet, poor as these lands are, they contribute to the surplus of agricultural products. The plan for purchasing these lands and retiring them from cultivation is a sound program from both a social and an agricultural standpoint.

Mr. SNELL. Will the gentleman yield for a question?

The SPEAKER. The time of the gentleman from Kansas has expired.

Mr. JONES. Mr. Speaker, I yield the gentleman from Kansas 2 additional minutes.

Mr. SNELL. Can the gentleman tell the House how much land has been purchased under this program at the present time?

Mr. HOPE. I am not able to give the gentleman that information. My understanding is there has been very little actually purchased. A considerable amount has been optioned, but up to the present time there has been only, approximately, \$28,000,000 available for this purpose.

Mr. SNELL. About what price per acre are they paying for this character of land?

Mr. HOPE. It is all low-priced land. The range varies from a dollar or two an acre up. Recently I was advised that appraisals in Kansas varied from a low of \$1.62 per acre to a high of \$18.93, the average being \$6.47 per acre. I assume that is representative of what is being paid in most parts of the West. I have no information as to what is being paid in other areas.

[Here the gavel fell.]

The SPEAKER. The question is on the motion of the gentleman from Texas [Mr. JONES] to recede and concur in the Senate amendment with an amendment.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Amendment no. 163: Page 93, after line 15—

Mr. GILCHRIST. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The Chair will count.

Mr. GILCHRIST. I withdraw the point of order at the request of the chairman of the committee for the moment, but I will press the point later.

Mr. JONES. Mr. Speaker, I ask unanimous consent that this amendment may be considered as read, as well as my motion to recede and concur with an amendment. I expect to move to recede and concur with an amendment. I do this in deference to the action of the committee. I am submitting this matter to the judgment of the House. I think everyone is familiar with the provisions, but they will come out in the discussion. We expect to take 1 hour for the discussion of this amendment.

The SPEAKER. The gentleman from Texas asks unanimous consent that the Senate amendment may be considered as read and be printed in the RECORD at this point, and that the motion to recede and concur with an amendment which the gentleman intends to offer may also be considered as read and be printed in the RECORD at this point.

Is there objection?

There was no objection.

The amendment and the motion are as follows:

POTATO CONTROL

SEC. 62. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "rice" a comma and the word "potatoes" and by adding at the end of said section 11 a new sentence as follows: "As used in this title, the term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*."

SEC. 63. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "tobacco", in both the second and third sentences of said subsection, the words "and potatoes."

TITLE II

DEFINITIONS

SECTION 201. When used in this title, unless the context otherwise requires—

(a) The term "person" includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means a collector of internal revenue.

(d) The term "sale" includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

(e) The term "allotment year" means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

(f) The term "change in the form of potatoes" means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(g) The term "tax stamp" means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

(h) The term "tax-exemption stamp" means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from the tax has been established.

(i) The term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.

(j) The term "producer" means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

(k) The term "continental United States" means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

(l) The term "operator" means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

(m) The term "farm" means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land.

IMPOSITION OF THE TAX

SEC. 202. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof.

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

(c) At least 30 days prior to the beginning of each allotment year after the first allotment year, the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer shall be entitled to one vote for each 60 pounds of potatoes apportioned to him pursuant to sections 205, 206, and 207 of this title for the last allotment year for which such apportionments were made. If one-third of the votes cast in such referendum are cast in opposition to continuing such taxes in effect, the provisions of this title shall not be operative with respect to potatoes produced during such succeeding allotment year.

(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal revenue collections.

(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The Commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal revenue collections.

ALLOTMENTS

SEC. 203. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least 30 days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919-July 1929 without reducing the total net income of potato producers from

potatoes below the largest probable net income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall, for each allotment year, be apportioned by the Secretary of Agriculture as hereinafter provided.

Sec. 204. When a quantity is determined in accordance with section 203 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the 4 years in which the highest potato acreage was harvested in such State in the years 1927-34, inclusive, multiplied by the average yield per acre for the 4 years that the yield of potatoes per acre for such State was highest in the years 1927-34, inclusive, multiplied by the average annual percentage of the crop produced in such State during the years 1929-34, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing prices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 percent of the quantity of potatoes determined in accordance with section 203 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

Sec. 205. Ninety-five percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any 1 or more years within the period 1932-34, inclusive. Such apportionment to any farm shall be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any 2 or more years during the years 1932-34, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

Sec. 206. Not in excess of 5 percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 205 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 205 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 205 of this title.

Sec. 207. If an apportionment is made to a farm under section 206 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 206 of this title but shall be made from the quantity available for apportionment under section 205 of this title.

Sec. 208. For the purposes of the apportionments to be made pursuant to sections 204, 205, 206, and 207 of this title, the District of Columbia shall be considered as a part of the State of Maryland.

Sec. 209. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 205, 206, and 207 of this title: *Provided*, That, under such regulations as the Secretary of Agriculture shall prescribe, he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption

stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 202 of this title for the amount of potatoes stated on the face of each such stamp.

(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 202 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant, or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area; (2) speculation in tax-exempt stamps; or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes, or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exemption stamps.

Sec. 210. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year.

PACKAGING

Sec. 211. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 202 of this title, all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe, be packed in closed and marked containers, to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of such tax. In prescribing and approving rules and regulations for the packaging of

potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 202 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

RULES AND REGULATIONS

SEC. 212. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancellation, destruction, and disposition of tax stamps and the cancellation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

SEC. 213. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

SEC. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commission has reason to believe to have information with respect to potatoes produced or sold may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records, or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 1 year, or both.

REFUNDS

SEC. 215. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within 1 year after the date of payment of such tax, penalty, interest, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this title alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of 6 months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of 2 years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within 2 years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within 90 days after such disallowance, notify the taxpayer thereof by registered mail.

(c) The amount of the taxes imposed by subsection (a) of section 202, paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

APPROPRIATION

SEC. 216. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, for refunds of taxes and for other payments under this title. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected during a period following any such estimate not in excess of 4 months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 230 of this title, collected upon potatoes coming from the possessions or territories of the United States, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories, respectively, to be used and expended by the governments thereof for the benefit of agriculture.

(b) The Secretary of Agriculture is hereby authorized to expend, out of the sums available to the Secretary of Agriculture under the Agricultural Adjustment Act, as amended, such sums as may be necessary for administrative expenses, for refunds of taxes and for other payments under this title.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of references, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

(d) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

(e) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses for refunds of taxes, and for other advances or payments under this title.

GENERAL AND PENAL PROVISIONS

SEC. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 202 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, or potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 211, and from the taxes imposed by subsection (a) of section 202 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

SEC. 218. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

SEC. 219. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act and to establish regional, State, and local committees and associations of producers of potatoes.

(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of section 219 of this title, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

SEC. 220. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than 1 year.

SEC. 221. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than 1 year's imprisonment, or both.

SEC. 222. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon. Any revenue officer may destroy the tax stamps or tax-exemption stamps upon any emptied potato package.

SEC. 223. Any person who willfully violates any provision of this title, or who willfully fails to pay, when due, any tax imposed under this title, or who, with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession, any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or

stamped or otherwise identified under this title without destroying the tax stamp and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding 6 months, or both.

SEC. 224. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200.

SEC. 225. All provisions of law, including penalties applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926, except section 1121 of the Revenue Act of 1926, and except section 614 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to all taxes imposed by this title.

SEC. 226. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who changes the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

SEC. 227. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change of form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than 2 years after such sale or change of form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

EXPORTS

SEC. 228. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 202 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

IMPORTS

SEC. 229. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 202 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 202 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929–34, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary under section 203 of this title is of the annual average of the quantity of potatoes sold in the continental United States during the years 1929–34, inclusive; and

(b) Allot the quotas provided for by subsection (a) to the importers of such potatoes in the United States in such manner as he may deem fair and equitable, having due regard to the respective amounts of potatoes imported during the years 1932–34, inclusive, by such persons.

SEC. 230. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States.

SEC. 231. During any period the tax imposed by subsection (a) of section 202 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and marked containers. The time

and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States.

SEC. 232. The provisions of sections 229 and 230 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens or results in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 229 and 230 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

Mr. JONES moves that the House recede from its disagreement to the amendment of the Senate no. 163, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"POTATO CONTROL

"SEC. 61. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word 'rice' a comma and the word 'potatoes' and by adding at the end of said section 11 a new sentence as follows: 'As used in this title, the term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.'

"SEC. 62. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word 'tobacco', in both the second and third sentences of said subsection, the words 'and potatoes.'

"TITLE II

"DEFINITIONS

"SECTION 201. When used in this title, unless the context otherwise requires—

"(a) The term 'person' includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

"(b) The term 'Commissioner' means the Commissioner of Internal Revenue.

"(c) The term 'collector' means a collector of internal revenue.

"(d) The term 'sale' includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

"(e) The term 'allotment year' means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

"(f) The term 'change in the form of potatoes' means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

"(g) The term 'tax stamp' means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

"(h) The term 'tax-exemption stamp' means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from a tax levied by this title has been established.

"(i) The term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*.

"(j) The term 'producer' means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

"(k) The term 'continental United States' means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

"(l) The term 'operator' means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

"(m) The term 'farm' means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land.

"IMPOSITION OF THE TAX

"SEC. 202. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such

change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof.

"(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

"(c) At least 30 days prior to the beginning of each allotment year the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer who is entitled to an allotment for the last allotment year for which such apportionments were made shall be entitled to one vote; and such taxes shall not be in effect and the provisions of this title shall not be operative with respect to potatoes produced in such succeeding year unless the majority of the votes cast in such referendum are cast in favor of continuing such taxes in effect.

"(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

"(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal-revenue collections.

"(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

"ALLOTMENTS

"Sec. 203. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least 30 days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919–July 1929 without reducing the total net income of potato producers from potatoes below the largest probable income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall for each allotment year be apportioned by the Secretary of Agriculture as hereinafter provided.

"Sec. 204. When a quantity is determined in accordance with section 203 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the 4 years in which the highest potato acreage was harvested in such State in the years 1927–34, inclusive, multiplied by the average yield per acre for the 4 years that the yield of potatoes per acre for such State was highest in the years 1927–34, inclusive, multiplied by the average annual percentage of the crop produced in such State during the years 1929–34, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing practices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 percent of the quantity of potatoes determined in accordance with section 203 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

"Sec. 205. Ninety-five percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932–34, inclusive. Such apportionment to any farm may be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

"(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any 2 or more years during the years 1932–34, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

"(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

"Sec. 206. Not in excess of 5 percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 205 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 205 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 205 of this title.

"Sec. 207. If an apportionment is made to a farm under section 206 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 206 of this title but shall be made from the quantity available for apportionment under section 205 of this title.

"Sec. 208. For the purposes of the apportionments to be made pursuant to sections 204, 205, 206, and 207 of this title, the District of Columbia shall be considered as a part of the State of Maryland.

"Sec. 209. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary of Agriculture, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 205, 206, and 207 of this title: *Provided*, That under such regulations as the Secretary of Agriculture shall prescribe he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 202 of this title for the amount of potatoes stated on the face of each such stamp.

"(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

"(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

"(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes

imposed by subsection (a) of section 202 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

"(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

"(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

"(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area, (2) speculation in tax-exemption stamps, or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exemption stamps.

"Sec. 210. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year.

"PACKAGING

"Sec. 211. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 202 of this title, all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner with the approval of the Secretary of the Treasury shall prescribe, be packed in closed and marked containers to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner with the approval of the Secretary of the Treasury may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of the taxes levied by this title. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

"(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 202 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

"RULES AND REGULATIONS

"Sec. 212. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancellation, destruction, and disposition of tax stamps and the cancellation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

"Sec. 213. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

"Sec. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced, or sold, or subject to a tax on a

change in the form of potatoes, may be required, under regulation prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

"(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records, or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 1 year, or both.

"REFUNDS

"Sec. 215. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within 1 year after the date of payment of such tax, penalty, interest, or sum.

"(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this title alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of 6 months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of 2 years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within 2 years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within 90 days after such disallowance, notify the taxpayer thereof by registered mail.

"(c) The amount of the taxes imposed by subsection (a) of section 202 paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

"APPROPRIATION

"Sec. 216. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, as amended, for refunds of taxes, and for other payments under this title. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected under this title during a period following any such estimate not in excess of 4 months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 230 of this title collected upon potatoes coming from the possessions or territories of the United States shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories, respectively, to be used and expended by the governments thereof for the benefit of agriculture.

"(b) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of reference, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

"(c) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

"(d) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses, for refunds of taxes, and for other advances or payments under this title.

"GENERAL AND PENAL PROVISIONS

"Sec. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 202 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 211, and from the taxes imposed by subsection (a) of section 202 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such

exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

"SEC. 218. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

"SEC. 219. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, and to establish regional, State, and local committees and associations of producers of potatoes.

"(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of section 219 of this title, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

"SEC. 220. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than 1 year.

"SEC. 221. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than 1 year's imprisonment, or both.

"SEC. 222. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps affixed thereto. Any revenue officer may destroy the tax stamps or tax-exemption stamps affixed to any emptied potato package.

"SEC. 223. Any person who willfully violates any provision of this title, or who willfully fails to pay when due any tax imposed under this title, or who, with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another, or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding 6 months, or both.

"SEC. 224. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200.

"SEC. 225. All provisions of law, including penalties, applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926, except section 1121 of the Revenue Act of 1926, and except section 614 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to all taxes imposed by this title.

"SEC. 226. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who affects a change in the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Sec-

retary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

"SEC. 227. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change in the form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than 2 years after such sale or change in the form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

"EXPORTS

"SEC. 228. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 202 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

"IMPORTS

"SEC. 229. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 202 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

"(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 202 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929-34, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary of Agriculture under section 203 of this title is of the annual average of the quantities of potatoes sold in the continental United States during the years 1929-34, inclusive; and

"(b) Allot the quotas provided for by subsection (a) to the importers of such potatoes in the United States in such manner as he may deem fair and equitable, having due regard to the respective amounts of potatoes imported during the years 1932-34, inclusive, by such persons.

"SEC. 230. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to an internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States.

"SEC. 231. During any period the tax imposed by subsection (a) of section 202 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States.

"SEC. 232. The provisions of sections 229 and 230 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens to result in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 229 and 230 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

"SEC. 233. This title may be cited as the "Potato Act of 1935."

CALL OF THE HOUSE

Mr. GILCHRIST. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently there is not a quorum present.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 165]

Andrews, N. Y.	Eicher	Lamneck	Reed, N. Y.
Arnold	Ferguson	Lesinski	Richardson
Bankhead	Fernandez	Lewis, Md.	Rogers, N. H.
Berlin	Fish	Lord	Rudd
Blanton	Fletcher	Lucas	Sadowski
Brown, Mich.	Gambrill	McFarlane	Sanders, La.
Buckbee	Gasque	McGroarty	Sandlin
Buckley, N. Y.	Goldsborough	McLean	Schneider
Bulwinkle	Goodwin	McMillan	Seger
Burnham	Gray, Pa.	Maas	Shannon
Cannon, Wis.	Griswold	Marcanonio	Stewart
Carter	Hancock, N. C.	May	Stubbs
Cartwright	Hartley	Montague	Sullivan
Cavichia	Hess	Montet	Sutphin
Claiborne	Higgins, Conn.	Nichols	Sweeney
Cochran	Hoffman	Norton	Thomas
Cole, N. Y.	Hollister	Oliver	Thompson
Cooper, Ohio	Hook	Parks	Tobey
Corning	Imhoff	Perkins	Underwood
Dear	Keller	Peysner	Wadsworth
Dietrich	Kennedy, Md.	Rabaut	Wearin
Dockweiler	Kimball	Rayburn	Weaver
Doutrich	Kniffin	Reece	Wilson, La.

The SPEAKER. Three hundred and thirty-seven Members have answered to their names, a quorum.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

AGRICULTURAL ADJUSTMENT ACT AMENDMENTS

Mr. JONES. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. BLAND].

Mr. BLAND. Mr. Speaker, the problem involved in the amendments now being considered is a national one, for which relief can be granted only in a national way.

The potato growers of the United States are in a desperate condition. It is difficult for those who have not been brought in intimate touch with this situation to know how desperate it is. Potatoes constitute the fourth food crop in value in the United States. There are nine other commodities in the basic commodity plan. One of them has only 10 percent of the value of potatoes, yet this industry is left out and its situation is growing more desperate every day.

The bill which is presented in this amendment has been considered with the greatest care, first by group meetings locally and then by group meetings throughout the United States. Two hundred and fifty of these meetings have been held in which the bill has been discussed line by line. Every word has been explained, and in these meetings practically all, with the exception of four or five, have endorsed this bill.

I am not going to undertake to go into details. It will be realized what the situation is when I say to you that in two counties in my district the losses, as estimated by the Department of Agriculture, for the last 2 years have been over \$5,000,000. My colleague, Mr. DARDEN, who is deeply interested and whose interests are similar to mine, is unable to speak as only one from Virginia may be heard for lack of time. He has requested that I say that the losses in his district equal mine, and he heartily favors this amendment. It is not sectional to Virginia. In Maine this year the loss has been from \$15,000,000 to \$20,000,000. In other sections there is a similar condition.

The most careful study by the Department of Agriculture, by Members of Congress, by groups of potato growers, have evolved this as the only plan that can solve the situation. If there are inconveniences, I have sufficient faith in the patriotism of the American people to believe that whatever the inconveniences may be the people are willing to respond for the general benefit that will come to the Nation as a whole from the passage of a measure of this kind.

The burden upon the consumer has been carefully estimated by the University of Wisconsin. They state that if the relief granted here were granted it would not amount to more than 88 cents for a family in the year.

We are asking you gentlemen to consider this burden, to consider the plight of these people who are now upon a poverty level, and we ask you to pass the bill.

[Here the gavel fell.]

Mr. JONES. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. MARSHALL].

Mr. MARSHALL. Mr. Speaker, as a member of the Committee on Agriculture of the House I have endeavored to pursue a sane and conservative course in the consideration of the measures referred to our committee, having in mind not only the welfare of the farmer himself but also the welfare of every citizen of the United States.

The particular measure we are now considering in this brief space of time was considered in our committee at length, and, finally, under pressure, was reported out by the margin of one vote. Then, the motion to ask the Rules Committee for a rule was voted down in the Committee on Agriculture. In the other legislative body the Committee on Agriculture gave no consideration whatever to this measure and less than an hour's debate was given to it on the floor of the Senate; yet we are at this moment about to enact into law a bill which affects seriously and materially every person in the United States who raises as many as 5 bushels of potatoes within a year. I submit that this is not the kind of legislating we should carry on.

At the time the Bankhead cotton bill was under consideration I opposed it very seriously and with all the power at my command. I opposed the Kerr tobacco bill, and I rise in opposition to this measure for the same reason that I opposed the cotton bill and the tobacco bills. I said then that I would oppose those measures even if they affected agricultural commodities raised in my district. Potatoes are raised in my district. I am opposing this bill.

This bill is fundamentally wrong. The Constitution of the United States provides that you can levy taxes only for the purpose of raising revenue. I submit it is self-evident and uncontroverted that the purpose of levying a tax under the cotton bill, under the tobacco bill, and under this potato bill is not to raise revenue, for that would defeat the purpose of the bill. In other words, we are proceeding here to do by the levying of a tax that which the Constitution of the United States provides we cannot do. Now, if the time has come when that provision of the Constitution is obsolete and we do not want to obey it longer, then let us bring the issue out in the open and amend the Constitution in an orderly manner and not by innuendo, by legislation, by indirection, and by inference. Let the people of the United States know that you are amending the Constitution when you seek to do it.

I do not take the position that the document should never be amended, but I am opposed to its being amended in this manner. The sponsors of this bill admit that its constitutionality is in doubt, but they want us to add one more car to the train of unconstitutional legislation. They want to ride along until the Supreme Court knocks it out, and undoubtedly that is what will happen, because that is one arm of our Government still operating under its own power.

Mr. Speaker, I am not a prophet nor a son of a prophet, but I did say certain things in opposition to the cotton bill which have proven true. I want to make a prediction now that if the cotton bill is continued on our statute books, before many more moons the farmers of the South who raise cotton will be coming to this Congress petitioning us to give them a protective tariff preventing the shipment of cotton from South America to the New England States to operate the textile mills of New England.

I have consistently supported legislation in the interest of agriculture so long as the program provided remained voluntary, and I have just as consistently opposed compulsory control of the industry.

This bill, by a prohibitive tax, does in a compulsory manner control production and sale of potatoes on the part of the farmer who raises them.

If this bill is passed and enforced, it will be the most unpopular of all the unsound legislative enactments to date.

[Here the gavel fell.]

Mr. JONES. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. BOILEAU].

Mr. BOILEAU. Mr. Speaker, I want to say at the outset that a great deal of misinformation has been disseminated

with reference to the provisions of this bill. May I say further that many statements have been made with reference to the provisions of this bill that are grossly unfair. I do not accuse anyone of deliberately misstating facts, but I do believe that many Members do not understand the bill, or they would not make the statements which have been made during the consideration of the bill in committee or the statements which have been made among the Members prior to the matter being brought upon the floor of the House.

I have the highest regard for the gentleman from Ohio [Mr. MARSHALL]. I know of no Member of this House for whom I have a higher regard. He made a statement here a moment ago that this bill affects every farmer who grows more than 5 bushels of potatoes. This may be literally true, because it will help the producer of potatoes whether he grows 5 bushels or 5,000 bushels for sale. There is nothing in the bill that will discriminate against any grower on account of size. So far as affecting growers of less than 5 bushels of potatoes is concerned, may I say that there is nothing in this bill that in any sense of the word controls the amount of potatoes which a farmer may produce. He may produce as many as he wishes, but if he sells more than 5 bushels of potatoes, of course, he will have to come in under the allotment. He will obtain his allotment and get his tax-exempt certificates. He will have an exemption which will enable him to sell his fair share of the crop without paying any penalty or tax whatsoever.

Mr. MARSHALL. Will the gentleman yield?

Mr. BOILEAU. I yield to the gentleman from Ohio.

Mr. MARSHALL. Is it not true that anyone who raises more than his quota, due to good weather, for instance, and desires to market the extra bushel or so, is compelled to pay a tax of 45 cents?

Mr. BOILEAU. That is absolutely true. Anyone who raises more than he should raise, according to his fair proportion of the crop, will be forced to pay a tax. That is the only way to stabilize the industry and make potato growing profitable.

Mr. Speaker, I want to say to the Membership of the House that the reason potatoes have been so low in price for the last several years is because of the fact that more potatoes have been produced than the market could consume. The records of the Department of Agriculture show very conclusively that when we have a very large acreage, a very large yield, and a bumper crop of potatoes the farmers did not get anywhere near as much for their crop as they received when there was a reasonable-sized crop.

The trouble with the potato industry has been that the farmers have produced such a tremendously large surplus of potatoes that they have been forced to sell the potatoes for the cost of sacking and the cost of transportation. There has not been a profit in it for the farmers, and I for one believe that the potato producers are entitled to just as much consideration as the producers of tobacco, cotton, wheat, corn, or anything else.

Mr. Speaker, I want to say to the Membership of the House that I, as a member of the Committee on Agriculture, have gone along with the cotton men in every instance; I have gone along with the tobacco men in every instance; I have supported the wheat program, the corn program, the hog program. Not a single one of those programs has meant much to the farmers of my community, but, on the contrary, every time we passed one of those bills the farmers of my community have been compelled to pay an increased price for cotton cake, livestock feed, and everything else. This is one program, however, that will benefit the people of my State and community. I submit that if the other programs are fair, if they are constitutional, as I believe them to be, then this program is fair and is constitutional, and I therefore solicit the same support from you people that we or the potato-producing States have given you in connection with every bit of farm legislation that has been before this Congress. [Applause.]

[Here the gavel fell.]

Mr. DOXEY. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa [Mr. BIERMANN].

Mr. BIERMANN. Mr. Speaker, the hearings on this bill disclose that there are about 30,000 farmers in the United States who produce potatoes commercially.

Mr. BOILEAU. Will the gentleman yield?

Mr. BIERMANN. I yield to the gentleman from Wisconsin.

Mr. BOILEAU. The gentleman knows there are about 500,000 farmers who raise potatoes commercially.

Mr. BIERMANN. That fact was not disclosed in the hearings.

Mr. BOILEAU. Yes. The hearing disclosed there were 30,000 large growers of potatoes.

Mr. BIERMANN. I will amend my statement to that effect. There are 30,000 large producers of potatoes in the United States. There are about 3,000,000 farmers and people in towns who raise potatoes, and for the benefit of the 30,000 large raisers this bill proposes to regiment and to irritate 3,000,000 raisers of potatoes in the United States.

The first year every raiser of potatoes in the United States, whether he wants to or not, must come in on this program. He must apply for and get an allotment.

Mr. FULMER. Mr. Speaker, will the gentleman yield right there?

Mr. BIERMANN. Pardon me, but I have not time to yield. If the gentleman will get me more time I shall be pleased to yield.

Mr. FULMER. The farmers have the right to vote on whether or not they want to come in under this bill.

Mr. BIERMANN. They do not have any such right the first year. I refer the gentleman from South Carolina to the language on page 97 of H. R. 8492, "at least 30 days prior to the beginning of each allotment year after the first allotment year", there shall be a referendum, but the first allotment year there is no referendum. Every one of these 3,000,000 raisers of potatoes in the United States has to come in on this program the first year, and these allotments—

Shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932-34, inclusive. Such apportionment to any farm shall be made upon application therefor.

That is the language on page 101 of the bill. If a farmer is just an incidental raiser of potatoes or if some woman having three or four lots in some town is an incidental raiser of potatoes and he or she forgets to apply for an allotment, he cannot legally raise potatoes beyond what he consumes himself and 5 bushels besides.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. BIERMANN. I have only a brief time.

Mr. RANKIN. With respect to this election, the farmers who fail to qualify the first year, as I understand it, would not be qualified to vote the second year on whether this program should go into effect or not.

Mr. BIERMANN. I think that is correct.

Mr. RANKIN. And the small producers who fail to qualify would be shut out.

Mr. BIERMANN. Yes.

Mr. McFARLANE. Mr. Speaker, will the gentleman yield?

Mr. BIERMANN. Excuse me, but I have only 5 minutes.

I refer the House to page 101, with respect to the allotments which show that if some widow in your town has two or three lots that she wants to put into potatoes, unless they were in potatoes in 1932, 1933, or 1934, she cannot put them in potatoes.

Mr. BOILEAU. Mr. Speaker, will the gentleman yield?

Mr. BIERMANN. I must decline to yield.

Mr. BOILEAU. That is not a correct statement.

Mr. BIERMANN. I refer the gentleman to page 107, which discloses the fact that all potatoes harvested on or after December 1, of this year, have to be packed in closed and marked containers. I ask you, who are the representatives of 3,000,000 potato raisers in the United States, How would your farmers like it, if they raised 10 bushels or more of potatoes for sale, to be compelled to pack them in closed and marked containers and on them affix tax stamps or tax-exemption stamps? You people who are familiar with potato raising know that the size of the crop is very largely depend-

ent upon the season. One year a man may raise 150 bushels of potatoes to the acre in my country and the next year 300. If he exceed his allotment, and I refer you to page 96, he has to pay 45 cents a bushel on his excess. [Applause.]

Mr. DOXEY. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. CUMMINGS].

Mr. CUMMINGS. Mr. Speaker, 3 minutes is not very long to speak on as important a subject as this, but I wish to call your attention to just two things.

This bill will or will not increase the price of potatoes. If it increases the price of potatoes, which is, frankly, the object of it, it will benefit those who grow them.

The gentleman who has just left the floor stated that if you did not grow potatoes last year you could not grow them this year. The gentleman knows very well, because he is a member of the Committee on Agriculture, that 10 percent of the total—

Mr. BIERMANN. I did not say that.

Mr. CUMMINGS. I have only 3 minutes and cannot yield.

Ten percent of the total production of potatoes is to be held in a jackpot to take care of that very situation, and you also know that the amount of the increase in price to the consumers of potatoes will not amount to anything.

When I first came to Congress a couple of years ago I was a grower of potatoes and shortly before I left home I sold two carloads of potatoes at 45 cents a hundred. My wife went to the store in the Roosevelt Hotel, where we live, and purchased 25 cents' worth of potatoes and she got just five spuds, although I had sold a carload for 45 cents a hundred or practically 22 cents a bushel. If you multiply by three the price that the growers receive for their potatoes, you would not hurt the consumer, but you would make it possible for the man who grows our potatoes to receive some money.

This ought not to be a one-man Congress or a one-man agricultural proposition. I have said to the people of my district that the members of the Committee on Agriculture, of which I am a member, have never divided along party lines, but I may say to you that on the reporting out of this bill we came nearer to dividing on party lines than we have in the three sessions I have served here, and I do not know whether this is for political purposes in an effort to catch the votes in the cities, where they do not grow potatoes, or not. A man said to me yesterday, "I have not a single man in my district who grows potatoes", and I said, "Have not we gone along with you on everything you wanted?" If a man comes to this House and thinks he can vote only for the measures that represent his particular district, then he is not representing the people of the United States. We must have prosperity that reaches all of the people, and it is only fair that the man who grows potatoes should have his protection. The cotton man in the textile factory receives his tariff, and it has been well said here that this agricultural program so far as the farmers are concerned is their tariff protection. We have voted tariff protection for the factories and for the people in the East, and the people in the East should vote for this agricultural program. When you try to put it on a narrow, personal basis and say, "My people do not grow potatoes and it is going to increase the cost of them", you should use a little horse sense and "do unto others as you would have others do unto you." [Applause.]

Mr. JONES. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARTIN].

Mr. MARTIN of Massachusetts. Mr. Speaker, if this proposal really aided the majority of the potato growers of the country there would be a strong sentiment for it. However, that is not the case. The greater number of potato growers are not in favor of the tax. The potato growers in my county have recorded their opposition. It is true the proposal helps the larger growers of potatoes temporarily, but it leads them into a false security. Eventually they will find they have been led astray through the loss of a market for their product.

If there was ever legislation that might be termed "soaking the poor", it is this proposal.

There are few rich folks who eat potatoes, with the possible exception of Mae West; they are looking out for their figures and eat potatoes sparingly. [Laughter.]

Potatoes are eaten by men who work on the railroads; they are eaten by farm hands, the truck drivers, people who work out of doors. These are the real consumers of potatoes.

What has this administration done for the consumers of this country? It has increased the price of clothing. It has increased the cost of meat until today in the large centers of population there are meat strikes. It has increased the cost of food and other necessities of life.

Now you propose to increase the cost of potatoes to the poor families of the country—many of whom are on the public relief rolls.

The artificial raising of the price of foodstuffs without bringing about increased earning capacity for the masses can only spell tragedy for millions of consumers. The Democratic leaders should do some real honest-to-goodness thinking. You Democrats are responsible for the increased cost of living without a corresponding increase in the income of the consumers. You will be held responsible when this becomes one of the real issues of the next campaign. You have complete control of the Congress and the executive branch of the Government and rightly must assume that responsibility.

The A. A. A. legislation is responsible for several millions being on the relief rolls. Large armies have lost their jobs in the industrial centers. Larger numbers have lost their work on the farms through the restriction policies. This entire bill should have been defeated if we were to act fairly for the great mass of our population.

It is time to call a halt to these fake economic experiments which are proving so expensive to the people of the country and which are steadily turning our country into a second edition of Russia. I hope for a lucid moment and the rejection of this potato tax—a tax on the basic food of the poorest people in our land. [Applause.]

Mr. JONES. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina [Mr. WARREN].

Mr. WARREN. Mr. Speaker, however erroneous my judgment and conclusions may be on any matter that arises here in the House, at least I have always endeavored to scrupulously state the facts. Potatoes are the fourth food crop in the Nation. It is the only major crop that has had no program, and consequently it has suffered more than any other crop I know of. This bill was passed by the Senate sometime ago, with only 5 votes against it. Here it is in a nutshell. It was drawn by growers, approved by growers, sent out in 33 States, and read line by line at largely attended meetings and there approved, and its preparation was collaborated in by at least 25 or 30 Members of the House. It calls for no processing tax. It simply provides that the size of the crop shall be determined by the Secretary of Agriculture. Allotments are then made to States and individuals based on past performances. There is not an unfair word or line in it to any State in this Union or to any grower. It merely provides that after a man gets his allotment, if he then sells in excess of that allotment, he must pay a tax.

Mr. SISSON. Mr. Speaker, will the gentleman yield?

Mr. WARREN. I yield for a moment.

Mr. SISSON. I am right in understanding that this bill is imposed on all growers in the whole United States for the first year?

Mr. WARREN. Yes; who sell potatoes. It is good for 1 year only, and then it requires a two-thirds vote of the growers to say whether it shall be continued for another year.

Mr. SISSON. Will the gentleman yield for another question?

Mr. WARREN. I cannot yield at this time. The plight of the potato farmer has been pictured here to the House, and I wish I had time to go further into it. I hold in my hand a picture showing that 5,000,000 bushels of potatoes were dumped on the ground in the State of Maine last month. Potatoes last month were selling in the State of

Maine for 10 cents a barrel, when it cost 35 cents to buy the barrel to put them in. The whole picture in North Carolina, Virginia, and other States has been one of tragedy and bankruptcy. Everywhere they are selling far below the cost of production.

Mr. FITZPATRICK. Mr. Speaker, will the gentleman yield?

Mr. WARREN. Not now. The quotations in today's paper show that potatoes are selling on Long Island for 50 cents a hundred pounds, in the State of New Jersey for 50 cents a hundred pounds, in Virginia there is no demand, and in Idaho they sell for 45 cents, while in Nebraska they sell for 62 cents. Yet they are selling in the chain stores in Washington today for \$1.90 a hundred.

Mr. FITZPATRICK. Mr. Speaker, will the gentleman yield?

Mr. WARREN. In just a moment. I shall try to yield if I can later. There is a minority report which has been circulated in the House, signed by seven or eight gentlemen, including about six on the Republican side. That report is full of errors and distortions. If that report were correct, if it even were approximately correct, I would stand here today and move to table this measure. In the first place, in their efforts to prejudice the House against this measure, they quote from a report of the Secretary of Agriculture dated May 9. The gentlemen who signed that report knew that the official report on this bill was dated May 20, a copy of which I hold in my hand, and that the report they were referring to was a report on an entirely different bill, with an entirely different number.

Mr. GILCHRIST. Mr. Speaker, will the gentleman yield?

Mr. WARREN. It is stated in that report that the new bill, which is almost identical with the one now under consideration "has been substantially improved and strengthened", as a result of suggestions by the Department.

And it further states:

It is felt that the revised bill may meet more effectively the problems faced by the potato industry.

The minority report states that it is a bill for 30,000 growers. They knew that there are 2,900,000 people who grow potatoes in this country, but at the same time there are only 633,000 who sell them. This bill deals only with those who sell. The report talks about the consumer. They know that there is no tax in this bill that is going to be passed on to the consumer. Not one single penny under the provisions of this bill will or can be passed on to the consumer, because at least 90 percent or more are going to be sold tax free under the allotments they get. They recommend marketing agreements, when they know they have been tested out and spurned by every potato grower in the country. The papers today state that the Governor of New York and the Governor of New Jersey are in conference to try to do something for the desperate condition of the growers of those two States, but they can meet forever as far as any marketing agreement is concerned and never get relief.

They challenge the constitutionality of the bill and the gentleman from Ohio, that great friend of the farmers, Mr. MARSHALL, who stated that he had gone on and taken a "conservative" attitude on these measures, challenges the constitutionality of this and cites the Bankhead Cotton Act and the Kerr Tobacco Act and yet yesterday afternoon as I sat here and faced them, those five gentlemen who signed this minority report, which is under discussion, stood up and voted for the conference report, which included the Bankhead bill and the Kerr-Smith bill. They place themselves in the untenable and ridiculous position of questioning the constitutionality of this measure, and then vote for the very measures they cite against it.

Who, Mr. Speaker, is the battalion of death lined up against this bill? The unkindest cut of all comes from the State of Iowa. Notwithstanding that \$71,000,000 was paid out to that State in rental benefit payments, and nothing will be paid out under this bill, with their chief crop, as a result of the program, higher today than it has ever been since 1929, they come here and band themselves together, to deny relief to the bankrupt potato grower. With 15 or 20

other States this year making a desperate voluntary effort to reduce their acreage, Iowa comes in and increases its acreage 7 percent, and increases its production to the excessive amount of 53 percent. It desires unbridled production at the expense of all other States who have made an honest to God effort to curtail their production.

I call the attention of Members of the House and those who are interested in the agricultural program to the fact that those gentlemen who signed the minority report have, in almost every instance, with the exception of the gentleman from Iowa [Mr. GILCHRIST] consistently opposed and fought all of this control legislation; everyone of them. Yet in spite of the referendum held in the districts of the gentleman from Ohio [Mr. MARSHALL] and the gentleman from Pennsylvania [Mr. KINZER], where farmers have passed upon it in the counties of Champaign, Greene, and Warren, in Ohio, and Lancaster in Pennsylvania, they have overwhelmingly endorsed the tobacco program in spite of the votes of their Congressmen against it. The gentlemen are still debating and quibbling over a proven and acknowledged success.

I will tell you who is also against this bill. Every big chain store in this country; every unscrupulous contractor with his nefarious practices; every middleman who does a questionable business has consistently fought it from the very beginning.

Mr. DUNN of Pennsylvania. Will the gentleman yield?

Mr. WARREN. I cannot yield.

Mr. MARSHALL. Will the gentleman yield? I ask that for the reason that the gentleman referred to me a half dozen times in his remarks, and I would like to make one brief statement.

Mr. WARREN. I yield for a second.

Mr. MARSHALL. The gentleman has quoted me as having taken certain positions in regard to agricultural legislation. I want to again go on record that I have supported voluntary cooperation and control of farm commodities, but I have consistently opposed compulsory control, and this is compulsory control.

Mr. WARREN. That is all that I stated. I stated that the gentleman had opposed the cotton bill and the tobacco bill, and yet he voted for the conference report yesterday, in favor of continuing both of those.

Mr. MARSHALL. Will the gentleman yield just for a moment?

Mr. WARREN. I cannot yield any more.

Mr. MARSHALL. That is an unfair statement.

Mr. WARREN. If that is an unfair statement, then I will yield. I am not criticizing the gentleman. He is a fine and able Member of the House, who has my respect. I am talking about his point of view—his attitude on agricultural matters.

Mr. MARSHALL. It is unfair for this reason: There were more things in that conference report, like all the other legislation you bring in here. You have to sometimes compromise with the unsound in order to support the part that is meritorious.

Mr. WARREN. Oh, the gentleman does not deny it.

Mr. MARSHALL. I do not deny it.

Mr. WARREN. The gentleman stood there and voted for the conference report, which contained those things. I plead with the House to give the potato farmer a chance. He thinks and believes he will get it under this bill. [Applause.]

The SPEAKER. The time of the gentleman from North Carolina [Mr. WARREN] has expired.

Mr. JONES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the conference report and any of the amendments in disagreement on the bill H. R. 8492.

The SPEAKER. Is there objection?

There was no objection.

Mr. JONES. Mr. Speaker, since the question has been raised, I wish to say that this bill simply covers Irish potatoes, and it does not cover sweetpotatoes.

I yield 5 minutes to the gentleman from Kansas [Mr. HOPE].

Mr. HOPE. Mr. Speaker, I regret very much that I find it necessary to oppose this legislation. I am aware of the fact that during the past 2 years there has been much distress among the potato growers of this country. This has been particularly true in the large surplus-producing sections. The situation has been less acute in those areas where most of the production has been sold and consumed locally. I would like very much to support constructive legislation which I could feel would be beneficial to all potato producers. However, I regard the present bill as a most unfortunate approach to the problem. It is regrettable that there is so little time for a discussion of the measure, because it is my firm belief that if this measure could be adequately and thoroughly discussed on the floor there would not be 50 votes in the House in favor of it.

There are at least 3,000,000 farmers in this country who produce potatoes. In addition there is considerable production in town and city gardens, most of which, however, does not enter into the channels of commerce, being planted mainly for home consumption. Of the 3,000,000 farmers who produce potatoes it is estimated that not more than 30,000 produce over 10 acres each. The average production of these 3,000,000 farmers is approximately 100 bushels each.

This bill is supported and advocated by the 30,000 large producers. It may help them. Unquestionably it will assist them in obtaining a monopoly of the potato production in the country because the bill, if enforced at all, will drive out of existence many small producers and will put unbearable burdens upon others. Designedly or by chance, the large commercial potato growers have hit upon a plan under this bill which will remove a large part of the competition furnished by the small farmer who grows an acre or two of potatoes.

What will happen if this bill is enacted? In the first place, it will be necessary to determine how many potatoes were sold in this country, and in each State and county during the base period as described in the bill. Then a quota will be given each State and each county. The county quota will be allotted to the various growers within the county based upon their sales during the base period or such part of the base period as may be used by the Secretary of Agriculture in making the allotments.

The Department of Agriculture very frankly admits that it does not at this time have anything like adequate data upon which to base State and county allotments. It will be difficult, if not impossible, to secure full and accurate information along this line. The result is that these allotments must necessarily be based largely upon guesswork. The exception to this rule will be in the case of the heavy producing areas. In those areas records of carload shipments will enable the Department of Agriculture to obtain accurate information as to sales. In areas, however, where most of the sales are local and where shipments have been made by truck, it will be practically impossible to obtain accurate information as to sales. The result will be that the large producing areas will be able to secure the full quota to which they are entitled and the general farming areas will not be able to furnish the proof which will enable them to receive a fair quota.

It will of course be the effort of the Agricultural Adjustment Administration to see that every State and county receives a fair quota and I have implicit confidence that as far as it is possible to do so the bill will be administered fairly in that regard. It can readily be seen, however, that those areas where figures are now available will have a very great advantage when it comes to making actual allotments.

After the State and county quotas are determined, then an individual allotment will have to be made to each producer. This allotment will be based upon his past sales. Practically all of the large producers will have data and figures which will enable the Secretary of Agriculture to give them a fair allotment. Most of the 3,000,000 potato producers, however, will have no figures whatever to prove their production and sales during the base period. In many cases they sold the potatoes to their neighbors, to grocery stores in neighboring towns, directly to housewives or to

buyers who came along and hauled them away in trucks. In such cases the producer will have no records showing the amount of his sales and certainly will be at a disadvantage when it comes to getting an allotment when compared to the large producer who has kept books and has an exact record of both production and sales.

When the producer receives his quota it means that he can produce and sell that many potatoes tax free, but that for every bushel which he sells over his quota he will be taxed at the rate of 45 cents a bushel. If he does not get an allotment he will have to pay 45 cents a bushel tax on every bushel which he sells. It is not expected that there will be any taxes collected as a result of this measure, because the tax is prohibitive. The man who does not have an allotment will not be able to sell any potatoes. The man who produces more than his allotment will not be able to sell this excess.

There are no exemptions in the bill except that if the producer of potatoes can show that in the past he has not produced more than 5 bushels of potatoes he may be given an exemption in that amount. Even then, however, he must go to the trouble of getting the exemption and must furnish figures to prove that his sales have been less than 5 bushels annually in the past.

Furthermore it is provided in the bill that all potatoes sold must be packaged in whatever manner may be determined by the Secretary of Agriculture. It is expected that approval will be given by the Secretary to all standard forms of packaging used in the large production areas, such as barrels, covered baskets, burlap bags, and so forth. In many sections, however, potatoes have in the past been sold in bulk or in open boxes or containers. This will no longer be possible if this bill is put into effect. Even the producer who has his 5-bushel exemption will have to package his potatoes and place an exemption stamp upon them, although they may be sold to his nearest neighbor.

It seems that it will be utterly impossible to enforce a measure of this kind. Even if enforceable the cost of enforcement would be tremendous. The minimum estimate of the Department of Agriculture as to the cost of the program for the first year is \$12,000,000. It may amount to much more. These figures, as the report of the Department states, do not include the expense of the Treasury Department in enforcing the act and collecting the tax. This cost might run into many millions more. Inasmuch as it is not contemplated that any tax will be paid, the cost of enforcing the act will have to come out of the Federal Treasury or be taken from funds set aside for other agricultural programs.

It is worthy of note that in the course of hearings which were held on this measure not a single representative of any of the general farm organizations of the country appeared on behalf of the bill. Every one of these organizations numbers many thousands of potato producers among its members, and yet not a single organization has endorsed this measure or appeared before the committee in favor of it. This is very unusual. I stated that no general farm organization had appeared in favor of this legislation. On the contrary, the National Farmers Union, one of the three largest general farm organizations of the country, appeared before the committee, through its legislative representatives, in opposition to the bill. Likewise, representatives of the Farmers Union from important potato-producing States, like Michigan, appeared in opposition.

This measure may or may not be beneficial to the large commercial potato producer. If it does benefit him, it will be at the expense of 3,000,000 small producers. These 3,000,000 producers are the backbone of the farm population of this country. They are the farmers for whom we should enact legislation. They are the men and women who maintain the farm homes of this country, who produce its food and fiber and who are indispensable in the economic and social structure of the Nation. This bill is a blow at the welfare and prosperity of that type of farmer.

Mr. JONES. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. PIERCE].

Mr. PIERCE. Mr. Speaker, if the original Agricultural Adjustment Act passed in 1933 was right, and it has been very beneficial in all the agricultural regions of this country, then these amendments are right and proper; yes, even this potato amendment known as the Warren potato bill.

The fears expressed about the small grower amount to simply nothing. He has nothing to fear; the only effect will be to raise the price of his potatoes. There will be no great attempt to enforce this law except in the big commercial producing centers. That is where production must be controlled.

Mr. TABER. Mr. Speaker, will the gentleman yield?

Mr. PIERCE. No; I have not time.

We have either got to control production of agricultural products or the American farmer is on the road to peasantry. There can be no question about it. Real work has been done in the hog, corn, wheat, tobacco, and cotton programs. Prices are better. This is simply an agricultural product that has had no program. Potatoes should have assistance. I am asking you to vote for the Warren potato bill now before us in these Senate amendments.

[Here the gavel fell.]

Mr. JONES. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. BUCKLER.]

Mr. BUCKLER of Minnesota. Mr. Speaker, 1 minute is not time enough for a farmer to start to make a speech. I am going to ask you Congressmen here to give me 4 minutes additional. I have not had much time this session, and I am going to use my 1 minute begging you to give me 4 minutes more. It is no use to attempt to make a speech, as it takes a farmer 1 minute to get started.

Mr. Speaker, I ask unanimous consent to proceed for 4 additional minutes to say something about this potato amendment to the A. A. A. amendments which are before us.

The SPEAKER. The time is within the control of the gentleman from Texas.

Mr. JONES. Mr. Speaker, I am sorry I have not the additional time to yield the gentleman.

Mr. BOILEAU. Mr. Speaker, I ask unanimous consent that the gentleman from Texas may be given 4 additional minutes that he, in turn, may yield this additional time to the gentleman from Minnesota.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

Mr. PETTENGILL. Mr. Speaker, I object unless a like amount of additional time is granted to those in opposition to the bill.

The SPEAKER. Objection is heard. The time of the gentleman from Minnesota has expired.

Mr. JONES. Mr. Speaker, I ask unanimous consent that the time for debate on this motion be extended 6 minutes. This is all I shall ask for, 3 minutes to be yielded to the gentleman from Minnesota and 3 minutes to those opposed to the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BUCKLER of Minnesota. Mr. Speaker, I am surprised at some of the Members here being in opposition to this bill, but I do not blame you city-bred fellows who were born with gold spoons in your mouths and eating potatoes costing you almost nothing for many years, potatoes and everything else the farmer grows. I do not blame you fellows from the agricultural districts for sitting here in Congress, I do not blame you for wanting to come here and draw \$10,000 salaries, but I do blame the farmers back in the country for sending you here. [Laughter.]

I have been sitting here all this session listening to you, gentlemen, especially on this side, who have been hollering against this agricultural program.

You talk about the small potato growers. How much better would it be for the farmer to sell 10 bushels at 50 cents a bushel than to sell 20 bushels at 25 cents a bushel and save himself and family a lot of labor, time, and ex-

pense raising the extra bushels. These potatoes that are produced by the small grower are generally picked up in the fields by the women and children of the country, for which you fellows down in the city pay practically nothing so far as the farmer is concerned. You are holding up these farmers in front of you as a screen. You are using the farmers as a blind to protect your position which really is opposed to the farmer. The potato farmers are not going to get hurt by this legislation. It is true that he cannot sell as much, but he will get more money.

Here is Iowa, getting more money benefits than any other State in the Union on her hogs and corn.

You are entitled to it, but you are out of place when you come down here and try to beat the potato growers out of a little money. [Applause.]

You gentlemen on the other side have been fighting this agricultural program all winter. I happen to be a farmer myself; therefore I would like to tell you of an experience I had in the potato business a few years ago. I put 6,000 bushels of potatoes in the cellar. In the spring I hired some men to sack and sort three carloads and shipped them down to Kansas City. Two carloads were reported back and I got an expense bill for \$1.95 but they got the potatoes. They did not report the other carload and I did not ask them to, because I thought if they did they would ask me for some more money. I let it go at that. [Applause.]

[Here the gavel fell.]

Mr. JONES. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. HALLECK].

Mr. HALLECK. Mr. Speaker, on last Monday a quaint custom reminiscent of the "horse and buggy" days, about which there were some slighting statements made a few weeks ago, was reenacted on the floor of the House. A new Congressman from Alabama was sworn to uphold and defend the Constitution.

In the last few months we have seen two philosophies advocated regarding the duty of Congressmen toward the enactment of legislation in respect to that oath. One of them is that we should pass bills without regard to doubt as to their constitutionality, however reasonable. The other, as expounded by the Chairman of the Committee on Military Affairs, is that it is as much a violation of the oath of a Member of Congress to vote for a bill which he believes to be in contravention of the Constitution as it would be for him to violate an express provision of the Constitution. The latter philosophy is the one to which I subscribe.

Now, let us take this potato bill and strip it of all its chicanery and subterfuge. Who can say for a minute that the Federal Government in Washington may say, under the Constitution, to the sand-ridge farmer in my State how many potatoes he may raise and sell at the corner grocery store? I say the bill is without the Constitution, and we are bound by the Constitution. The tax of 45 cents per bushel is a tax in name only. It is in reality a prohibition. It is not levied to raise revenue but to control production. That must be admitted by everyone. And when the test comes, the Supreme Court will cut through the subterfuge even as they did in the child-labor case and declare the law unconstitutional.

Let us go on and scrutinize this proposition in its practical aspects. The State of Indiana is a deficiency State. It does not produce as many potatoes as it consumes. You are saying to the people of Indiana that they must import their potatoes from far distant centers and pay enormous transportation charges that do not go into the pockets of the producers, when these same potatoes may be raised in their own back yard.

Further, if this bill is enacted into law, the producer of potatoes in Indiana will be denied the market which is literally at his door in order to create and maintain a perpetual monopoly for the few large growers in the heavy-producing areas.

Consider another thing. It has been said here that this will not be enforced against the 3,000,000 small potato growers. Why, bless your souls, are you going to make criminals

of the small potato growers by putting on the statute books an act which we as Members of Congress know cannot be enforced? Why start out with that sort of a proposition? You will find John Smith with 10 bushels of potatoes and no quota. He will sell those potatoes and will not pay the tax because it is prohibitive. Are you going to make a criminal out of him? Are you going to put him in violation of the laws of the United States, arrest him, require him to give bond, put him in jail, fine and imprison him because he raises a few potatoes and sells them in order to get some money to buy shoes to put the youngsters in school? Bootlegging of potatoes will soon be the order. The effort to enforce the prohibition laws will seem as child's play compared with the enforcement of this law if it is enacted.

Mr. Speaker, I say that this will not work. It cannot be enforced. Why, for the preferment of about 30,000 people, you are going to regulate, control, and regiment 3,000,000 of our farmers, and all this from Washington. Another serious assault on the economic liberty of our people is threatened. What a jolt some are going to get when they awake to a realization that our people love economic liberty as much as they love civil, political, and religious liberty.

[Here the gavel fell.]

Mr. JONES. Mr. Speaker, I yield 3 minutes to the gentleman from Maine [Mr. BREWSTER].

POTATOES

Mr. BREWSTER. Mr. Speaker, the potato growers of Maine ask for the adoption of the potato-control legislation as a simple act of justice to those who contribute to the production of the fourth food crop of the United States. Throughout the period of control programs the potato growers of the United States have gone steadily astern. They have witnessed 14 other major and minor agricultural crops placed under control programs. Many of them are far less important as a food crop than potatoes. Even peanuts are now included, with an annual value one-tenth that of potatoes. They find these other crops now at or above 100 percent of what is called the "parity price."

Meanwhile, they find potatoes going steadily down grade until they have this last year approached 50 percent of their parity price. The culminating disaster has come in the last few months when Maine has witnessed its magnificent crop of potatoes being marketed at 10 cents a barrel, or less than 1 cent a peck, after carrying this crop throughout the winter.

More than 5,000,000 bushels of potatoes were ultimately dumped upon the ground this past month in a desperate attempt to save the southern crop from disaster and clear the market for the orderly distribution of the crop of this present year.

This situation represents a loss of more than \$20,000,000 to potato growers in Maine, already hard hit by the depression. Before them seems to lie no prospect of relief, unless it is accorded to them by the pending legislation.

The causes for this condition are not far to seek. In the other sections where control programs have been operating in the major agricultural crop—such as corn, hogs, wheat, cotton, tobacco—there has been a steady increase in the production of potatoes contributing to the tremendous overproduction of this past year, which has resulted in disaster for all alike. As other crops have been restricted potatoes have increased.

It is a matter of gratification that many of the Representatives from other sections primarily concerned with other crops have cooperated in the formulation of this legislation and are supporting it as a measure of justice to the potato growers of the United States.

No discussion of this measure would be complete unless reference were made to the service rendered to the potato growers of the United States by the gentleman from North Carolina, Hon. LINDSAY C. WARREN, who has been instant in season and out of season in laboring to bring this measure to the position it occupies today. For the past 9 months the major portion of his time has been dedicated to formu-

lation of this measure and its repeated revision in conferences with representatives of the potato industry from all sections of the United States and in expounding its provisions and its imperative necessity to his colleagues in this House without regard to party or to section. This measure very appropriately bears his name and will stand as a tribute in its beneficent operation to his seasoned statesmanship in formulating this measure and piloting it to successful passage.

It is a matter of keen regret that Iowa in particular should be the center of opposition to the enactment of this legislation, both through certain leaders in triple A, in the administration, and through their Representatives upon the floor of this House.

Maine has received \$2,235 from the processing taxes, to date, as benefit payments. Meanwhile Maine has contributed to the processing taxes more than \$5,000,000.

Iowa has received back in benefit payments, under the corn-hog program, more than \$70,000,000, to date, and now sees hogs selling at \$12 a hundred. This is an increase of 600 percent in the price formerly received.

It is astounding to anyone with the slightest conception of American justice to witness Iowa Representatives fighting potato-control legislation upon the floor of this House, when it is further realized that the Iowa crop of potatoes, according to the August 1 report, this year shows an increase of 53 percent over 1 year ago. This is the highest increase for any State in the Union.

Iowa, more than any other State in the Union, has reason to appreciate and understand the beneficent effects of control legislation. How can Iowa Representatives justify the denial to farmers elsewhere, and to the other major food crops of some measure of the relief which has proved so satisfactory to Iowa hog raisers?

This potato-control legislation represents the painstaking work of many months in formulating a program. It is a result of repeated conferences by growers from all sections of the United States, together with Representatives in Congress and representatives of the Agricultural Adjustment Administration who have been consulted at every step.

In the opinion of most competent critics, this legislation represents the most equitable apportionment of quotas among the various sections that has been suggested in any control programs to date. The legislation is also believed to be less open to constitutional question than any of the other programs that have been evolved. This legislation has been endorsed by great growers' meetings in 33 States, and has been approved, in addition, by representatives of many other sections.

No processing tax is involved. All alike have been agreed that no further burdens should be added to the consumers of the United States.

The minority report opposing this measure states that—

There is no adequate showing either in the hearings or elsewhere that any excess of production has seriously affected prices.

The author of this report is respectfully referred to the hearings before the Subcommittee of the Committee on Agriculture, where, on page 143, it is stated by Porter R. Taylor, Chief General Crops Section, Agricultural Adjustment Administration, as follows:

It is widely recognized that potato growers as a whole receive a larger total return during seasons of medium or short crops than they do during seasons of large crops.

Following this statement, Mr. Taylor submitted complete and detailed statistics demonstrating conclusively the correctness of his statement.

There is submitted herewith for the information of this House the detailed report of the production of potatoes in the United States for a period of 8 years, together with the farm price and the value of the potato crop. The compilation is ranked in accordance with the production for the 8 years between 1922 and 1929 and demonstrates rather conclusively that as the production of potatoes goes up, the price received for the total crop goes down.

SCHEDULE A

United States production—Farm price and value of potato crop ranked in accordance with production from 1922 to 1929

Year	Total United States production	Seasonal weighted average farm price per 1,000 bushels	Farm value
	<i>Bushels</i>		
1925.....	297,567,000	166.3	\$494,854,000
1926.....	322,350,000	136.3	439,363,000
1929.....	327,652,000	131.5	430,862,000
1927.....	366,356,000	91.5	335,216,000
1927.....	368,813,000	108.9	401,637,000
1924.....	384,837,000	71.5	275,158,000
1922.....	419,288,000	68.6	287,632,000
1928.....	425,626,000	57.2	243,458,000

There is also to be found in the records of the Department of Agriculture an interesting and impressive demonstration of the inaccuracy of the statement in the minority report.

On June 9, 1933, the United States Department of Agriculture issued a press release containing the following illuminating paragraph:

Perhaps the most forcible demonstration of the tendency, for moderate supplies to outsell excessively large supplies, is to be found in a comparison of production and total value of potato crops. In 1924 the national potato production was around 387,000,000 bushels, of which 232,000,000 bushels were sold for an average of 78 cents per bushel. The total value of the crop was \$180,960,000. In 1925 the total potato production was 299,000,000 bushels, of which 179,000,000 bushels were sold, but the average price per bushel was \$1.83, and the total value of the crop was \$327,570,000. Thus a decrease of 22 percent in supply brought an 80-percent increase in total value of the potato crop.

Similar cases could be cited without end.

It is sometimes intimated that the difficulty of the potato growers is a result of the decline in the consumption of potatoes. The figures seem to indicate rather clearly that the consumption of potatoes varies from year to year in accordance with market conditions, but that there has been no marked change in the taste for potatoes of the people of the United States according to the following table showing the per capita consumption of potatoes in the United States for a period of 14 years:

SCHEDULE B

Per capita consumption of potatoes in the United States from 1919-32

[Figures from U. S. Department of Agriculture]

	Pounds
1919.....	122
1920.....	151
1921.....	126
1922.....	170
1923.....	145
1924.....	146
1925.....	114
1926.....	122
1927.....	137
1928.....	145
1929.....	120
1930.....	118
1931.....	128
1932.....	118

Average for 14 years, 133 pounds.

These figures from the Department of Agriculture seem to show a fluctuation attributable to other factors than the preference of the consumer for potatoes as a food.

The legislation is simply calculated to give to the producer a fair price for his product consistent with the reward received for his labor by every other producer in the United States.

The measure is most carefully safeguarded against abuse of any kind. The consumer has benefited to a very small extent from the disastrous prices received this year by the growers of potatoes. The consumer likewise will be very little prejudiced by the provisions of this bill in its endeavor to assure that a fair price is received by the producer of potatoes and that economic health and sanity are restored in this great industry which means so much to the prosperity of the United States.

Every grower will be benefited, whether he be large or small, by the equitable price which he will receive for the product of his land. Meanwhile the smaller producers have a special exemption to take care of their particular case.

No reason is readily apparent why it is so inequitable or impracticable to accord an exemption of 300 pounds of potatoes to each small producer, and yet so entirely just and right to accord an exemption of 300 pounds of pork to each small producer. It is suggested that the value of the potatoes is negligible. Yet 300 pounds of pork was only worth \$6, 2 years ago.

The parallel is curiously convincing as to the inequity or difficulties that are presented by an exemption of this kind.

The potato growers of Maine and of the United States submit their case to this Congress in full confidence in the sense of justice and fairness by all sections and all citizens to this most important crop. [Applause.]

[Here the gavel fell.]

Mr. JONES. Mr. Speaker, I yield 8 minutes to the gentleman from Iowa [Mr. GILCHRIST]

Mr. GILCHRIST. Mr. Speaker, I am especially pleased to have the views of the gentleman from Maine [Mr. BREWSTER] about Iowa. The gentleman from Maine has one county in his district that raises 12.28 percent of all of the potatoes produced in the United States of America—one-eighth or more of all the potatoes—and still he comes in here and likens this proposal to the corn-hog program. The present proposal is one by compulsion where they take farmers by the nape of the neck and tell them what they must not do. And if they do it, they put a prohibitive tax upon their potatoes. The corn program and the hog program are purely voluntary, and I can advise the gentleman that thousands of our farmers in Iowa have refused to go into it. I am opposed to this compulsion. The corn-hog program is not for the benefit of a small area—it covers the whole country.

The gentleman from Maine has in his district one county—one county mind you—which produces one-eighth of all the potatoes produced in the whole of the United States, and still he says:

You folks must give up your potato production; you must let us have this same percentage of production that we now have; we are to continue to produce one-eighth of all the potatoes in America; but we want you to let us go over there and seize your local market. Your local market is a good one.

Mr. Speaker, the reason why this market is a good one is because we do not overproduce.

Mr. BOILEAU. Mr. Speaker, will the gentleman yield?

Mr. GILCHRIST. I cannot yield. We have considered this bill for 5 or 6 months, and because of the peculiar and extraordinary way in which the legislation has been brought before the Congress I now have only 8 minutes to discuss it.

Mr. BIERMANN rose.

Mr. GILCHRIST. I do not care to yield to my colleague from Iowa either. I wish I had time to yield.

Why, the gentleman from Wisconsin [Mr. BOILEAU] has in his district five counties which, according to the figures for 1931, which have been published by Wisconsin through its own department of agriculture—I have tried to get the latest figures, the latest I can get are for 1931—the gentleman has five counties in his district that produce 2.11 percent of all the potatoes in the United States.

Then there has come before us here today our good friend, the gentleman from Virginia [Mr. BLAND], who stated before our committee that two counties represented by him are about the largest potato-growing districts in the United States. If so, then they also produce 12 percent of all potatoes in the United States; but I think the gentleman may be somewhat in error in that regard and perhaps only 2 percent of the whole are produced in those two counties. Somerset County, Pa., according to the statements made at the hearing raises as much as one-third of all the potatoes raised in New Jersey, and if this is true, then that single county raises 7 percent of all the potatoes in America.

The proof before the committee—hearings, page 162—was to the effect that two counties in Long Island—Nassau and

Suffolk—produced more than 2 percent of the potatoes in the United States.

Maine, I have already referred to, in which a single county raises 12.28 percent.

These 11 counties produce or sell 25.39 percent of all the potatoes raised or produced in America; and, of course, their representatives are here today asking that they be given a perpetual patent right to raise and sell this vast preponderance of potatoes, and the bill was carefully drawn so as to give them what they want. If this bill goes over, then there will never come a time when the Secretary can change the quotas that he gives to the various States, unless it should occur under certain peculiar language in this bill which is meaningless, which nobody has interpreted, and which nobody can interpret.

An apportionment formula is presented by section 204 under which the Secretary must allot the production of potatoes among the several States. This formula is worded so that it will give the highest figures possible, because it compels the selection of 4 of the best years from 1927 to 1934, inclusive. This formula is imperative except that if the Secretary finds that it would result in an unfair apportionment, then he has a differential, or leeway, of 2 percent, provided such unfair and inequitable apportionment is caused by differences in "production practices" or "marketing practices" among several States. It is plain, however, that there are no such differences. What "production practices" are referred to? What "marketing practices" are referred to? Nobody knows. I have asked many, but all admit that they cannot interpret these words. I have asked the drafting service in vain. The gentlemen who are for the bill want to continue that sort of a program. They want to keep forever patent and exclusive rights that certain States will get under this apportionment. The allotment, when once instituted, will be "frozen", and the talk about a 2-percent differential is useless. In this respect the present proposal differs from the precept laid down on page 135 of the Agricultural Yearbook for 1935, as follows:

If the program (adjustment program under A. A. A.) is to be continued, it is essential that it operate so as not to "freeze" agriculture in its present form, but instead leave it sufficient flexibility to change and shift with changing individual needs and economic conditions.

Mr. Speaker, the principle of this bill is discussed in the minority report, and reference has been made to that report. Every word in that report is true. It has been carefully compared and is correct. There was one typographical error in that report. This error was corrected in ink in some of the copies that were circulated. This occurred in connection with the letter to the chairman of the committee written on May 9, 1935, by the Acting Secretary of Agriculture, and the quotations contained in the minority report are from this letter and are correct. But the date of the letter was erroneously printed as being in 1932 and not in 1935. Why do gentlemen try to take advantage of such an obvious typographical error?

Mr. Speaker, the cost of operating under this bill will be enormous. It has been pointed out by the Acting Secretary that it will take \$12,000,000 just to put it into effect the first year, and this does not include the printing and distribution of stamps and the policing under and enforcement of the bill. There is going to be an enormous amount of expense in enforcing this measure. They will station policemen and detectives and secret service men throughout the United States, and it is stated in the letter from the Department of Agriculture that the cost of policing will be in addition to the \$12,000,000. Then the Acting Secretary says that there will also be the cost of "other activities." What? How much? To whom will this money go?

Then there will be the extra costs to the producer. These will be heavy. He will have the expense of getting affidavits and getting his allotments. He will have to go to some central place to do this. He will have to keep books. How many farmers keep books showing production or "production practices or marketing practices"? He will be compelled to get sacks or barrels or other containers. The old-style market gardener cannot sell potatoes without putting them into sacks

or barrels. The farmer cannot longer bring his potatoes to town in a lumber wagon and carry them into the merchant's cellar. These barrels will cost him 12 cents or more per bushel. The sacks will likewise cost probably from 6 cents to 12 cents each. Who is going to pay all of this extra and new and additional expense?

Not one of the great Nation-wide agricultural societies has appeared before the committee to urge the passing of this bill. The Grange did not; the Farm Bureau did not. But Mr. Edward Kennedy, secretary of the Farm Union, made a splendid statement in opposition to potato control, and he states in a letter to me that the National Farmers' Union does not favor the bill; that representatives from the Farm Union potato producers in Michigan, Indiana, and Ohio appeared before the committee in opposition to its passage; that his membership in Baldwin County, Ala., who produce 3,000 carloads of potatoes for the market, have voted 99 to 1 to oppose the passage of the bill.

I have in my files letters from many sources in opposition. And when the farmers of the United States once wake up and realize that they will be compelled to put postage stamps upon their potatoes they are going to make the welkin ring with protests. Vote for this bill, and then go home and explain it to them if you can. One of them came before the committee and protested the injustice of just a few States or localities controlling potato production, and he said (hearings, p. 33):

Let us reverse the thing. Would you be in favor of going on here and saying to the people of our country that live down here in the central section of the United States: "We want to produce your potatoes in Maine. You must pay 50 cents a hundred for transportation of them down there when you can grow them at home in your back yard?"

The history of this legislation is unique. The other body attached the potato section to the A. A. A. bill that had been passed by the House, but the potato section was never before a committee in the other body, nor was any study of it made over there. It now comes back to the House with no opportunity for debate except for the short space of 30 minutes on a side. The potato section of this bill was introduced in the House as a separate bill entirely from the A. A. A. amendments. We had hearings in our committee for 5 or 6 months. We thought the bill would go to the floor in the regular way; but if we can gather anything from the conduct of this legislation, then we are safe in saying that those who sponsor the bill do not want it debated here to any considerable length.

While the bill was before the House committee I was privileged to write the report for the minority of the committee. This report was signed by eight members, including those in both parties. It refers to 30,000 large potato growers, the reference being to those who grow 10 acres or more. There are many more who sell potatoes commercially, but nobody knows just how many. I have permission to attach hereto the minority report, as follows:

BILL UNJUST AND NOT NEEDED

The scheme of this bill is inappropriate and unjust to an overwhelming percentage of people who raise potatoes. Under it the tail is made to wag the dog. There are but few commercial potato growers who will be benefited by the bill as compared to many millions of our population who plant potatoes and sell them as occasion may require or as the result of the yield may determine. The hearings showed that there are only about 30,000 large potato growers who may be called commercial growers, while there are some three or four millions of people who raise potatoes and who want to sell any production that the harvest will bring to them. For example, one State alone, in 1933, shipped 22.2 percent of carload lots of potatoes, and in such State there is a comparatively small area of commercial potato growers. Indeed a very large percentage is confined to one county only. Now for the benefit of a few folks in such a county, and in order to give them a perpetual patent right to grow potatoes, three or four million people in the United States are to be regimented and compelled to reduce the small yield that they are now getting. For the few the many will be forced to withdraw from growing the most common of all vegetables.

The plan is not voluntary. It is compulsory. Every woman who has a small garden patch will be compelled to pay 45 cents per bushel for any excess above her allotment that she may desire to sell or trade to the corner grocer. There is a free allotment of 5 bushels only, but she cannot sell or trade even this 5 bushels without first going to the trouble and expense of establishing a quota based on her past experience and of submitting to allot-

ments which the Secretary will impose upon her. She will be required to go to the county seat or to some other central location in order to establish her allotment, and in doing so present by affidavit or in some other way the evidence showing her past experience in potato growing. She will be compelled to put all of her potatoes into packages and put stamps and tags upon them. Even as to the 5 bushels of free allotment that a magnanimous (?) Government allows her, she will nevertheless be required to purchase packages for them and to secure and put "exempt" stamps on the packages. The expense of this "freedom" will put her out of any market, and the trouble attending it will disgust her. So it will be also with nearly every farmer in America, almost all of whom raise a small amount of potatoes.

All potatoes above the allotment allocated to any producer must pay a tax of 45 cents per bushel; but, of course, nobody believes that such a tax will be paid by anyone. This bill is not designed to raise revenue, because it is plain that no one can afford to raise potatoes and pay the large expense attending compliance plus a tax of 45 cents per bushel before selling them. The sponsors of the bill do not want it to raise revenue. They want it in order to curtail production. Common sense teaches us that it is not a revenue measure. Nobody in the administration and nobody in the Department has asked for the bill and nobody there really wants it. The fact is, that the Department has already damned it with faint and faltering praise. (See excerpts hereinafter set forth from a letter of the Acting Secretary of Agriculture written to the Chairman of the Agricultural Committee.)

There is no adequate showing either in the hearings elsewhere that any excess of production has seriously affected prices. For example, the latest edition of the Agricultural Year Book (1935) shows that the average yield of potatoes in the State of Maine in 1934 was 335 bushels per acre and the average price of this crop was 24 cents per bushel so that the value of 1 acre of production was \$80.40 per acre. In 1933 the yield in Maine was 280 bushels per acre and the value was 70 cents per bushel; so that the value of an acre's worth of potatoes was \$196. This is not a bad income to get from 1 acre of land. It must be remembered also that a single county in Maine produces such a preponderance that the remaining fraction within that State is not of any great consequence by comparison. Enough is enough, and more than enough is too much.

New Hampshire is separated from Maine by an imaginary line only, but the price of the crop there in 1934 was 61 cents per bushel, and the yield per acre was 185 bushels, so that the value of the crop from a single acre amounted to \$112.85.

The same authority shows that in North Carolina in 1933 the yield was 95 bushels per acre of a value of 87 cents per bushel, amounting to \$82.65. In 1934 the average yield per acre was 116 bushels of a value of 64 cents, making \$74.24 to the acre. These are mere examples. They can be duplicated and multiplied many times and the same results will be obtained in almost every instance. These figures are taken from the Agricultural Year Book of 1935 just published, where other statistics and data will be found, all leading to the same conclusion.

In the year 1933-34 the weighted average price received by producers of potatoes as a whole in the United States was 82.3 cents per bushel; and in 1934-35 it was 51.7 cents per bushel, but this happens to be the lowest price received by producers in recent years, except in the disastrous ones of 1931-32 and 1932-33, when the prices of all farm commodities were ruinously low. Indeed, for many years, as shown by such Year Book, the weighted average price per bushel received by producers was a good one, and one that returned to farmers fair prices. The inevitable result of this showing is that there is no need for the bill and that there is no need for subjecting three to four millions of our citizens to regimentation, loss, and expense in order that a few thousand of our people shall be given a perpetual privilege and a practical monopoly to raise potatoes and market them at extravagant prices. The vegetable gardens and the back yards and small acreage tracts will be forced out of business.

"For whosoever hath, to him shall be given, and he shall have more abundance; but whosoever hath not, from him shall be taken away even that he hath."

THE CONSUMER

The consumer has some interest in this question. There are 125,000,000 people in this country who eat potatoes. The housewives in the towns and cities are not going to be satisfied to pay the price that it is designed to impose upon them by those who sponsor this bill. One of the great troubles with regard to agricultural commodities lies in the spread between the price that the farmer gets and the price that the consumer pays. The price that the consumer paid for potatoes in the city of Washington during the past year or so has been about 2½ cents or even 3 cents per pound, amounting to \$1.50 or \$1.80 per bushel. If Congress or the Department would turn their attention to this spread in price as between producer and consumer, and diminish it in favor of the consumer or the producer, many proposals similar to the present one would never be made.

CROP REGIONAL IN NATURE

This crop is one which comes into the market from different sections at different times, so that the Department has divided the country into sections known as "surplus late potato States", "other late potato States", "intermediate potato States", and "early potato States." Section 5 (b) of the bill recognizes, and the fact is, that crop production is regional in nature. There is no reason why potatoes marketed early in the year should be prevented from having a favorable price commensurable with demand

and conditions then existing, or why the producers of late potatoes should be regimented in favor of other producing localities. Instead of giving any locality an artificial advantage, all localities should be allowed to have the ones which nature has given them. They are entitled to enjoy all of the peculiar conditions which surround and attach to them. There is no reason why the ninety and nine who do not raise surpluses should be penalized in favor of others who greedily glut the regional markets. Under the bill these surplus producers want artificial privileges extended to them. They want to curtail and rob the great majority of any relative advantages that may attach to such majority, and at the same time these surplus men want to retain their relative superior facilities for production. They want the people who do not overproduce to give them a share of the superior advantages in price levels and marketing facilities which such people have. These few surplus growers want to arrange it so that they can be on a par with people who do not grow any excess and with the rest of the world as to markets and as to prices and as to seasonal advantages; they want to be on a par as to everything except as to relative production facilities and they selfishly demand the right to keep this relative advantage. It is not so with regard to the other basic agricultural crops, and no producer of such other crops has ever asked for such relative advantages, or asked to retain any relative advantage as against his fellow producer.

There has been a satisfactory market and price level elsewhere than in the few localities which now want to take advantage of the higher prices which moderate growers have received in localities which do not grow potatoes to excess.

MARKETING AGREEMENTS

Hundreds of thousands, perhaps millions, of our people sell their potatoes without putting them into commercial channels. These hundreds of thousands of our folks sell them directly to their neighbors; by delivering them to grocery stores in exchange for commodities; by sales made by gardeners and hucksters who distribute them around the cities and towns; by roadside stands; and by shipments direct to retailers and hotels. In this respect the business of selling potatoes as practiced by hundreds of thousands of our people is unique and is not comparable with other basic agricultural crops, and this situation should not be interfered with under such regimentation and compulsion as this bill exacts.

Indeed, the facts are that if any relief is needed in the localities which produce surpluses then marketing agreements and orders should be used to meet the requirements of that peculiar local situation. This would seem to be a happy and ideal solution of the difficulty if any exists because (1) the geographical area of the surplus producing localities is limited in each case; (2) definite channels exist through which production could be distributed; (3) these localities are within striking distance of important markets.

Recognizing these facts, and on May 9, 1935, the Honorable R. G. Tutwell, Acting Secretary of the Department of Agriculture, in his letter already referred to, discussed the potato situation and suggested that the plan proposed by the bill involved administrative problems of major importance which had never been encountered in other programs, referred to the fact that the sums collected as imposed by the bill could not be reasonably estimated; that the authorized appropriation would not be adequate; that there would be no actual funds available to the Secretary under the A. A. A. allocation; that the first year's operation of the Potato Act would entail a cost of not less than \$12,000,000; that this minimum estimate covered merely the expenses of the administration during the first year; that the cost of printing and distributing stamps as well as enforcement and other activities of the Bureau of Internal Revenue had not been included within this estimate; that the expenses would be relatively high because of the inherent nature of the problems involved in such a far-reaching program for a commodity like potatoes which are produced under such a wide variety of conditions. And he suggested further that the potato industry could operate during 1935 under the marketing agreement and licensing provisions of the Adjustment Act. If this can be done in 1935, there is no reason why it cannot be done afterward or whenever the occasion requires, and without the enactment of the present proposal.

The provision of the bill which pretends to grant a small exemption from taxation is a very curious one and is drawn with excessive care and skill. It is supposed that an exemption of 300 pounds is to be allowed free from taxation. But even if this exemption is granted every small grower he will be required to put his potatoes into expensive packages and to get exempt stamps and attach the stamps to the packages and otherwise comply with vexatious preliminaries. But strictly speaking there is no such an exemption. As a matter of fact, there is no exemption given to persons. There is language which will allow certain farms a free allotment up to 5 bushels, being farms from which average sales are 300 pounds or less per year. This exemption might as well be out of the bill. The value of 300 pounds is negligible. Perhaps a farm will thus be allowed to grow \$3 worth of potatoes untaxed. Bear in mind that a farm is not an individual. Likewise, the allotments go to farms and not to individuals. This is all skillfully worked out in order to save every advantage to the big farm and to the big producer. There is no exemption that might be availed of by a young lad who is the son of a farmer and who wants to grow a small quantity of potatoes. There is no exemption as to tenants or field croppers, unless the exemption is consummated through the landlord or owner of the farm.

To speak of it as an exemption is a misnomer because the language in subsection 1 of section 8 of the bill allows no exemption whatever unless the farm produces less than 300 pounds of pota-

atoes. In case any farm for which average sales are 300 pounds or less than such average sales shall be exempt from any percentage reduction and the farm shall receive an apportionment equal to such average sales. Why is less consideration given to the poor grower of potatoes than to the grower of cotton or to the man who raises hogs? The values of exemptions allowed in all other allotment bills are substantial in amount and might run up to hundreds of dollars. The intention here is to discriminate against the small potato grower, and to tax the poor man's food without allowing any practical exceptions whatsoever. If there is any liberality to be indulged with reference to any commodity on earth, it is the commodity which the bill describes as "*Solanum tuberosum*" because they are used three times a day on every workingman's table. Why allow the cotton and the hog man substantial sums and not allow anything to the poor gardener or farmer or woman who raises as much as 301 pounds of "spuds" in the back yard?

ALLOTMENTS AND BOOTLEGGING

What is above set forth concerning exemptions could be more properly said about allotments. The Secretary will be given an elaborate formula for fixing allotments. He will be given hundreds of thousands, more or less, field men to go out and traverse the country from Maine to California and to ascertain facts regarding individual potato production; the Secretary will also be given a hundred thousand, more or less, clerks to apply the formula to the facts; and the allotments will then be made to farms. If you have a 5-bushel farm only, then your allotment will not be cut down under 300 pounds. The scheme is unfair as well as inequitable. It is unworkable. Potatoes will be bootlegged everywhere, and the rising generations of farmers and gardeners will be taught to violate the law, and a dangerous spirit of lawlessness will be engendered which will bear fruit in a race of criminals and a harvest of crime. Indeed, the proponents of the bill have been candid in stating that they expect considerable bootlegging.

REFERENDUM

One of the most curious as well as unfair things about this bill is the provision regarding the referendum. This provision would be laughable if it were not so serious in the event that the bill ever becomes law. This referendum ought to be a real one or else there should be none whatsoever. Subparagraph (c) of section 5 on page 5 of the bill provides for a referendum only as to the future continuance of the plot or scheme. But the joker is that every producer is entitled to 1 vote for every 60 pounds of potatoes apportioned to him during the preceding allotment year. In other words, and in order to perpetuate their patent rights and special privileges, a few producers, a few counties, a few localities in a few States which now produce high percentages of the whole crop will be allowed to vote by bushel and not per capita. We are to return to the old system of property and production suffrage and not individual suffrage. If you produce 20,000 bushels of potatoes, you get 20,000 votes. The intention is, of course, to destroy any influence the small potato growers might have in determining the future course of this act, and to continue forever and forever, world without end, the subjection of the small man.

As stated, one State last year produced almost (not quite) one-fourth of the potatoes that were shipped in carload lots and the overwhelming production in that State is limited principally to a single county. Now, under the contrivance or scheme arranged in the bill that county will be enabled to plug its vote and will have almost, if not quite, absolute sovereignty with relation to this potato business. Nothing more deadly or more inequitable could be proposed in America. The big boys will wear the crown and the ordinary citizen or poor gardener, knowing the facts and knowing the conditions which surround the referendum, will not go to the trouble and expense of attending the polls because he knows in advance that he will have no chance whatsoever. He will have no incentive to attend. We might as well pass a law right in the beginning which will provide that a certain few counties in a certain few States shall hereafter have perpetual enjoyment of the potato business in this country. After the passage of this bill never again can three or four million American citizens regain any right to raise or sell potatoes in their own small way in their own small communities or to trade potatoes to storekeepers for the necessities of life.

But Congressmen should remember that there is an electorate at home. American citizens should not be despoiled in this manner. The rank and file of our people do not know about the bill or do not understand what the provisions of the bill are. But when they wake up and learn about these provisions, a vast amount of explanation will be necessary to be made by those who are responsible for taking away from American citizenship the right to vote and to raise and trade and sell a few Irish cobbles.

As a matter of fact, the bill ought not to have been reported with this provision, because the Committee on Agriculture struck it out by record vote and substituted an amendment whereby the referendum vote would not allow such preponderance to be given to potato magnates, but would give 1 vote to each producer whether he be a big man or a little one. Under this amendment men would vote and not bushels. The bill as now reported was never voted out or approved by the Committee on Agriculture.

FINES AND IMPRISONMENTS

Many sections of the bill relate to fines and imprisonments. How much of an exaggeration is it to say that they will soon be "hanging men—yes, women, too"—for the growing of Irish cobbles? Every woman who produces a few potatoes (even though she does not sell them) may be required under section 17 to make

returns and render statements and give information and keep records such as the Secretary of the Treasury or Agriculture may deem necessary for the administration of the bill. If she fails to do this, then she may be punished by a fine of \$1,000 or she may be sent to the penitentiary for 1 year and an unrelenting judge may impose both such fine and imprisonment all for the heinous crime of her having failed to make statements or returns or to keep records.

In fact there are several pages of the bill which have to do with penal provisions. Under section 23 a fine of \$1,000 may be imposed upon any person who offers to sell or who even offers to buy potatoes which are not packaged; or who offers to sell or offers to buy potatoes (even though they be packaged) upon which stamps are not affixed. When your friend the home gardener comes to your kitchen door next year with a basket of new potatoes on his arm, you should set the bulldog on him and drive him off the premises, because you must not even offer to buy his potatoes or to look at them which might indicate your intention of buying. You may be fined \$1,000 if you do buy them in unpackaged form, or if you do buy them without seeing that stamps (either exempt or nonexempt stamps) are affixed. And if he or you commit such a heinous offense a second time, you will be imprisoned for a space of not more than 1 year. You cannot speculate in tax-exempt stamps unless you are subjected to like fine and imprisonment. You must be sure to destroy the stamps that are on the packages, and if you fail to so destroy them you will be violating the regulations and will be subjected to fine and imprisonment. If you willfully fail to pay the tax or if you willfully violate any provisions or if you have in your possession any paper "in imitation" of that used in the manufacture of stamps or if you place any potatoes in a package which has theretofore been filled or stamped without destroying the previous stamps, you will again be punished by like fine and imprisonment. Yet this is proposed for America.

CONSTITUTIONALITY

The bill, if enacted, will be unconstitutional. It is plain that it is not a taxing bill. The tax is so high that it cuts off, and is intended to cut off, any possibility that it will ever raise revenue.

Those who propose the bill admit that it is not bottomed on the commerce clause of the Constitution, but claim that it can be handled under the power which Congress has to lay and collect taxes and excises in order to pay the debts and provide for the common defense and general welfare of the United States. But, as stated above, it is not expected that any taxes or excises will be collected. This is abundantly shown on the face of the act itself and even by the report filed by Mr. COOLEY for the majority of the committee. It will be seen that the necessity of aiding potato farmers is emphasized in the report of Mr. COOLEY, and he says:

"The approach to this problem incorporated in the bill is deemed to be the most feasible method of meeting the problem * * *"

The tax is really a penalty. It is not an excise. No one expects that excises will be raised.

Our experience with the second Child Labor Act is sufficient to convince anyone that the bill will be illegal if enacted. The first Child Labor Act was bottomed upon the commerce clause of the Constitution, and even it was held to be unwarranted and void. The second Child Labor Act was bottomed upon the excise and tax provisions of the Constitution exactly as the present proposal is. When that law came before the Supreme Court the Government defended upon the ground that it was a mere excise under the broad powers of taxation conferred upon Congress. But the Court held that the law was not a good-faith attempt to impose taxes or excises; but that it was an attempt to regulate the internal affairs of the State; and, among other things, said that it (the Court) would be blind not to see that the so-called "tax" is imposed for the purpose of stopping child labor; and that there comes a time in extending so-called "tax" laws that the act loses the character as such and becomes a mere penalty (*Bailey v. Drexel Furniture Co.*, 259 U. S. 20). We might here add the forceful language of Judge Dawson in a case decided in his Federal court last April involving a similar attempt of Congress, as follows:

It is impossible for anyone who has any respect for constitutional limitations to contemplate this law with complacency. It is the plainest kind of an attempt to accomplish an unconstitutional purpose by the pretended exercise of constitutional powers. The garment used to hide the naked unconstitutionality of the act was fabricated from the taxation and commerce clauses of the Constitution; but neither congressional recitations of purpose, nor the formal dress of a statute, is conclusive upon the courts.

Why go through the motions of enacting such an unlawful proposition as is contained in this potato bill?

STATEMENT OF THE DEPARTMENT

The Department of Agriculture has not asked for the enactment of this bill. A letter by the Acting Secretary written to the chairman in May was before the Agricultural Committee, but is not included in the hearings. Of course the Department will administer the bill if Congress enacts it. Among other things this letter says:

"The plan involves administrative problems of major importance which have not been encountered in other programs. Among these special problems are the large number and wide distribution of potato producers, the seasonal and perishable character of the commodity, and the marketing methods used which include both regular commercial distribution and direct sale by the grower to wholesalers, retailers, and consumers."

The letter also refers to the cotton and tobacco program and says that the initial program for these commodities was based on the processing tax and benefit provisions of the A. A. A.; that a

high proportion of the producers voluntarily cooperated before compulsory allotments were authorized and that the voluntary signing of these contracts served as a referendum; but that no such opportunity will be available to potato raisers under this bill because a benefit program is not contemplated.

And with regard to the cost of administering and enforcing this bill, and which subject has already been discussed in this report, this letter states:

"It appears that the first year's operation of the Potato Act will entail a cost of not less than \$12,000,000. This minimum estimate for effective operation covers merely the expenses of the Agricultural Adjustment Administration during the first year of the act. The cost of printing and distributing stamps, as well as enforcement and other activities of the Bureau of Internal Revenue have not been included in the \$12,000,000. It is apparent that the administrative expenses are likely to be relatively high because of the inherent nature of the problems involved in a far-reaching program of this type for a commodity produced and marketed under such a wide variety of conditions as potatoes. The administrative expenses for a program of this type for potatoes will probably be higher in proportion to the benefits likely to be received by producers than in the case of any of our present programs."

Another quotation is as follows:

"It must be borne in mind that the operating details of the program outlined in this legislation will be more complex than in the case of any other commodity for which similar action has been taken. Because at no time between producer and consumer are potatoes changed in form, and because many producers can and do follow the practice of selling direct to retailers and consumers, the problems of enforcement should not be minimized."

GENERAL STATEMENT

The program proposed in this bill is unlike other agricultural programs. Many of its provisions in addition to those herein referred to are unjust and unreasonable and unworkable. It offends against the rights of millions of men and women to grow potatoes. The plan is compulsory. The proposed tax is so excessive that it will never be paid. There is no need for the bill. There is no referendum as in other programs at the first installation of the plan; and the provisions of the bill as reported concerning referenda in the future put perpetual control in the hands of a few potato magnates. These few large producers will dominate the activities of three or four millions of our people. The consumers' rights are in nowise protected. The crop is regional and the bill arrays the producer of potatoes in one section against the producer in other sections. It takes away the rights which local producers have in local markets, and forces them to give up the advantages which they have, but does not correspondingly force the big growers to give up the advantages which they still retain by way of relative production capacity or relative volume.

A system of espionage will be necessary. Spys will be sent scurrying about the country, but even then there will be more bootlegging of potatoes than there ever was of whisky in prohibition days. There is no adequate exemption from taxation for the small growers as in other similar control bills. The provisions for fines and imprisonments remind one of Baron Jeffreys, the infamous English judge, and of the scandalous and cruel sentences which he habitually imposed for trivial offenses.

The bill contravenes constitutional limitations, and Congress has no power to enact it. On account of the large number and wide distribution of producers and of the character of the commodity the plan is not workable, and the cost of administration will be enormously higher relatively than in case of any other control program. This expense is prohibitive.

The bill should not be enacted.

FRED BIERMANN.
CLIFFORD R. HOPE.
CHARLES W. TOBEY.
L. T. MARSHALL.
AUG. H. ANDRESEN.
FRANK E. HOOK.
J. ROLAND KINZER.
FRED C. GILCHRIST.

Mr. JONES. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. COFFEE].

Mr. COFFEE. Mr. Speaker, potatoes in my district are a major crop, and the growers have indicated a keen desire to have this bill passed. For the last 5 years we have been producing potatoes below cost of production with the exception of 1 year. The growers are in desperate circumstances. This situation confronts the industry. On practically all of the other major crops a control program is in operation, and in general parity prices are being approached on them. There is no program whatever on potatoes, the fourth food crop in importance in the United States. This bill will make potatoes a basic commodity and will prevent those in other sections of the country who have curtailed their production of other crops from increasing their potato acreage. This surplus production has demoralized prices and brought bankruptcy to the potato growers who depend upon that crop as their principal means of income. Whether the price is low or high, approximately 210,000,000 bushels

of potatoes are sold for consumption. Our normal production should be about 325,000,000 bushels. The difference is used for seed purposes or consumption on the farm.

The latest Government estimate for the potato crop this year is 375,000,000 bushels, which means a production of approximately 50,000,000 bushels too much. It is this surplus that has continued to wreck the potato industry. This bill will provide the legislative machinery which will give the potato growers an opportunity to control production to conform to the demand, and will insure the growers a fair price for their product.

Under this bill if a surplus is produced a better grade of potatoes will be shipped. The No. 1's and possibly the No. 2's will go to market and the commercials will be kept off of the market because of the tax. This will mean the consumer will get good potatoes at a fair price and the grower will get a fair price for those he sells. The increased cost to the average consumer will probably not exceed 90 cents per year. However, it will mean the difference between bankruptcy and prosperity to the potato growers. The higher-quality product which the consumer will get will amply repay him for the small extra cost.

The gentleman from Iowa stated it would probably cost \$11,000,000 to administer this program the first year. I want to call your attention to the fact that the average potato crop is worth around \$300,000,000, and the cost of administration would amount to about 3½ percent of the value of the crop. After the first year it will require two-thirds of the potato growers in a referendum vote to continue the program another year. This bill has been endorsed by practically all of the potato growers' associations throughout the United States, and has been carefully drawn in conformity with their wishes in collaboration with the Department of Agriculture.

I hope the House will approve this measure and give the potato growers an opportunity to receive some benefit from the Agricultural Adjustment Act.

Mr. JONES. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. TAYLOR].

Mr. TAYLOR of Colorado. Mr. Speaker, it does seem to me that, as a matter of consistency and fairness to the agricultural interests throughout the country, when we have put some 13 different crops on a legislative-control basis, we should put potatoes with them. I do not see how we can in fairness refuse to grant this legislation for the potato growers of this country.

The potato industry of our country thoroughly deserves this consideration. I certainly hope and trust that the House will adopt this amendment and give the potato growers this encouragement. [Applause.]

Mr. JONES. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Texas [Mr. JONES] to recede and concur with an amendment.

The question was taken; and on a division (demanded by Mr. HOPE) there were 113 ayes and 100 noes.

Mr. HOPE. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 174, nays 165, not voting 90, as follows:

[Roll No. 166]

YEAS—174

Amlie	Burch	Cullen	Eagle
Ayers	Caldwell	Cummings	Eckert
Barden	Carmichael	Daly	Edmiston
Beam	Cary	Darden	Ellenbogen
Beiter	Celler	Dear	Evans
Bland	Chandler	Deen	Faddis
Bloom	Chapman	Delaney	Flannagan
Boileau	Clark, Idaho	DeRouen	Ford, Calif.
Boland	Clark, N. C.	Dickstein	Ford, Miss.
Boykin	Coffee	Dingell	Fuller
Boylan	Cole, Md.	Dorsey	Fulmer
Brewster	Cooley	Doughton	Gasque
Brooks	Cooper, Tenn.	Doxey	Gehrmann
Brown, Ga.	Costello	Drewry	Glida
Brunner	Cox	Driver	Goldsbrough
Buchanan	Cravens	Duffy, N. Y.	Green
Buck	Crosby	Duncan	Greever
Buckler, Minn.	Cross, Tex.	Dunn, Pa.	Gregory

Hamlin	McKeough	Pierce	South
Hildebrandt	McLaughlin	Plumley	Spence
Hill, Ala.	Maloney	Quinn	Stack
Hill, Knute	Mansfield	Ramsay	Starnes
Hill, Samuel B.	Marcantonio	Ramspeck	Steagall
Hull	Martin, Colo.	Randolph	Taylor, Colo.
Imhoff	Maverick	Rayburn	Terry
Johnson, Okla.	Mead	Reilly	Tolan
Johnson, W. Va.	Miller	Richards	Tonry
Jones	Mitchell, Tenn.	Robinson, Utah	Turner
Kee	Monaghan	Rogers, Okla.	Umstead
Kelly	Montet	Ryan	Vinson, Ga.
Kerr	Moran	Sabath	Vinson, Ky.
Knutson	Moritz	Sanders, La.	Warren
Kocialkowski	Murdock	Sanders, Tex.	Werner
Koppelman	Nichols	Sandlin	West
Kvale	O'Brien	Sauthoff	White
Lambertson	O'Connell	Schneider	Whittington
Lambeth	O'Day	Scrugham	Wilcox
Lea, Calif.	O'Leary	Sears	Williams
Lewis, Colo.	Owen	Secrest	Wilson, La.
Lewis, Md.	Palmisano	Sirovich	Withrow
McAndrews	Parsons	Smith, Conn.	Wood
McClellan	Pearson	Smith, Va.	Woodrum
McCormack	Peterson, Fla.	Smith, W. Va.	
McGrath	Pfeifer	Snyder	

NAYS—165

Adair	Dunn, Miss.	Kahn	Robertson
Allen	Eaton	Kenney	Robson, Ky.
Andresen	Ekwall	Kinzer	Rogers, Mass.
Andrew, Mass.	Engel	Kleberg	Romjue
Arends	Englebright	Kloeb	Russell
Ashbrook	Farley	Lanham	Schaefer
Bacharach	Fiesinger	Larrabee	Schulte
Bacon	Fitzpatrick	Lee, Okla.	Scott
Bell	Focht	Lehlbach	Seeger
Biermann	Gassaway	Lemke	Shanley
Binderup	Gavagan	Lesinski	Short
Blackney	Gearhart	Lloyd	Sisson
Boehne	Gifford	Luckey	Snell
Bolton	Gilchrist	Ludlow	Somers, N. Y.
Burdick	Gillette	McGehee	Stefan
Cannon, Mo.	Granfield	McLean	Taber
Carlson	Gray, Ind.	Mahon	Tarver
Carpenter	Gray, Pa.	Mapes	Taylor, S. C.
Casey	Greenway	Marshall	Taylor, Tenn.
Castellow	Greenwood	Martin, Mass.	Thom
Cavichia	Griswold	Mason	Thurston
Christianson	Guyer	Massingale	Thomason
Church	Gwynne	Meeks	Tinkham
Citron	Haines	Merritt, Conn.	Treadway
Colden	Halleck	Michener	Turpin
Collins	Hancock, N. Y.	Millard	Utterback
Colmer	Harlan	Mitchell, Ill.	Wallgren
Connery	Hart	Mott	Walter
Crawford	Harter	Nelson	Wearin
Crosser, Ohio	Healey	O'Malley	Welch
Crowe	Higgins, Mass.	O'Neal	Whelchel
Crowther	Hobbs	Patman	Wigglesworth
Culkin	Hoeppel	Patterson	Wolcott
Darrow	Hollister	Peterson, Ga.	Wolfenden
Dempsey	Holmes	Pettengill	Wolverton
Dies	Hope	Pittenger	Woodruff
Dirksen	Houston	Polk	Young
Ditter	Huddleston	Powers	Zimmerman
Dobbins	Jacobsen	Rankin	Zioncheck
Dondero	Jenckes, Ind.	Ransley	
Driscoll	Jenkins, Ohio	Reed, Ill.	
Duffey, Ohio	Johnson, Tex.	Rich	

NOT VOTING—90

Andrews, N. Y.	Elcher	Lamneck	Reed, N. Y.
Arnold	Fenerty	Lord	Richardson
Bankhead	Ferguson	Lucas	Rogers, N. H.
Berlin	Fernandez	Lundeen	Rudd
Blanton	Fish	McFarlane	Sadowski
Brennan	Fletcher	McGroarty	Schuetz
Brown, Mich.	Frey	McLeod	Shannon
Buckbee	Gambrill	McMillan	Smith, Wash.
Buckley, N. Y.	Gingery	McReynolds	Stewart
Bulwinkle	Goodwin	McSwain	Stubbs
Burnham	Hancock, N. C.	Maas	Sullivan
Cannon, Wis.	Hartley	May	Sumners, Tex.
Carter	Hennings	Merritt, N. Y.	Sutphin
Cartwright	Hess	Montague	Sweeney
Claiborne	Higgins, Conn.	Norton	Thomas
Cochran	Hoffman	O'Connor	Thompson
Cole, N. Y.	Hook	Oliver	Tobey
Cooper, Ohio	Keller	Parks	Underwood
Corning	Kennedy, Md.	Patton	Wadsworth
Dietrich	Kennedy, N. Y.	Perkins	Weaver
Disney	Kimball	Peyser	Wilson, Pa.
Dockweiler	Kniffin	Rabaut	
Doutrich	Kramer	Reece	

So the motion was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Gingery (for) with Mr. Fenerty (against).
 Mr. Fernandez (for) with Mr. Tobey (against).
 Mr. Bulwinkle (for) with Mr. Buckbee (against).
 Mr. Hancock of North Carolina (for) with Mr. Hook (against).
 Mr. Stubbs (for) with Mr. McFarlane (against).
 Mr. Kramer (for) with Mr. Corning (against).
 Mr. Weaver (for) with Mr. Wilson of Pennsylvania (against).

General pairs:

Mr. Blanton with Mr. Doutrich.
 Mr. Cochran with Mr. Carter.
 Mr. Schuetz with Mr. Cooper of Ohio.
 Mr. Fletcher with Mr. Hartley.
 Mr. Sumners of Texas with Mr. Lord.
 Mr. Rudd with Mr. Reece.
 Mr. Parks with Mr. Thomas.
 Mr. O'Connor with Mr. Stewart.
 Mrs. Norton with Mr. Reed of New York.
 Mr. Oliver with Mr. McLeod.
 Mr. Montague with Mr. Perkins.
 Mr. McSwain with Mr. Maas.
 Mr. Bankhead with Mr. Hess.
 Mr. McMillan with Mr. Kimball.
 Mr. Arnold with Mr. Fish.
 Mr. McReynolds with Mr. Hoffman.
 Mr. Disney with Mr. Cole of New York.
 Mr. May with Mr. Higgins of Connecticut.
 Mr. Patton with Mr. Andrews of New York.
 Mr. Sullivan with Mr. Goodwin.
 Mr. Kennedy of New York with Mr. Burnham.
 Mr. Gambrill with Mr. Lundeen.
 Mr. Ferguson with Mr. Frey.
 Mr. Richardson with Mr. Lamneck.
 Mr. Berlin with Mr. Lucas.
 Mr. Brennan with Mr. McGroarty.
 Mr. Rabaut with Mr. Claiborne.
 Mr. Dietrich with Mr. Sadowski.
 Mr. Hennings with Mr. Sutphin.
 Mr. Thompson with Mr. Kniffin.
 Mr. Sweeney with Mr. Keller.
 Mr. Kennedy of Maryland with Mr. Underwood.
 Mr. Smith of Washington with Mr. Rogers of New Hampshire.
 Mr. Dockweiler with Mr. Elcher.
 Mr. Merritt of New York with Mr. Cartwright.
 Mr. Cannon of Wisconsin with Mr. Buckley of New York.
 Mr. Peyser with Brown of Michigan.

Mr. JOHNSON of Texas changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

Mr. JONES. Mr. Speaker, I ask unanimous consent that in respect to all of the amendments adopted this morning a motion to reconsider may be considered as having been made and that motion laid on the table.

The SPEAKER pro tempore (Mr. BOEHNE). Is there objection?

There was no objection.

H. R. 8492—EXTENSION OF REMARKS

Mr. MARTIN of Colorado. Mr. Speaker, I am in favor of the motion of the gentleman from Texas [Mr. JONES], the chairman of the House conferees, to concur in Senate amendment no. 163 to the agricultural adjustment bill, known as the "Warren potato-control bill"—H. R. 6082.

This bill, Mr. Speaker, was reported favorably by the House Committee on Agriculture after exhaustive hearings, but we have not been able to bring it to a vote in the House. When it became known that the Warren bill had been added as an amendment to the farm bill in the Senate, with only 5 votes against it, I was one of 38 Members of the House who signed a letter to all Members urging them to vote to concur in the Senate amendment.

But, Mr. Speaker, my support of this legislation and my commitment to such legislation generally, long antedates even the introduction of the Warren bill in the House of Representatives.

When the first farm-relief bill was up for consideration in the House on March 22, 1933, I made the following statement on the floor of the House:

In my campaign in Colorado last year I disseminated a very brief statement of my principles. My pledge to the farmers I think I can claim as a model of brevity, if nothing else. Here it is:

"The farmers make up nearly 40 percent of the population of this country, but their organizations have never succeeded in getting a single piece of legislation on the Federal statutes. Why not give the farmers' program a trial? I will."

I say to you gentlemen that I am here today to redeem that pledge.

Mr. Speaker, in obedience to that pledge I have supported every measure for farm relief which has come before the House, including the Bankhead cotton bill, the Kerr tobacco bill, the Jones-Costigan sugar bill, and all amendments which have been made to the original Agricultural Adjustment Act. I shall continue to do this until it has been demonstrated that such legislation is basically unsound or is no longer needed to help rescue agriculture from the impoverished plight in which it was found on March 4, 1933, and from

which, thanks in large part to the farm legislation enacted under this administration, it is slowly emerging.

Speaking to the motion before the House, Mr. Speaker, I want to say that the Warren potato-control bill has the practically unanimous support of the potato growers of the State of Colorado. They have endorsed it in their county organizations, in their State organizations, and in mass meetings of potato growers. In one of these meetings where a poll was taken, the sentiment of the growers was reflected in a vote of 532 for the Warren bill to 2 against. At a State-wide meeting of farm organizations, cooperative associations, and control committees, representing more than 25,000 individual farmers, the 147 representatives present unanimously passed a resolution endorsing the Warren bill. This meeting was held at the invitation of the Colorado State Farm Bureau.

Mr. Speaker, I regret to note strong opposition to the potato control amendment among Members representing farm States and farm districts, and especially Representatives from such States and districts which have been heavy beneficiaries of the wheat and corn-hog programs and of the cotton and tobacco programs. I am at a loss to determine how these gentlemen distinguish between such measures and the potato bill. All at once they have become much concerned about what will happen to the little potato grower under the provisions of this bill. They overlook what has already happened to him and what is happening to him now, which is that his potatoes are not worth digging out of the ground. I can understand, Mr. Speaker, Members from the big cities and representing industrial constituencies voting against a bill which it is said will curtail the production and raise the price of potatoes, but who do not take into account the fact that potatoes are only cheap when the farmer sells them, not when the consumer buys them. Potatoes are cheap on the farm, not in the market. It is my understanding that every one of these farm production regulation bills has broken the grip to some extent of the profiteers and given the grower something of a break on the products of the farm. I am supporting this bill in the hope that it will do the same thing for potatoes that has been done for cotton, tobacco, wheat, corn, hogs, and sugar.

Mr. Speaker, in case of doubt, and I think some of the representatives of farm constituencies who are opposing the potato amendment are in doubt and are fearful that it will hurt the little fellow, I want to remind these Members of the old saying that the tail goes with the hide. Also there is a rule of the game that when you are for the main proposition, you may have to swallow some things that go along with it. This is the philosophy which has determined my action on the entire recovery program, whether industrial or agricultural. I may also call the attention of these Members to the fact that on yesterday we concurred without division in Senate amendments strengthening the cotton- and tobacco-control bills. There ought to be some consistency in our action on these kindred matters.

Once we divide our forces, we will eventually be beaten in detail. We should support this proposition with the same unanimity we accorded to the measures for the stabilization of other agricultural commodities. If in practice it develops unnecessary hardships and inequities, these can be corrected. If on the whole it is objectionable, all that is required to end it is for it to fall short of a two-thirds vote on a referendum of the growers themselves to continue it. This is democracy in action in the field of economics.

It is claimed that this bill is for the benefit of 30,000 commercial growers out of some 3,000,000 potato growers in the United States. I can scarcely feature the Secretary of Agriculture undertaking to administer the law for the benefit of 30,000 as against 3,000,000. This does not add up in the simplest political mathematics, nor does such a proposition find support in the philosophy and record of the Secretary of Agriculture. If I interpret the philosophy and read the record of the present Secretary of Agriculture aright, the preservation and not the destruction of the little fellow on the farm is his primary concern. In this connection, it is a significant fact that all of the crop-control programs, under the administration of Secretary Wallace, have been

continued in effect by the overwhelming vote of the farmers themselves. Not in a single instance have they failed by overwhelming majorities to vote for an extension.

It has been a novel experiment in American legislation to pass laws, the continued force and effectiveness of which rests upon an annual vote of the people affected by the laws. Regardless of what may be said against it, it is a worth-while experiment in economic self-government. I want to repeat what I have said before in debate on farm legislation, that I support such measures, not with the idea in mind that the farmer shall live and move and have his being with a policeman at his elbow, but in the hope that it will show him the way to the control and regulation of his most important calling, which is the basic industry of our national life.

For the first time in American history the farmers' program is getting on the Federal statutes. It appears to be working. The Warren potato bill is a part of that program.

MR. MICHENER. Mr. Speaker, the potato-control bill has no place attached as a rider to the bill amending the Agricultural Adjustment Act. Legislation dealing with those amendments passed the House, went to the Senate, and the Senate has added an amendment, including the entire potato-control bill.

The Agriculture Committee of the House spent months in consideration of the potato-control bill, and on August 5 reported the bill to the House. The committee was sharply divided, as shown by the majority and minority reports. This is a big question so far as the farmers, and also the consumers, of the country are concerned. In these days we pass legislation without consideration; while this may be the custom of late, yet I condemn it. Today we are compelled to vote on this entire potato-control bill after 1 hour of general debate, and without any opportunity to amend. Naturally, the time for debate must go to members of the committee, and it is preposterous that we should pass such far-reaching legislation when a member of the committee is allowed only 8 minutes to explain the entire bill. You could not even start to read the bill within that time.

The hearings before the committee show that there are approximately 30,000 large potato growers who are really commercial growers, while there are approximately 4,000,000 people who raise potatoes and most of whom sell some potatoes—possibly only a few bushels in most instances.

The State of Maine, the greatest potato-growing State in the Union, in 1933 shipped 22 percent of carload lots of all potatoes shipped in this country. A large percentage of the potatoes in Maine are grown in one county—Michigan potatoes for shipping are grown in but a few counties.

This is a commercial potato growers' bill, and it is conceded that it is framed in behalf of the 30,000 commercial growers as against the 4,000,000 general growers and the 125,000,000 consumers.

This legislation would not be so bad if it were voluntary and not compulsory. This is just another case of where the farmer is regimented. If this bill becomes a law, every potato grower, big and little, who desires to grow any potatoes for sale will be given an allotment. Every farmer, and every farmer's wife who grows potatoes in the garden, who might want to sell a few bushels, must register and receive his or her permit. This is not all. The potatoes cannot be sold in bulk. They must be graded, sorted, placed in packages, and on every one of those packages must be placed a stamp issued by the Government, much in effect like boxes of cigars and cigarettes that bear internal-revenue stamps today. Failure to do all this makes the farmer a criminal.

This is not all. The farmer must file affidavits, statements, and surveys, and convince the administrators of the act as to the number of bushels of potatoes sold over a given period, and the allotment allowed him will be based largely upon the number of potatoes produced on that particular farm during the given period. The farmer who has not been growing any potatoes to sell will have a difficult time in changing or rotating his crops. The allotment will attach to the farm and not to the farmer. In other words, if one farmer has not been in the habit of growing potatoes

for sale and he sells his farm or rents it to another farmer, who is a potato farmer, he will be estopped from growing the kind of crops he is used to growing and wants to grow, because of this compulsory potato-control law.

After the farmer receives his allotment certificate showing how many potatoes he may sell in a given year, if he sells more than his allotment certificate provides, he must pay a tax of 45 cents a bushel on every bushel beyond the allotment.

This is not all. If he knowingly sells or attempts to sell beyond the allotted amount, or without a permit, he may be sent to the penitentiary for 1 year and fined \$1,000. Is there any person within the sound of my voice who thinks for a minute that the potato growers of this country will ever submit to any such domination by any bureau or bureaucrat from Washington?

This law would be entirely impossible of enforcement. There would be more bootlegging than anyone can imagine and the moral effect on the young folks of the country of such an impossible arrangement would be distressing at least. The advocates of the bill admit this bootlegging and it has been admitted on the floor here today that this law cannot be enforced in every locality, but that it can be enforced in the large commercial potato-growing sections. Possibly they can have Government agents and snoopers enough in one county in Maine, where they grow nothing but potatoes, to see that the law is adhered to. The district which I represent is not a commercial potato-growing district. Every farmer grows a few potatoes for his own use and always hopes that the yield will be such that he will have a few to sell, and the few growers who grow with the intent of selling would not be materially helped by this harsh legislation.

Again the constitutional question comes up, and I am convinced that, like the A. A. A., this law will be held unconstitutional. The constitutionality is attempted to be justified under the taxing clause, but who is there among us who would say that the purpose of this bill was to raise revenue to run the Government? In fact, the bill provides for an appropriation of \$12,000,000 for the basic part of the first year's enforcement, and this will not begin to cover the expense. The 45 cents a bushel tax on all bushels sold above allotment is punitive entirely and for the purpose of controlling production and if all farmers comply with their allotment no tax will be raised. If we want to change the Constitution, let us do it in a constitutional and upright way rather than constantly seeking to escape and get around what we are satisfied in our own hearts is the basic law of the land. Again let us remember our oath of office.

The people of the country have had some little experience with crop control during the last 2 years. Fourteen basic crops are under Federal control, but mark this well, only two, cotton and tobacco, are compulsory. The others are optional. The farmers may take advantage of the hog and corn or wheat program if they desire, but up to date there is no compulsion. I have insisted and believe that the purpose of the A. A. A. is to eventually bring all of these voluntary commodities under compulsory control. The cotton grower today is absolutely controlled whether he likes it or not. As a result he is losing his foreign market, cotton workers are thrown out of work, clothing costs more, and in the end the artificial structure will fall upon him.

The tobacco grower is also under involuntary control. It must be observed that these commodities are regional and the task of controlling is, therefore, minimized. Potatoes are grown in every State in the Union and in every county in the State; that is, to some extent. The very thought of making all these potato growers who might want to sell a few bushels keep books, make annual reports, and so forth, is beyond comprehension. Yet that is just what this bill does, and if the poor farmer does not comply with the law he has confronting him that maximum of 1 year in the penitentiary and a \$1,000 fine.

I have been asked about the packages above referred to—just what kind of containers and the size of the package in which the farmer must place his potatoes before offering them for sale. This bill leaves these matters to regulation.

Therefore, if the professor in charge should think it wise that all potatoes sold should be placed in cellophane packages and possibly flavored with the scent of perfume, the farmer could not sell unless he complied. This may be extreme, but it is possible, and all laws should be enacted having in mind the possibilities as well as the probabilities.

To get back where I started, I am sure we must all agree, whether or not we favor this legislation, that the whole matter is so serious that it should not be disposed of under the whip and spur of the leadership and within 1 hour and without opportunity to change or amend. I am just as sure as I am that I am talking, that if this House had the opportunity at this time, it would not permit the inclusion of the unreasonable penalties above referred to, and I cannot for the life of me understand how Members will vote for this drastic, unreasonable, uneconomic, unconstitutional, and arbitrary legislation without proper consideration.

If this bill becomes a law and our farmers are compelled to operate under it, there will be a justified resentment on the part of the small farmers everywhere, and we cannot blame them.

Representing an agricultural district, I am vitally interested in increasing the price of farm products to the cost of production plus a reasonable profit. Representing many consumers, I am just as vitally interested in seeing to it that the consumer gets the products of the farm at a price which he can afford to pay. Both of these objectives may be obtained if the consumer has a job at a reasonable wage, and the spread between what the farmer gets and what the consumer pays represents legitimate handling costs.

This condition is not going to be helped any by a lot more red tape to be complied with by the farmer before the consumer can get the potatoes. Any law that makes it impossible for every general farmer to sell his few surplus bushels to the purchaser in the community who wants to buy them will do a specific injury not only to the farmer but to the consumer as well. The users of potatoes will have a right to complain if this bill ever becomes a law, and I misjudge the temperament of the average American farmer if he does not rise up in protest, when again he is confronted by another investigator or inspector from Washington, with a voluminous portfolio of blanks—red sheets, yellow sheets, and white sheets—affidavits and seals, permits and stamps, and is compelled not only to fill out all the required blanks but, in addition, is instructed as to how he must keep books and account for all potatoes grown and marketed. This whole thing is just impossible.

Mr. KINZER. Mr. Speaker, the potato amendment, added by the Senate to H. R. 8492, the Agricultural Adjustment Act amendments, now before the House, was never discussed or considered in this body. This amendment seeks to control, regiment, and limit the three to four millions small potato growers and farmers for the sole benefit of about 30,000 large commercial producers of potatoes.

Under this amendment every grower is required to secure his or her allotment quota from the potato-control authority to be set up under this amendment. He must then secure the tags, stamps, and specially designated wrappings and containers before he may offer for sale one single potato. This amendment imposes a tax of 75 cents per 100 pounds of potatoes, or about 45 cents per bushel, which is twice the price potatoes are now bringing. It is not a tax provision, nor is it intended as such, its purpose being none other than to absolutely and completely prohibit the independent production and sale of this staple food. The amendment further provides that in the referendum the potato producer shall be entitled to one vote per bushel for each bushel of potatoes he produces, thus giving complete control of this industry into the hands of a very few large producers, less than 30,000 in number, as against the three or four millions of our citizens who raise a small patch of potatoes for their own use and who have up to this time enjoyed the right and privilege of sale and barter for the small surplus they may have to dispose of. The enactment of this potato amendment will directly affect more of our citizens than any control legislation heretofore passed.

A smaller percentage of potatoes are handled through interstate commerce than of any other agricultural commodity. Every farm, every truck garden, and every back yard, I may ask, grows some potatoes, and because of the large number of persons engaged in raising potatoes this amendment would be impossible of proper administration. It will cost over twelve millions of dollars to administer this potato-control program the first year, and will require a Federal representative in every township of every county in every State of our Union.

I know that the potato growers of my district are very outspoken and positive in their opposition to this amendment which takes away the last vestige of independence from every farmer, every gardener, and truck raiser in our land.

Mr. DITTER. Mr. Speaker, the potato amendment to the Agricultural Adjustment Act affects every home in the country. The cost of potatoes touches the pocketbook of every American housewife. In the home of the most humble and lowly citizen potatoes constitute a chief part of the meal. We are called upon to further increase the cost of living which has already reached a point where protests are heard from all sides. It is a further extension of the program of crop control which has already proved a very effective method for America to surrender its world position of pre-eminence in cotton production. It is based on the false philosophy of artificially creating scarcity in the midst of plenty. It is predicated on the theory that a famine will produce prosperity.

There might be some justification for requesting the legislation, even though I would oppose its enactment, if it held out any hopes of benefit to the average farmer without placing an undue burden on the shoulders of the average citizen. But such is not the case. This potato-control amendment is for the sole benefit of the large commercial growers at the expense of the average farmer and of every household in the land. The purpose of the amendment is to provide profits for a comparatively few commercial potato growers and saddling this profit for big business on the small farmer and the consuming public. It is estimated that there are 30,000 commercial growers and 4,000,000 average or general growers of potatoes in the country. These figures speak for themselves.

A study of the amendment discloses that every potato grower who contemplates selling them will be given an allotment. This means that he must secure permission from the Federal Government and comply with prescribed rules and regulations. The potatoes must be sorted and graded and labeled. They must be packed according to rule and may not be sold in bulk. Then the grower must submit to surveys and examination by Government officials and convince their masters by affidavits and statements as to the number of potatoes they should be permitted to sell. Picture if you can the small farmer and his wife confronted by officialdom in all its power in order to sell or exchange a few bushels of potatoes at the country store. If the farmer fails to meet the conditions he becomes a criminal under the provisions of this amendment.

But this is not all. Should a bountiful harvest provide a larger yield than the allotment made by the Government official, the farmer is required to pay a tax of 45 cents on every bushel over the allotment. In other words, the amendment provides a penalty for those who harrow and cultivate the field and places a premium on the presence of the potato bug and other obstacles to a good yield. This will be a strange lesson for the frugal and industrious farmer of Pennsylvania to learn.

I am convinced that the proposal is unconstitutional. An effort is made to abort the taxing clause to give the measure a cloak of constitutionality. This is subterfuge of the worst character. No one will attempt to claim that the purpose of the amendment is to raise revenue. It is a compulsory control measure to limit the production of potatoes, to destroy the competition provided by the average farmer in the potato market, and to give the commercial grower a monopoly at the expense of the consuming public.

The attempted enforcement should prove an interesting experience. It will provide a new chapter in the narrative of the art of bootlegging. Liquor-law enforcement will shade into insignificance in comparison with potato-control enforcement. Will the farmer or the farmer's wife be the culprit? Why not charge the fertilizer salesman as an accessory? Imagine the results of an army of inspectors, investigators, and snoopers turned loose on an innocent and unsuspecting countryside seeking those whom they may devour, or should we say those who would sell potatoes to devour. The contemplation of attempted enforcement is ridiculous.

And all this so that farmers will not grow potatoes and so that upon the family budget there will fall another weight of expense in the ever-mounting cost of providing necessary foodstuffs. I cannot bring myself to the support of such harmful and extravagant legislation.

LEAVE TO ADDRESS THE HOUSE

The SPEAKER pro tempore. Under special order, the gentleman from Georgia [Mr. CASTELLOW] is recognized for 15 minutes.

Mr. CASTELLOW. Mr. Speaker, due to the limited time at my disposal, I ask Members to refrain from requesting me to yield until at least I have finished my statement.

I realize what the legislative program is. Consequently, I could not fail to be cognizant of the importance of time to the House. Yet the people back home cannot realize the situation. The fact is back there they feel that we have as much time here as they have at home; in fact, they think we have 24 hours a day here the same as they have, whereas in reality time here is as precious as water is in Ethiopia, and the keepers of the well are indeed vigilant; but I say this to the Membership of the House, that all of the water should not be reserved for the generals, because, believe it or not, as Ripley would say, before this war is over you are going to need some privates.

The only possible reason for bringing the matter I have in mind up for discussion in this House is to illustrate what may happen to you, your district, or your State under a centralized government, a bureaucratic government. I want to talk to you briefly regarding a State of this Union concerning which some of you, at least, may need enlightenment. I desire to discuss especially one of the Thirteen Original Colonies, now the State of Georgia, the only State in this Union that has never gone Republican, the State that has held high the Democratic banner ever since there has been a Democratic Party.

When the great State of Texas, that now furnishes us with a Vice President, that furnishes the chairmen of five of the important committees of this House; when the State of North Carolina, furnishing the chairman of the most important committee, the Committee on Ways and Means, and the chairmen of other committees; when the State of Tennessee, which contributes, among other chairmen, the chairman of the committee upon which I have the honor to serve, and in addition thereto furnishes this body with its splendid Speaker, whom we all respect and love—when all of these States that have been so honored by Democracy were resting blissfully in the camps of the Republican Party in 1928 Georgia still held high the Democratic banner.

That is the State of which I wish to speak. Although she has remained loyal in season and out, conditions now impel me to direct attention to the reward she has received from our great party for her unusual and faithful services. You all know there are certain funds allotted for the building of public roads in the various States of the Union. I called upon the Bureau of Public Roads yesterday and asked if there was any State in this Union which had its funds "hung on a hook" except the State of Georgia, and the answer was in the negative. "Your State," said he, "is the only one." So this presents a most unusual situation—a situation in which we, as a Casabianca, remained constant at our post while others of less loyalty deserted. Can it, therefore, be surprising that we are sadly disappointed when the only distinction accorded us is that of being the only State in the Nation whose road allotment is "hung on a

hook" and that so high it cannot be reached by even the most strenuous effort? All it seems we can now do is, as a well-trained poodle, stand on our hind legs and beg for that which, in justice, is truly ours.

Mr. TARVER. Mr. Speaker, will the gentleman yield?

Mr. CASTELLOW. I ask the gentleman to excuse me.

Mr. TARVER. Just for a moment.

Mr. CASTELLOW. I yield to my colleague.

Mr. TARVER. To state that it is "hung on a hook" at the behest of the Republican chief of the Bureau of Public Roads and of a Republican Secretary of Agriculture.

Mr. CASTELLOW. I thank the gentleman for his contribution.

So why, I am constrained to ask, should Georgia be singled out for such treatment? The only way to account for such unusual treatment is, to my mind, supplied by an analysis of the political situation in America as suggested in 1916 upon the second election of President Woodrow Wilson. It is not difficult to recall that the entire Nation was in suspense since no one could foretell whether a Democrat or a Republican would occupy the White House until practically the last vote in California had been counted. Upon the announcement of the result in that State, the tension being relieved, I ventured at that time certain conclusions with which I had been impressed by the occurrences described. It occurred to me that the situation in California was rather similar to that of a young, beautiful, cultured, and most attractive debutante who had as her rival admirers two most distinguished and wealthy suitors. She had not indicated in any way her preference and was known to be rather fickle in her affections. So these admiring gentlemen vied with each other as to which could supply the lady with the most beautiful bouquet of flowers, the most delicious candy, and give her an outing in the finest automobile. This was her enviable position. I presume it is needless to mention the names of the suitors, for you know by the description they were none other than the Democratic and Republican Parties.

Now, what about Georgia. She reminded me of a splendid old lady who was not only married, but had reared for her country a large number of very worthy citizens, who kept the home fires burning and administered to the wants of a certain distinguished gentleman who said, "Why should I bother to bring flowers, boxes of candy, and other desirable luxuries to this lady, for surely she is my wife, we have been married for lo these many years, so why should I worry to supply the attentions of other years?" Another gentleman of the community, who in other circumstances might have been an ardent suitor, suggested that there was no reason why he should supply flowers, candy, and other tokens of affection, since the lady was married to another. [Laughter.] So, this splendid old lady is left to supply that without which no home can long survive, but who is concerned with her cares so long as she slings the pots and pans, nurses the babies, and keeps the trousers creased.

This illustration, to my mind, typifies the respective positions as occupied by California and Georgia. And, judging from Mr. Farley's speech of adulation recently delivered in San Francisco, in which he declared, "It was this State that kept Woodrow Wilson in the White House in 1916. It was California that insured the nomination of Franklin D. Roosevelt in 1932, and the vote of this State confirmed magnificently the action of your delegates to the Chicago convention", it seems that California is still the beautiful debutante while Georgia likewise occupies her position as faithful spouse. But, let it be remembered that we are not in quest of compliments but only asking that simple justice be done.

Is there anyone within the sound of my voice, on the floor of this House or in the galleries, who would believe that such treatment as has been accorded Georgia would ever have been visited upon California by either a Democratic or Republican administration? The fair but fickle State of California, concerning which there is constant doubt as to whether she will go Democratic, Republican, or Townsend, would never be accorded such treatment. Heretofore government favoritism has not been so important, for until recently the chief functions of the Federal Government were

to provide national defense, supply a monetary system, and transport our mail, leaving little opportunity for partiality. It is quite different now, since the National Government has invaded practically every field of human activity. By the exercise of partiality and punitive measures our very existence might be jeopardized. It, therefore, behooves us to keep a watchful eye on the compass and evidence at least some concern as to the possible port of destination.

I would say to this administration, as TOM BLANTON said to KNUTSON a few days ago, "Do not bite the hand that feeds you", and that is what is now being done to Georgia. Eight of the Georgia delegation on the 22d day of July addressed a letter of protest to the White House covering the situation. If it has ever reached there, we have received no such indication. If the mail generally is traveling that slowly, gentlemen, I think we had better send a radiogram or something else to Brother Farley to please come home. [Applause and laughter.]

Public Resolution No. 11 of the Seventy-fourth Congress provides that—

Except as hereinafter provided, all sums allocated from the appropriation made herein for the construction of public highways and other related projects (except within or adjacent to national forests, national parks, national parkways, or other Federal reservations) shall be apportioned by the Secretary of Agriculture in the manner provided by section 204 (b) of the National Industrial Recovery Act for expenditure by the State highway departments under the provisions of the Federal Highway Act of November 9, 1921.

The congressional acts of 1921 as embodied in the United States Code, title 23, section 13, expressly provide that the construction of all Federal-aid highways shall be done in accordance with the laws of the State and under the direct supervision of the various State highway departments. Section 1502 of title 95 of the Georgia Code of 1933 constitutes the State highway department as the agency of the State to discharge all duties arising under any act of Congress allotting Federal funds to be expended upon public roads in Georgia.

It is, therefore, apparent that the Bureau of Public Roads has no authority to initiate a program. Yet, they have assumed to do the very thing by indirection which the law prohibits their doing directly. They have demanded that the highway department of Georgia construct across the Oconee River at Balls Ferry a bridge costing approximately \$280,000. For reasons satisfactory to the State highway department, the request of the Federal bureau was refused and thereupon, apparently in an effort to coerce the State highway department, the Federal bureau declined to approve any and all projects suggested by the highway department. Mr. Clark Howell, editor of the Atlanta Constitution, endeavoring to secure a speedy adjustment of this unfortunate situation, was instrumental in arranging a conference between the Governor and Mr. MacDonald, Chief of the Bureau of Public Roads.

In Mr. Howell's report of the conference, as contained in the Atlanta Constitution of July 20, 1935, the following appears:

Then the Governor said: "I understand, Chief MacDonald, that it is Balls Ferry or nothing; that unless we consent to the building of this bridge Georgia's \$19,000,000 highway allotment will not be released." "Correct", said Mr. MacDonald, "with the further understanding that we would insist upon satisfactory efficiency in the engineering force of the highway department."

Now, whose money is this that is being withheld, and by whom, in the last analysis, will be supplied? By the printing press or by taxes imposed upon the people of these United States, among whom are the citizens of Georgia? We may expect to bear in the future, as we have in the past, our full and complete share of these burdens. Then by what process of reasoning can anyone justify the withholding of funds which are not a gift nor a donation but belong absolutely to the people of Georgia?

Can it be imagined that there will ever be a more urgent necessity for the building of roads in our State than exists at this time? Consider, for example, my home county of Randolph, which has 720 miles of roads, and at the time I left there, last Christmas, only 6 miles were paved. Whose bonds are being issued, except bonds upon Georgia, just the

Mr. BILBO (after having voted in the negative). Repeating my announcement as on the previous roll call with reference to my general pair, I will allow my vote to stand.

Mr. WALSH. I announce the necessary absence of my colleague [Mr. COOLIDGE]. If present, he would vote "nay."

Mr. LEWIS. I announce the necessary absence of the Senator from Ohio [Mr. DONAHEY], the Senator from Wisconsin [Mr. DUFFY], the Senator from Louisiana [Mr. LONG], and the Senator from Idaho [Mr. POPE].

I also announce that the Senator from Virginia [Mr. GLASS], the Senator from Utah [Mr. KING], the Senator from California [Mr. McADOO], and the Senator from Montana [Mr. WHEELER] are in attendance upon important committee meetings.

The Senator from West Virginia [Mr. HOLT] is detained on account of illness.

The Senator from Oklahoma [Mr. GORE] is detained on departmental matters.

Mr. AUSTIN. I repeat the announcement made on the previous roll call with regard to the pair between the Senator from Delaware [Mr. HASTINGS] and the Senator from Idaho [Mr. POPE].

The result was announced—yeas 22, nays 56, as follows:

YEAS—22

Austin	Clark	La Follette	Thomas, Okla.
Black	Costigan	Maloney	Vandenberg
Bone	Frazier	Russell	Walsh
Brown	Gerry	Schwellenbach	White
Bulkley	Gibson	Shipstead	
Byrd	Hale	Steiwer	

NAYS—56

Adams	Carey	Logan	Overton
Ashurst	Chavez	Lonergan	Pittman
Bachman	Connally	McCarran	Radcliffe
Bailey	Copeland	McGill	Reynolds
Bankhead	Davis	McKellar	Robinson
Barbour	Dieterich	McNary	Schall
Barkley	Fletcher	Metcalf	Sheppard
Bilbo	George	Minton	Smith
Borah	Guffey	Moore	Thomas, Utah
Bulow	Harrison	Murphy	Trammell
Burke	Hatch	Murray	Truman
Byrnes	Hayden	Neely	Tydings
Capper	Johnson	Norris	Van Nuys
Caraway	Lewis	O'Mahoney	Wagner

NOT VOTING—18

Coolidge	Glass	King	Pope
Couzens	Gore	Long	Townsend
Dickinson	Hastings	McAdoo	Wheeler
Donahey	Holt	Norbeck	
Duffy	Keyes	Nye	

So Mr. LA FOLLETTE's amendment, in the nature of a substitute for the committee amendment, was rejected.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—CONFERENCE REPORT

Mr. SMITH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 36, 37, 38, 65, 66, 67, 94, 95, 120, 133, 156, and 157.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 13, 17, 18, 19, 20, 21, 25, 26, 27, 28, 32, 33, 34, 40, 41, 44, 46, 47, 49, 50, 51, 54, 55, 56, 58, 61, 62, 63, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 92, 93, 97, 98, 101, 103, 106, 107, 108, 109, 110, 111, 112, 116, 117, 118, 121, 130, 131, 134, 136, 137, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 153, and 154, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: On page 3 of the House bill, line 19, strike out "such" and insert "an"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "which directly burdens, obstructs, or affects"; and on page 9 of the House bill, line 9, after "commerce" strike out the comma; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "only such handling of such agricultural commodity, or product

thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: On page 14 of the House bill, line 18, after "fruits", insert "other than olives" and a comma; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "(not including vegetables, other than asparagus, for canning), soybeans"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection (5)."

And the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased."

And the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "or in any manner limit, in the case of the products of milk" and a comma; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof" and a comma; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof"; and the Senate agree to the same.

Amendment numbered 31: That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof" and a comma; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment as follows: On page 17 of the House bill, line 17, strike out "(B)" and insert "(C)"; and the Senate agree to the same.

Amendment numbered 39: That the House recede from its disagreement to the amendment of the Senate numbered 39, and agree to the same with an amendment as follows: On page 17 of the House bill, line 5, strike out the comma following "which"; and the Senate agree to the same.

Amendment numbered 42: That the House recede from its disagreement to the amendment of the Senate numbered 42, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert a comma and the following: "except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "Provided, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

"(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing areas specified in such marketing agreement, or order, or

"(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order."

And the Senate agree to the same.

Amendment numbered 45: That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "(except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum)"; and the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "(except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum)"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

"(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order."

And the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "No order shall be issued under this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment as follows: On page 23 of the House bill, line 6, strike out "is" and insert "are"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment as follows: In the matter

proposed to be inserted by said amendment strike out "8(c)" and insert in lieu thereof "8c"; and the Senate agree to the same.

Amendment numbered 64: That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert:

"SPECIFIC TAX RATE—FLOOR STOCKS—BARLEY

"(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 16 of this title shall not apply in the case of barley."

And the Senate agree to the same.

Amendment numbered 68: That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any twelve months period ending after the date of the adoption of this amendment consisting of the two months immediately preceding and the first ten months of any marketing year—

"(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

"(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

"(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

"(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

"(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

"(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

"(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

"(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitu-

tion, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

And the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: Omit the matter proposed to be inserted by said amendment, and on page 53 of the House bill, after line 10, after the matter proposed to be inserted by Senate amendment numbered 139, insert the following:

"Sec. 42. Section 4 of such act of April 21, 1934, as amended, is amended by inserting at the end thereof the following new subsection:

"(h) The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this act, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household."

And the Senate agree to the same.

Amendment numbered 91: That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and"; and the Senate agree to the same.

Amendment numbered 96: That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "27"; and the Senate agree to the same.

Amendment numbered 99: That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10."

And the Senate agree to the same.

Amendment numbered 100: That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "28"; and the Senate agree to the same.

Amendment numbered 102: That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "29"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment as follows: In the matter proposed to be inserted by said amendment strike out "(c)" and insert "(d)"; and the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "30"; and the Senate agree to the same.

Amendment numbered 113: That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(c) The making of rental and benefit payments under this title, prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under section 8 (1) of this title, and the making of agreements with producers prior to such date, and the adoption of other

voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress."

And the Senate agree to the same.

Amendment numbered 114: That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.

"(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

"(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy."

And the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and

agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office."

And the Senate agree to the same.

Amendment numbered 119: That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(g) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise) and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor or any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930."

And the Senate agree to the same.

Amendment numbered 122: That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 31. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

"IMPORTS

"SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

"(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

"(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until 15 days after the date of such proclamation, revocation, suspension, or modification.

"(d) Any decision of the President as to facts under this section shall be final.

"(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section."

And the Senate agree to the same.

Amendment numbered 123: That the House recede from its disagreement to the amendment of the Senate numbered 123, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Sec. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated under this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will tend to increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds appropriated by this section shall be expended pursuant to clause (3) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton."

And the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "34" and insert "33"; and the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "35" and insert "34"; and the Senate agree to the same.

Amendment numbered 126: That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "36" and insert "35"; and the Senate agree to the same.

Amendment numbered 127: That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "37" and insert "36"; and the Senate agree to the same.

Amendment numbered 129: That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "38"; and the Senate agree to the same.

Amendment numbered 132: That the House recede from its disagreement to the amendment of the Senate numbered 132, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this act, or subsequent to the enactment of this act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8 (1) prior to the enactment of this act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937 except pursuant to the provisions of section 8 of the Agricultural

Adjustment Act as amended by this act"; and the Senate agree to the same.

Amendment numbered 135: That the House recede from its disagreement to the amendment of the Senate numbered 135, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "41" and insert "39"; and the Senate agree to the same.

Amendment numbered 138: That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935-1936 that may be marketed exempt from payment of the tax levied by such act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by Act of Congress.

"(e) Section 7 of such act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) For each crop year subsequent to the crop year 1934-1935 in which this act is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 956 pounds or less of lint cotton an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935-1936, the amount of each such allotment (and for the crop year 1935-1936 and subsequent crop years, the additional amount required for apportionment under the provisions of the Public Resolution entitled "Public Resolution To provide for certain State allotments under the Cotton Control Act") which is in excess of the allotment which, without regard to this subsection or such Public Resolution, would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935-1936 which allotment was made under regulations of the Secretary of Agriculture prior to the date of the adoption of this amendment, or to require any reallocation."

And the Senate agree to the same.

Amendment numbered 139: That the House recede from its disagreement to the amendment of the Senate numbered 139, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 40. Section 17 of such act of April 21, 1934, as amended, is amended by inserting '(a)' before the first sentence thereof and by inserting at the end thereof the following new subsection:

"(b) Appropriations for administrative expenses under this act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this act with respect to cotton ginned during the crop year 1935-1936 or any subsequent crop year in which this act is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever."

"SEC. 41. Section 9 (d) of such act of April 21, 1934, as amended (relating to transfer of exemption certificates), is amended by inserting after the first sentence thereof the following new sentence, 'No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State.'"

And the Senate agree to the same.

Amendment numbered 158: That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "57" and insert "56"; and the Senate agree to the same.

Amendment numbered 159: That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 57. In order to effectuate the policy declared in section 56 of this act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are hereafter in this Act referred to as 'handlers.' The making of any such agreement shall not be held to be in violation of any of the anti-

trust laws of the United States, and any such agreement shall be deemed to be lawful."

And the Senate agree to the same.

Amendment numbered 160: That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "59" and insert "58"; strike out "58" wherever it appears and insert "57"; and strike out "57" and insert "56"; and the Senate agree to the same.

Amendment numbered 161: That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment as follows: In the matter proposed to be inserted by the Senate amendment strike out "60" and insert "59"; and strike out "58" and insert "57"; and the Senate agree to the same.

Amendment numbered 162: That the House recede from its disagreement to the amendment of Senate numbered 162, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 60. Subject to the policy declared in section 56 of this act, the provisions of subsections (6), (7), (8), and (9) of section 8a and of subsections (14) and (15) of section 8c of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with orders issued pursuant to section 59 of this act, and the provisions of section 8d of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with marketing agreements entered into pursuant to section 57 and orders issued pursuant to section 59 of this act. The provisions of subsections (a), (b) (2), (c), (f), (h), and (i) of section 10 of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with the administration of sections 56 to 60, inclusive, of this act."

And the Senate agree to the same.

The committee of conference report the following amendments in disagreement:

Amendments nos. 128, 152, 155, and 163.

E. D. SMITH,
J. H. BANKHEAD,
CHAS. L. McNARY,
LOUIS MURPHY,

Managers on the part of the Senate.

MARVIN JONES,
H. P. FULMER,
WALL DOXEY,
CLIFFORD R. HOPE,
J. ROLAND KINZER,

Managers on the part of the House.

Mr. SMITH. I move the adoption of the report.

Mr. BORAH. Mr. President, before the report is acted upon, I desire to see if I understand it.

Referring to amendment no. 114, the House has receded from its disagreement to the Senate amendment, and has agreed to it with an amendment, as follows:

(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counterclaim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax) unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court—

And so forth.

The question with me is, What is the modus operandi by which the party desiring to recover finally reaches court in case he desires to go to court?

Mr. SMITH. As it was discussed by the legal representatives, both of the Department and those who claim that distinction on the committee, wherever one had a claim, according to the custom under the law as it now prevails in reference to a rebate or refund of a tax, he goes before the internal-revenue collector and states his case. After the matter was discussed at some length, the members of the committee decided not to restrict the plaintiff to

matters upon which the Commissioner either allowed or rejected the claims, but the whole record as it appeared before him should be the basis of the claimant going into court. He can reject any finding of the Commissioner, unless it is in accordance with his claim, and go before a court of competent jurisdiction, and, upon the record as it is set up, he can prosecute his case.

Mr. BORAH. I understand that the claimant must go before the internal-revenue collector and make his case, and if the internal-revenue collector finds against the claimant that record and that finding against the claimant constitute the record upon which the court proceeds to hear the case?

Mr. SMITH. Yes; but he is not limited. In making his case he can bring in all the witnesses and all the facts, and under the proposed legislation the record as made by him shall be the record upon which he can go before the court to prosecute his claim.

Mr. BORAH. But it says here:

In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court.

Mr. SMITH. Yes; that is the method that is used now in income-tax cases. This being a case of taxes, we just followed the language of that law.

Mr. BORAH. Another question. Must the claimant go before the Commissioner of Internal Revenue here in Washington?

Mr. SMITH. No.

Mr. BORAH. It does not provide otherwise. It says Commissioner of Internal Revenue.

Mr. SMITH. Following the custom, he can go before the collector in any State in which his claim arises.

Mr. BORAH. Does the Senator feel that this language guarantees that right? I would like that to be explicit.

Mr. SMITH. We thought so. We discussed it, and I think it was conceded by all parties concerned. The fact is that, based on this very language, in my State right now a case is being held in abeyance awaiting the final decision as to this matter, and then the record will be made before Mr. Cooper in my State.

Mr. BORAH. What is the force and effect of this finding upon the part of the internal-revenue collector when the claimant goes into court?

Mr. SMITH. I do not know that it would have any, because the court would have ample jurisdiction to review all the record in the pending case, and then make its finding in the case.

Mr. BORAH. The court would have authority to take new evidence?

Mr. SMITH. I think the record in the case, as in all tax cases, is made up here.

Mr. BORAH. And that record would be conclusive?

Mr. SMITH. That record would be conclusive.

Mr. BORAH. That is just the same as denying a man any right to go into court. That really nullifies the Senate provision.

Mr. MURPHY. Mr. President, will the Senator yield to me?

Mr. BORAH. I yield.

Mr. MURPHY. Every opportunity is given a claimant, in a hearing conducted by the Commissioner of Internal Revenue, to present oral and documentary evidence. Everything he may have to present may be admitted in the hearing before the Commissioner of Internal Revenue.

Mr. BORAH. But the hearing is before a political appointee; that is, the Internal Revenue Commissioner. It is not before a judicial body but before a political body, and that political body, by its decision, determines whether or not the taxpayer is to have an opportunity in a judicial body.

Mr. SMITH. Oh, no.

Mr. MURPHY. Would the Senator regard the Board of Tax Appeals as a political body?

Mr. BORAH. This does not provide for a hearing by that body.

Mr. MURPHY. The income-tax payer's appeal now may be taken before the Board of Tax Appeals, and the Board of Tax Appeals will render judgment. The Commissioner of Internal Revenue, on a given state of facts, renders a judgment. The plaintiff before the Board of Tax Appeals may take the case into court. The plaintiff in the instant case may take the case into court. The Senator's objection that the Commissioner of Internal Revenue is a political appointee lies also against the Board of Tax Appeals, for its members are political appointees.

Mr. BORAH. There is no doubt that it is a political body, is there?

Mr. SMITH. Let me ask the Senator a question. I am not versed in court procedure, of course, but I am just as jealous to preserve the rights of claimants as is any other man. Under the law, in tax cases a claimant goes before the Commissioner, and he brings in all the evidence which he thinks is pertinent; he exhausts his evidence. If he is not satisfied with the findings of this political body, of which the Senator speaks, he is not foreclosed from taking his case to court, and when it goes to court, it goes upon the entire record in the case.

Mr. BORAH. Yes; he goes on the record which has been made up.

Mr. SMITH. Yes.

Mr. BORAH. But there may be a jury trial in a court, and that is a wholly different proposition.

Mr. LOGAN. Mr. President, will the Senator from Idaho yield to me?

Mr. BORAH. I yield.

Mr. LOGAN. I think the procedure provided here is the same procedure provided in many such cases. Take workmen's compensation cases, for instance. The workman's compensation court, which is a political body, hears all the facts and determines the question at issue. If the claimant is not satisfied, he submits the record to a court.

This goes a little further, is a little more liberal than most laws, because usually the finding in a case as to the facts is conclusive, but this does not make it so. So it goes before the court; the court takes the record as made up and determines whether the collector of internal revenue has erred as to the facts or as to the law and enters its judgment.

Mr. BORAH. He could not determine whether the internal-revenue collector had erred as to the facts unless he could hear original evidence on a question of the facts. When claimant goes into court there should be a trial de novo, if claimant so desires.

Mr. LOGAN. Original evidence would be taken down and made part of the record. The whole record is taken down; the evidence is all there; it is embodied in the record. Everything is there, and the court simply takes the case as made up before the collector and determines whether the facts would justify a different conclusion from that which was reached by the collector, or whether the law has been wrongly construed.

Mr. BORAH. Exactly; but as to the facts that record is conclusive?

Mr. LOGAN. It is conclusive. The claimant submits it upon the facts, not the interpretation of the facts. That is not conclusive at all, under the provision the Senator has just read, but the facts are all made a part of the record. All the evidence is taken down, and it is exactly the same procedure followed in nearly all appellate courts. The trial is had, the evidence is taken down, the errors, or the supposed errors, are noted, and then the case goes to the appellate court, and the appellate court simply takes the record and determines whether the lower court erred.

Mr. BORAH. May I ask the able Senator from Kentucky, who has evidently given some consideration to this matter, would a claimant in the State of Idaho, for instance, have a right to present his case to the internal-revenue collector in that State?

Mr. LOGAN. I think so, undoubtedly. I am not sure. I have not read the provision fully, but the usual procedure is to present all of his record there. Then the claimant could take his case to the Board of Tax Appeals in Washington

if he so desired. It seems to me that this provides that he shall make his record up in the office of the collector of internal revenue if he so desires.

Mr. BAILEY. Mr. President, this does not provide that. It provides that he shall make the record before the Commissioner of Internal Revenue, and that is not the collector.

Mr. LOGAN. Are not the collectors the agents of the Commissioner of Internal Revenue?

Mr. BAILEY. They are not; no. They are independent men, on their own responsibility.

Mr. LOGAN. I cannot see that it makes any difference.

Mr. BORAH. Mr. President, it makes a tremendous difference, for this reason. A claimant in a State as far away from Washington as is my State, would never come here and present his claim to the Commissioner of Internal Revenue. The costs, attorney's fees and expenses, and everything of that kind, would make it utterly impossible for him to do that.

Mr. LOGAN. I readily agree with the Senator that that would be true, but as I understand it, that is never necessary. They have their representatives who take the proof and have the hearings in the different States. The Board of Tax Appeals does that. They have their representatives who go out and hear the cases and make up the records, as I understand it.

Mr. MURPHY. Mr. President, will the Senator from Idaho yield to me?

Mr. BORAH. I yield.

Mr. MURPHY. The procedure before the Commissioner of Internal Revenue, I think, would be this: A claim would be filed with the collector of internal revenue and would be referred back to the office of the revenue agent in charge of that particular tax district. Originating in Iowa and Nebraska, it would be referred back to the revenue agent in charge at Omaha. He would make investigation of the claim, presumably, and, presumably, the Department would find it desirable to have the hearing conducted before him. The taxpayer, not being satisfied with the recommendation of the finding there, could have a hearing before the Commissioner in Washington. I assume some such procedure as that would be followed.

Mr. BORAH. Mr. President, I think this is a very serious matter, for the reason that, so far as people who live any distance whatever from Washington are concerned, the law would be utterly unavailable to them if they had to come to Washington to present their claims.

It ought to be made clear that any claim could be presented to the internal-revenue collector in the respective district or State, and then that the claimant may go into the Federal courts in the respective States.

Mr. BANKHEAD. Mr. President, will the Senator yield to me?

Mr. BORAH. I yield.

Mr. BANKHEAD. The procedure here is analogous to that in connection with the income-tax law, under which, as the Senator knows, claims are filed and proceedings are carried on in the local communities in the States.

The Senator referred to the conference report, and I call his attention to subsection (e) on page 11, where it is provided:

The Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service—"

And so forth.

Mr. BORAH. From what is the Senator reading?

Mr. BANKHEAD. From subsection (e), on page 11 of the conference report. The specific authorization is given for the hearings locally by any representative of the Department or any field agents. They can take the testimony and can conduct the hearings.

I further call the attention of the Senator to the fact that the provisions under the income-tax law require all suits above \$10,000 to be filed in the Court of Claims in Washington. However, we have liberalized that provision and specifically provide that all claims, regardless of the amount

involved, may be filed in the district courts of the several States. So this measure is really more localized and liberalized with reference to the convenience of the taxpayers than the existing law—either the income-tax law or the stockyard-tax law or any other laws which provide for claims for refunds and abatements.

Mr. BORAH. Let me ask the Senator this question. Assuming that a claimant in my State desires to file his claim, could he of his own initiative request, and have that request granted, that he file his claim before the internal-revenue collector of his State?

Mr. BANKHEAD. Yes. That is being done all the time under the income-tax law. Here is specific authority for it to be done, and here is specific authority for the claimant to bring suit in his own State, whereas under no other law at the present time can he do that. He is obliged, under all the laws, to come to Washington in a case where the amount involved is more than \$10,000, but in this proposed law we provide for him to bring suit in the local courts.

Mr. BORAH. Suppose the Commissioner of Internal Revenue should prefer to have the case heard in Washington; he would have the power to enforce his preference, would he not?

Mr. BANKHEAD. I assume that the Commissioner of Internal Revenue is not going to be arbitrary about this matter. He has such authority now under the income-tax law, but he does not enforce it.

Mr. BORAH. Mr. President, will not the Senator from South Carolina permit this matter to go over for an hour? It may be my fault, but I did not get the printed report until about three-quarters of an hour ago.

Mr. SMITH. Mr. President, there are reasons which it is not necessary right now to state, why I could not yield to the Senator's request. There are pressing reasons for adopting the conference report. I think it would be very beneficial to a great number of farmers if we could get this conference report off our hands this afternoon.

Mr. BORAH. I do not desire to have it go over for the day. However, I am at the mercy of the Senator in whatever he wishes to do.

Mr. KING. Mr. President, I join in the request of the Senator from Idaho. May I call the attention of the Senator from Idaho to this language in the section to which the Senator referred, namely:

Neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on—

This is the point—

any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing"—

And so forth. Which would mean that if the Government had, as he believed, illegally collected a thousand dollars, and he demonstrated that he had not passed on any part of it except \$1, he then would be denied relief under the interpretation of that language.

Mr. BANKHEAD. There is but one answer, and a conclusive answer, to the statement of the Senator from Utah, which is that the language in question is the language adopted by the Senate when this amendment was originally before it.

Mr. SMITH. That is exactly the same language. Mr. President, every Senator knows that one could not go into the fractional part of any case to determine just how much had been passed on in respect to a processed article, or out of how much the original purchaser of the raw material had been chiseled.

Mr. ROBINSON. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. ROBINSON. If it appeared that the policy was to pass on the tax the presumption would be that as much of it as possible would be passed on.

Mr. SMITH. Certainly.

Mr. ROBINSON. And the likelihood that all of it was passed on would be very great.

Mr. BORAH. Mr. President, if I could feel reasonably sure that the claimant in the far-distant part of the country could undoubtedly have his hearing before the internal revenue collector of his district, I would feel better satisfied.

Mr. GEORGE. Mr. President, I desire to be heard on that point.

I do not wish to have an incorrect interpretation placed upon the bill. The interpretation placed upon it by the Senator from Utah is not correct. At first blush, it seemed to me to be the proper interpretation; and when we were considering this matter originally in the Senate that was my conclusion. A careful reading of the language, however, will disclose that the interpretation is not correct.

If the Senator will bear with me, I will read:

No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counterclaim be allowed for, any amount of any tax—

The "amount of any tax" refers back to that original subject, and it is not subject to the interpretation which seems to be about to be accepted here. I wish the RECORD to show what is the correct interpretation of the language as I construe it.

With the permission of the Senator who has the floor, I wish to make another statement while I am on my feet.

I have no doubt that the Commissioner of Internal Revenue will take all the evidence and gather all the proof upon any question raised under this provision in the State where the cause of action arises, or where the claimant resides. It is almost the universal practice that by proper rule and regulation the case is heard by the collector of internal revenue, or by a special representative of the Commissioner of Internal Revenue in the State where the claimant actually resides. I have no doubt it would be found feasible and practicable for the Commissioner of Internal Revenue or the Secretary of the Treasury to promulgate a like rule with respect to the matter under consideration, and the hearings would be locally held. It is true that the final judgment would be made up by the collector of internal revenue; that is, the final approval or disapproval of the tax, as found or reported, would be made by him.

Mr. President, the amendment is not all that I desire, but I believe it preserves at least some legal rights of the claimant to a refund or to a credit for a tax illegally collected or a tax improperly collected. In my judgment, "the amount of any tax" refers back to the original language at the beginning of this particular section.

I desire to call attention to the fact that this is not a provision for authority for the claimant to sue. It is no grant of the right to sue. It is nothing but a limitation upon that right. In my judgment, it would not be strictly or technically construed by any court. It would be given a fair and a liberal interpretation. Therefore, if the claimant should make out a just case and secure a judgment of \$500 for taxes illegally collected, I cannot believe the court would then deny a judgment simply because the claimant had passed on a small amount of the \$500 to the ultimate consumer, because I think it would be construed as it properly is—merely a limitation upon a right otherwise existing, and merely a condition.

I myself wish very much that the broad, unrestricted right of the claimant to come into court might have been given without so many hedging phrases and so much language; but, looking to what the court would ultimately do with this section, I have no doubt that a substantial right is given. It is true that the claim must first be made before the Commissioner of Internal Revenue, but that is true now in many instances. That was true under the revenue act which permitted a claim for refund for unsold automobile parts, and it is also true even in the administration of veterans' legislation. Before any suit may be commenced or maintained upon a policy of insurance, the veteran must make out his case and obtain an affirmative approval or disapproval of his alleged cause of action by the Administrator of Veterans' Affairs.

Properly construed, the real purpose, whether it be always properly administered, is to give the Government opportunity to settle a just case when all of the facts have been made to appear. Although the Commissioner of Internal Revenue is a political officer, of course, and generally is disposed to construe an act favorably to the Government, nevertheless, in many instances the facts are found properly, correctly, and justly, and the Government is enabled to make refunds without the necessity of further court action upon the record actually made up.

I share the view of the Senator from Idaho. If I did not believe that rules and regulations such as have been commonly and generally adopted would be promulgated, under which the facts would be determined and the record, except the final conclusion, actually made up in the States, I would be disposed to think that this provision placed an intolerable and insuperable burden upon those who claim a refund of taxes.

Mr. McKELLAR. Mr. President, may I ask the Senator what was done with the Barkley tobacco amendment? Was it retained in the bill?

Mr. SMITH. That amendment was retained in the bill.

Mr. McKELLAR. Were any changes made in the Senate provision with reference to tobacco?

Mr. SMITH. No; except a clerical mistake was made in preparing the draft. When the conference report shall have been adopted I will offer a concurrent resolution to correct that mistake. In the print two or three sentences were rather confused in the provision relating to the times when the reduction should take place. That will be corrected, as I have said, by a concurrent resolution, with the consent of the conferees of the House.

Mr. McKELLAR. When will it take place, according to the concurrent resolution?

Mr. SMITH. It will take place in October next. That was the very point that we tried to make plain, but one or two words were confused.

Mr. COPELAND. Mr. President—

Mr. SMITH. I yield to the Senator from New York.

Mr. COPELAND. It was with regard to the same matter that I had risen to my feet, because of a protest received from New York regarding this particular feature of the bill. Of course, I refer to those who are interested in the tobacco business. As I understand, the Senator intends to request the adoption of a concurrent resolution in order to make the necessary correction?

Mr. SMITH. Yes; to correct the defect to which I have referred.

Mr. COPELAND. With that explanation, I shall not delay the Senator further.

Mr. McKELLAR. Was it a mere mistake in transcribing? How did it come about?

Mr. SMITH. I imagine the words became mixed up in dictating to the stenographer. At any rate, it was wrong as prepared and we propose to correct it. The provision was badly worded. It read "2 months of the year preceding and 10 months following." We propose to make it definite, now that the parity price has been reached, that it shall take place next October. That is what we desired.

Mr. BAILEY rose.

Mr. JOHNSON. Mr. President, will the Senator from South Carolina yield for a question?

Mr. SMITH. The Senator from North Carolina [Mr. BAILEY] first rose, and I yield first to him.

Mr. BAILEY. I yield to the Senator from California.

Mr. JOHNSON. What I wish to do is to appeal to the Senator to defer the further consideration of the conference report until 4 o'clock and take it up then, so that those of us who have not had an opportunity to examine it with the care we desire may have that very brief period in which to study the particular matter that has been adverted to.

It will be recalled that the question was considered by some of us as fundamental when it came before the Senate. We believed that the provision then in the bill interfered with rights that every American citizen ought to have. During the progress of the debate some of us retired to the

porch outside, and the result was an amendment presented by the Senator from Georgia to the bill and adopted by the Senate. That amendment has now been eliminated, and other language has been substituted. I do not undertake to say whether or not the language thus substituted preserves the fundamental rights which we believe Americans ought to have in appealing to the courts of the land; but I wish that the consideration of the report may be deferred for the very brief period I have suggested, so that we may have an opportunity to examine the new language and determine exactly our position respecting it. Meanwhile there is now before the Senate another matter of extraordinary importance which may be proceeded with. Why not delay the consideration of the conference report until 4 o'clock? None of us is at all disposed to delay it.

Mr. SMITH. So far as I am concerned, Mr. President, this matter is in the hands of the Senate. The particular point to which the Senator refers was covered by the explanation the Senator from Georgia has just given; it referred to precisely the same thing.

Mr. JOHNSON. No; it is not precisely the same thing.

Mr. SMITH. I mean the point he was discussing was the one the Senator is raising.

Mr. JOHNSON. Exactly.

Mr. SMITH. The conferees conformed the provision just as nearly as possible to similar provisions in existing tax laws, and even liberalized it.

I have no prejudice one way or another; all I am attempting to do is to get these amendments, which I think in this emergency are very essential to the welfare of thousands of farmers, finally disposed of.

Mr. JOHNSON. No one wishes to delay the conference report a second, so far as that is concerned, but the fact remains that the amendment, which was adopted after debate in the Senate, is not the amendment which has been agreed to by the conferees. I do not question the desire of the conferees to reach a solution which they thought appropriate, but I want the opportunity, in connection with my colleagues, of looking at that solution during the very brief period I have suggested. So I ask that action on the conference report be deferred until 4 o'clock.

Mr. SMITH. Could not the Senator obtain the information or interpretation he desires by 3:30 o'clock? There are certain contingencies that I am not at liberty to mention. Of course, the bill may not finally pass, but if it is to pass there are certain contingencies which are very vital, or I should not have pressed it at all. However, if the Senator so desires, I am willing to let the consideration of the report be deferred until 4 o'clock.

The PRESIDING OFFICER. Without objection, the consideration of the conference report will be deferred until 4 o'clock.

INCOME AND INHERITANCE TAXATION

The Senate resumed the consideration of the bill (H. R. 8974) to provide revenue, equalize taxation, and for other purposes.

The PRESIDING OFFICER. The Senator from Nevada [Mr. McCARRAN] had the floor before the matter laid aside came before the Senate.

Mr. HARRISON. I suggest that the Senate return to the first committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the first amendment reported by the committee, which will be stated.

The first amendment of the Committee on Finance was, under the heading "Title I—Income and excess-profits taxes", on page 1, after line 6, to strike out:

Section 12 (b) of the Revenue Act of 1934 is amended by striking out all after the bracket—
 "\$6,080 upon surtax net incomes of \$44,000; and upon surtax net incomes in excess of \$44,000 and not in excess of \$50,000, 27 percent in addition of such excess."
 and inserting in lieu thereof the following:
 "\$7,700 upon surtax net incomes of \$50,000; and upon surtax net incomes in excess of \$50,000 and not in excess of \$56,000, 31 percent in addition of such excess.

"\$9,560 upon surtax net incomes of \$56,000; and upon surtax net incomes in excess of \$56,000 and not in excess of \$62,000, 35 percent in addition of such excess.

"\$11,660 upon surtax net incomes of \$62,000; and upon surtax net incomes in excess of \$62,000 and not in excess of \$68,000, 39 percent in addition of such excess.

"\$14,000 upon surtax net incomes of \$68,000; and upon surtax net incomes in excess of \$68,000 and not in excess of \$74,000, 43 percent in addition of such excess.

"\$16,580 upon surtax net incomes of \$74,000; and upon surtax net incomes in excess of \$74,000 and not in excess of \$80,000, 47 percent in addition of such excess.

"\$19,400 upon surtax net incomes of \$80,000; and upon surtax net incomes in excess of \$80,000 and not in excess of \$90,000, 51 percent in addition of such excess.

"\$24,500 upon surtax net incomes of \$90,000; and upon surtax net incomes in excess of \$90,000 and not in excess of \$100,000, 55 percent in addition of such excess.

"\$30,000 upon surtax net incomes of \$100,000; and upon surtax net incomes in excess of \$100,000 and not in excess of \$150,000, 58 percent in addition of such excess.

"\$59,000 upon surtax net incomes of \$150,000; and upon surtax net incomes in excess of \$150,000 and not in excess of \$200,000, 60 percent in addition of such excess.

"\$89,000 upon surtax net incomes of \$200,000; and upon surtax net incomes in excess of \$200,000 and not in excess of \$250,000, 62 percent in addition of such excess.

"\$120,000 upon surtax net incomes of \$250,000; and upon surtax net incomes in excess of \$250,000 and not in excess of \$300,000, 64 percent in addition of such excess.

"\$152,000 upon surtax net incomes of \$300,000; and upon surtax net incomes in excess of \$300,000 and not in excess of \$400,000, 66 percent in addition of such excess.

"\$218,000 upon surtax net incomes of \$400,000; and upon surtax net incomes in excess of \$400,000 and not in excess of \$500,000, 68 percent in addition of such excess.

"\$286,000 upon surtax net incomes of \$500,000; and upon surtax net incomes in excess of \$500,000 and not in excess of \$750,000, 70 percent in addition of such excess.

"\$461,000 upon surtax net incomes of \$750,000; and upon surtax net incomes in excess of \$750,000 and not in excess of \$1,000,000, 72 percent in addition of such excess.

"\$641,000 upon surtax net incomes of \$1,000,000; and upon surtax net incomes in excess of \$1,000,000 and not in excess of \$2,000,000, 73 percent in addition of such excess.

"\$1,371,000 upon surtax net incomes of \$2,000,000; and upon surtax net incomes in excess of \$2,000,000 and not in excess of \$5,000,000, 74 percent in addition of such excess.

"\$3,591,000 upon surtax net incomes of \$5,000,000; and upon surtax net incomes in excess of \$5,000,000, 75 percent in addition of such excess."

And in lieu thereof to insert:

Section 12 (b) of the Revenue Act of 1934 is amended by striking out the last bracket thereof and inserting in lieu thereof the following:

"\$533,000 upon surtax net incomes of \$1,000,000; and upon surtax net incomes in excess of \$1,000,000 and not in excess of \$1,500,000, 60 percent in addition of such excess.

"\$833,000 upon surtax net incomes of \$1,500,000; and upon surtax net incomes in excess of \$1,500,000 and not in excess of \$2,000,000, 62 percent in addition of such excess.

"\$1,143,000 upon surtax net incomes of \$2,000,000; and upon surtax net incomes in excess of \$2,000,000 and not in excess of \$3,000,000, 65 percent in addition of such excess.

"\$1,793,000 upon surtax net incomes of \$3,000,000; and upon surtax net incomes in excess of \$3,000,000 and not in excess of \$5,000,000, 68 percent in addition of such excess.

"\$3,153,000 upon surtax net incomes of \$5,000,000; and upon surtax net incomes in excess of \$5,000,000 and not in excess of \$7,000,000, 71 percent in addition of such excess.

"\$4,573,000 upon surtax net incomes of \$7,000,000; and upon surtax net incomes in excess of \$7,000,000 and not in excess of \$10,000,000, 74 percent in addition of such excess.

"\$6,793,000 upon surtax net incomes of \$10,000,000; and upon surtax net incomes in excess of \$10,000,000, 75 percent in addition of such excess."

Mr. LA FOLLETTE. Mr. President, I wish to urge upon the Senate the rejection of the pending committee amendment. When the House had under consideration the question of the income-tax schedules it determined to begin the increased rates in the surtax brackets on net taxable incomes of \$50,000 and over. The Senate Finance Committee struck out the House provision, and, in lieu thereof, reported the amendment which is to be found on page 4 of the bill. The Finance Committee amendment instead of beginning the increased rates on surtax net incomes of \$50,000 and above, as the House bill does, begins upon surtax net incomes of \$533,000 to \$1,000,000. It then breaks the brackets above that amount by rather large steps up to 75 percent upon incomes of \$10,000,000 and over.

It was contended in the committee that the Finance Committee's action followed the recommendation of the President in his message. Of course every Senator will have to interpret the President's message according to his own reasoning, but all the President had to say about it is found on page 3 of the reprint of his message, under the roman numeral II, and reads as follows:

II

The disturbing effects upon our national life that come from great inheritances of wealth and power can in the future be reduced, not only through the method I have just described, but through a definite increase in the taxes now levied upon very great individual net incomes.

To illustrate: The application of the principle of a graduated tax now stops at \$1,000,000 of annual income. In other words, while the rate for a man with a \$6,000 income is double the rate for one with a \$4,000 income, a man having a \$5,000,000 annual income pays at the same rate as one whose income is \$1,000,000.

Social unrest and deepening sense of unfairness are dangers to our national life which we must minimize by rigorous methods. People know that vast personal incomes come not only through the effort or ability or luck of those who receive them, but also because of the opportunities for advantage which the Government itself contributes. Therefore the duty rests upon the Government to restrict such incomes by very high taxes.

Mr. President, I do not interpret the illustration which the President saw fit to include in his message as any indication that it was his intention that the increase upon surtaxes should begin at incomes of \$1,000,000 or more. Other Senators may take a different view, but, so far as I am concerned, I do not find anything in the text or context of the message to justify that assumption.

Senators have indicated their unwillingness to begin to tax in the lower brackets apparently upon some theory that even those with \$8,000, \$10,000, \$15,000, or \$20,000 of net taxable incomes should not be asked to contribute any more to the support of the Federal Government in this emergency than they are now doing. But in the controversy between the Senate Finance Committee and the House of Representatives we have a clear-cut issue as to whether we shall follow the recommendation of the Senate Finance Committee, which proposes to start the increase on net taxable incomes above \$500,000, or whether we shall accept the House provision which begins the tax with incomes of \$50,000.

I do not understand how any Senator can be concerned about gradual increases in surtax rates beginning at \$50,000 or above. Certainly these are not the average citizens about whom the Senator from Kentucky [Mr. BARKLEY] was talking when he was opposing my previous amendment. There can be no doubt, it seems to me, in the mind of anyone that a man who has a net taxable income of \$50,000 or above can afford in this emergency to carry a little larger proportion of the burden made necessary by the extraordinary expenditures.

The Senate Finance Committee amendment is estimated to yield \$4,000,000 of additional revenue. If we have the same number of returns that we had in 1933 it would affect 48 taxpayers in the United States.

I recognize that it is impossible to argue with Senators who are opposed to any increases even in the substantial brackets below \$50,000, but it seems to me that it ought to be possible to convince Senators that in these trying times those who enjoy net taxable incomes of \$50,000 or more are in a position to bear a little bit heavier proportion of the extraordinary load.

So far as revenue is concerned, then, the issue comes down to this: If the Senate Finance Committee amendment should be rejected and the Senate should adopt the House text as a part of the bill, would we secure \$41,000,000 more revenue from individual income taxes than we would secure if the Senate Finance Committee amendment should prevail. The issue is clear. I see no point in debating it further so far as I am concerned, but I want a record vote on the amendment.

Mr. HARRISON. Mr. President, I merely desire to say that the Committee on Finance tried as nearly as it could

to carry out the suggestions contained in the President's message. We believe the recommendation of the Finance Committee in this instance conforms to the message of the President. I ask for the yeas and nays, and hope the committee amendment will be adopted.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. THOMAS of Utah (when his name was called). I have a general pair with the senior Senator from New Hampshire [Mr. KEYES]. I transfer that pair to the junior Senator from Massachusetts [Mr. COOLIDGE] and vote "yea."

The roll call was concluded.

Mr. NYE. I have a general pair with the senior Senator from Virginia [Mr. GLASS]. I understand if he were present he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. McKELLAR (after having voted in the affirmative). I inquire if the junior Senator from Delaware [Mr. TOWNSEND] has voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. McKELLAR. I have a pair with that Senator, which I transfer to the junior Senator from Arizona [Mr. HAYDEN], and allow my vote to stand.

Mr. AUSTIN. I desire to announce that the Senator from Delaware [Mr. HASTINGS] has a general pair with the Senator from Idaho [Mr. POPE].

Mr. BILBO (after having voted in the affirmative). I have a general pair with the Senator from Iowa [Mr. DICKINSON]. I transfer that pair to the Senator from Ohio [Mr. DONAHEY] and allow my vote to stand.

Mr. LEWIS. I desire to announce that the Senator from Massachusetts [Mr. COOLIDGE], the Senator from Ohio [Mr. DONAHEY], the Senator from Wisconsin [Mr. DUFFY], the Senator from Louisiana [Mr. LONG], and the Senator from Idaho [Mr. POPE] are necessarily detained.

I announce also that the Senator from Virginia [Mr. GLASS], the Senator from Connecticut [Mr. MALONEY], the Senator from California [Mr. McADOO], and the junior Senator from Louisiana [Mr. OVERTON] are detained in committee meetings, and that the Senator from Oklahoma [Mr. GORE] and the Senator from Arizona [Mr. HAYDEN] are detained on departmental business. If present and voting, the Senator from Louisiana [Mr. OVERTON] would vote "yea."

I also announce that the junior Senator from West Virginia [Mr. HOLT] is detained on account of illness.

The result was announced—yeas 49, nays 28, as follows:

YEAS—49

Adams	Caraway	Hatch	Radcliffe
Ashurst	Carey	King	Reynolds
Bachman	Chavez	Lewis	Robinson
Bailey	Connally	Logan	Schwellenbach
Bankhead	Copeland	Loneragan	Sheppard
Barkley	Costigan	McGill	Smith
Bilbo	Davis	McKellar	Thomas, Utah
Bone	Dieterich	McNary	Truman
Brown	Fletcher	Minton	Van Nuys
Bulow	George	Murphy	Wheeler
Burke	Gerry	Murray	
Byrd	Guffey	O'Mahoney	
Byrnes	Harrison	Pittman	

NAYS—28

Austin	Frazier	Moore	Stelwer
Barbour	Gibson	Neely	Thomas, Okla.
Black	Hale	Norbeck	Trammell
Borah	Johnson	Norris	Vandenberg
Bulkley	La Follette	Russell	Wagner
Capper	McCarran	Schall	Walsh
Clark	Metcalf	Shipstead	White

NOT VOTING—19

Coolidge	Glass	Keyes	Overtton
Couzens	Gore	Long	Pope
Dickinson	Hastings	Maloney	Townsend
Donahey	Hayden	McAdoo	Tydings
Duffy	Holt	Nye	

So the committee amendment was agreed to.

Mr. LA FOLLETTE. Mr. President, I offer an amendment which I ask unanimous consent to have printed in the Record; and I wish to make a brief statement concerning it.

The VICE PRESIDENT. Does the Senator desire the amendment read?

Mr. LA FOLLETTE. No, Mr. President.

"\$4,050 upon net gifts of \$70,000; and upon net gifts in excess of \$70,000 and not in excess of \$100,000, 10½ percent in addition of such excess.

"\$7,200 upon net gifts of \$100,000; and upon net gifts in excess of \$100,000 and not in excess of \$200,000, 12¾ percent in addition of such excess.

"\$19,950 upon net gifts of \$200,000; and upon net gifts in excess of \$200,000 and not in excess of \$400,000, 15 percent in addition of such excess.

"\$49,950 upon net gifts of \$400,000; and upon net gifts in excess of \$400,000 and not in excess of \$600,000, 17¼ percent in addition of such excess.

"\$84,450 upon net gifts of \$600,000; and upon net gifts in excess of \$600,000 and not in excess of \$800,000, 19½ percent in addition of such excess.

"\$123,450 upon net gifts of \$800,000; and upon net gifts in excess of \$800,000 and not in excess of \$1,000,000, 21¾ percent in addition of such excess.

"\$166,950 upon net gifts of \$1,000,000; and upon net gifts in excess of \$1,000,000 and not in excess of \$1,500,000, 24 percent in addition of such excess.

"\$286,950 upon net gifts of \$1,500,000; and upon net gifts in excess of \$1,500,000 and not in excess of \$2,000,000, 26¾ percent in addition of such excess.

"\$418,200 upon net gifts of \$2,000,000; and upon net gifts in excess of \$2,000,000 and not in excess of \$2,500,000, 28½ percent in addition of such excess.

"\$560,700 upon net gifts of \$2,500,000; and upon net gifts in excess of \$2,500,000 and not in excess of \$3,000,000, 30¾ percent in addition of such excess.

"\$714,450 upon net gifts of \$3,000,000; and upon net gifts in excess of \$3,000,000 and not in excess of \$3,500,000, 33 percent in addition of such excess.

"\$879,450 upon net gifts of \$3,500,000; and upon net gifts in excess of \$3,500,000 and not in excess of \$4,000,000, 35¼ percent in addition of such excess.

"\$1,055,700 upon net gifts of \$4,000,000; and upon net gifts in excess of \$4,000,000 and not in excess of \$4,500,000, 37½ percent in addition of such excess.

"\$1,243,200 upon net gifts of \$4,500,000; and upon net gifts in excess of \$4,500,000 and not in excess of \$5,000,000, 39¾ percent in addition of such excess.

"\$1,441,950 upon net gifts of \$5,000,000; and upon net gifts in excess of \$5,000,000 and not in excess of \$6,000,000, 42 percent in addition of such excess.

"\$1,861,950 upon net gifts of \$6,000,000; and upon net gifts in excess of \$6,000,000 and not in excess of \$7,000,000, 44¼ percent in addition of such excess.

"\$2,304,450 upon net gifts of \$7,000,000; and upon net gifts in excess of \$7,000,000 and not in excess of \$8,000,000, 45¾ percent in addition of such excess.

"\$2,761,950 upon net gifts of \$8,000,000; and upon net gifts in excess of \$8,000,000 and not in excess of \$9,000,000, 47¼ percent in addition of such excess.

"\$3,234,450 upon net gifts of \$9,000,000; and upon net gifts in excess of \$9,000,000 and not in excess of \$10,000,000, 48¾ percent in addition of such excess.

"\$3,721,950 upon net gifts of \$10,000,000; and upon net gifts in excess of \$10,000,000 and not in excess of \$20,000,000, 50¼ percent in addition of such excess.

"\$8,746,950 upon net gifts of \$20,000,000; and upon net gifts in excess of \$20,000,000 and not in excess of \$50,000,000, 51¾ percent in addition of such excess.

"\$24,271,950 upon net gifts of \$50,000,000; and upon net gifts in excess of \$50,000,000, 52½ percent in addition of such excess."

(b) The amendment made by subsection (a) of this section shall be applied in computing the tax for the calendar year 1936 and each calendar year thereafter (but not the tax for the calendar year 1935 or a previous calendar year), and such amendment shall be applied in all computations in respect of the calendar year 1935 and previous calendar years for the purpose of computing the tax for the calendar year 1936 or any calendar year thereafter.

The amendment was agreed to.

The next amendment was, at the top of page 119, to insert:

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. AMENDMENTS TO TITLE IV OF REVENUE ACT OF 1932

(a) Section 620 (3) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(3) for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia."

(b) Section 621 (a) (3) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(3) to a manufacturer, producer, or importer, in the amount of tax paid by him under this title with respect to the sale of any article to any vendee, if the manufacturer, producer, or importer has in his possession such evidence as the regulations may prescribe that after the date this amendment takes effect—

"(A) such article was, by any person—

"(i) resold for the exclusive use of the United States, any State, Territory of the United States, or any political subdivision of the foregoing, or the District of Columbia;

"(ii) used or resold for use as fuel supplies, ship's stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

"(iii) in the case of products embraced in paragraph (2) of section 617 (c), as amended, used or resold for use otherwise than as fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the production of such fuel: *Provided, however,* That no credit or refund shall be allowed or made under this paragraph in the case of sales or uses of products commonly or commercially known or sold as gasoline, including casinghead and natural gasoline.

"(iv) in the case of lubricating oils, used or resold for non-lubricating purposes.

"(B) The manufacturer, producer, or importer has repaid or agreed to repay the amount of such tax to the ultimate vendor or has obtained the consent of the ultimate vendor to the allowance of the credit or refund."

(c) Section 621 (c) of the Revenue Act of 1932, as amended, is amended to read as follows:

"(c) Interest shall be allowed at the rate of 6 percent per annum with respect to any amount of tax under this title credited or refunded, except that no interest shall be allowed with respect to any amount of tax credited or refunded under the provisions of subsection (a) hereof, and except that no interest shall be allowed for any period prior to the first day of the second month following the date of the enactment of the Revenue Act of 1935."

(d) The amendments made by this section shall become effective on the 1st day of the second month following the date of the enactment of this act.

The amendment was agreed to.

The next amendment was, on page 121, after line 8, to insert:

SEC. 402. COMPENSATORY TAX ON PRODUCTS OF CERTAIN OILS

During any period after the fifteenth day after the date of the enactment of this act when—

(1) a processing tax is in effect under section 602½ of the Revenue Act of 1934, or

(2) an import tax is in effect under section 601 (c) (8) of the Revenue Act of 1932, as amended,

there is hereby imposed upon any article (not within the scope of either such tax) manufactured or produced wholly or in chief value from any one or more of the oils subject to either such tax, when such article is imported into the United States from any foreign country or from any possession of the United States or from the high seas, a compensatory tax equivalent to the tax which would be payable under such section 602½ or 601(c) (8) upon such oil or oils if imported into the United States or if processed in the United States. The tax imposed by this section shall be levied, collected, and paid in the same manner as a duty imposed by the Tariff Act of 1930, and shall be treated, for the purposes of all provisions of law (except sec. 336 of such act) not inconsistent with this section, as a duty imposed by such act. All taxes collected under this section on account of coconut oil produced from materials wholly of Philippine growth or production, shall be held as a separate fund and paid to the treasury of the Philippine Islands, but if at any time the Philippine government provides by any law for any subsidy to be paid to the producers of copra, coconut oil, or allied products, no further payments to the Philippine treasury shall be made under this section.

The amendment was agreed to.

The next amendment was, on page 122, after line 13, to insert:

SEC. 403. SPECIAL EXCISE TAX ON CARRYING ON LIQUOR BUSINESS

The special excise tax imposed by section 701 of the Revenue Act of 1926 (U. S. C., title 26, sec. 206) shall not apply with respect to carrying on business after June 30, 1935.

The amendment was agreed to.

The next amendment was, on page 122, after line 19, to insert:

SEC. 404. INTEREST ON DELINQUENT TAXES

Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) of customs duty, not paid when due, shall be at the rate of 6 percent per annum.

The amendment was agreed to.

The next amendment was, at the top of page 123, to insert:

SEC. 405. DECLARATORY JUDGMENTS AS TO TAXES

(a) Paragraph (1) of section 274D of the Judicial Code (all the No. 343, 73d Cong.) is amended by adding after the "actual controversy" the following: "(except with respect to Federal taxes)."

(b) The amendment made by subsection (a) of this section shall apply to any proceeding now pending in any court of the United States.

The amendment was agreed to.

The next amendment was, on page 123, after line 8, to insert:

SEC. 406. FAILURE TO FILE RETURNS

In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this act, if a 25-percent addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 percent: 5 percent if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate.

The amendment was agreed to.

The next amendment was, on page 123, line 21, after the word "Title" in the heading to strike out "IV" and insert "V"; in line 22, to change the section number from 401 to 501, and on page 124, after line 22, to insert:

(10) The term "collector" means collector of internal revenue.

So as to read:

TITLE V—GENERAL PROVISIONS

SEC. 501. DEFINITIONS

- (a) When used in this act—
- (1) The term "person" means an individual, a trust or estate, a partnership, or a corporation.
 - (2) The term "corporation" includes associations, joint-stock companies, and insurance companies.
 - (3) The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State or Territory.
 - (4) The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.
 - (5) The term "stock" includes the share in an association, joint-stock company, or insurance company.
 - (6) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.
 - (7) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.
 - (8) The term "Secretary" means the Secretary of the Treasury.
 - (9) The term "Commissioner" means the Commissioner of Internal Revenue.
 - (10) The term "collector" means collector of internal revenue.

The amendment was agreed to.

The next amendment was, on page 125, line 5, to change the section number from 402 to 502.

The amendment was agreed to.

The next amendment was, on page 125, line 10, to change the section number from 403 to 503.

The amendment was agreed to.

Mr. HARRISON. Mr. President, I desire to offer some amendments to clarify the text. I send the first amendment to the desk.

The VICE PRESIDENT. The clerk will state the amendment now offered by the Senator from Mississippi.

The CHIEF CLERK. On page 9, after line 16, it is proposed to insert the following:

(1) Section 144 of the Revenue Act of 1934 is amended by striking out the period at the end thereof and inserting a colon and the following: "Provided further, That in the case of the payment, after December 31, 1935, of dividends of the class with respect to which a deduction is allowed by section 23 (p), the deduction and withholding provided for in this section shall also apply to 15 percent of the amount of the payment."

The amendment was agreed to.

Mr. HARRISON. I offer another amendment which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 15, line 18, after the period, if it is proposed to insert a new sentence to read as follows:

The purposes of this subsection shares of stock of a corporation shall be considered to be owned by the person in whom the ample right to the income from such shares is in good faith and as used in this subsection, the term "China" shall have the same meaning as when used in the China Trade Act, 1922.

The amendment was agreed to.

Mr. CLARK. Mr. President, will not the Senator from Mississippi explain these amendments?

Mr. HARRISON. Mr. President, the amendment just agreed to related to the China Trade Act. The substance of the amendment is found in section 261 of the Revenue Act of 1934, relating to the credit of China Trade Act corporations against net income for purposes of the corporation income tax, and is equally necessary in connection with the portion of the committee amendment relating to credit of such corporations for purposes of the capital-stock tax. This amendment was necessary because of the other amendment in reference to the China trade corporation.

Mr. President, I suggest several other clarifying amendments, which I send to the desk.

The VICE PRESIDENT. The clerk will state the first amendment.

The CHIEF CLERK. On page 4 it is proposed to insert quotation marks at the beginning of line 21, and on page 5 to insert quotation marks at the beginning of each paragraph and at the end of line 23.

The amendment was agreed to.

The CHIEF CLERK. On page 9, line 13, it is proposed to strike out "deduction" and insert in lieu thereof the word "deduction."

The amendment was agreed to.

The CHIEF CLERK. On page 20, line 3, it is proposed to strike out the comma.

The amendment was agreed to.

The CHIEF CLERK. On page 73, line 23, it is proposed to strike out "\$3,500,000" and insert in lieu thereof "\$3,000,000."

The amendment was agreed to.

Mr. McCARRAN. Mr. President, I offer an amendment, which I ask to have stated.

The VICE PRESIDENT. The clerk will state the amendment of the Senator from Nevada.

The CHIEF CLERK. At the proper place it is proposed to insert the following:

SEC. —. That section 6, section 7, and section 8 of Public Law No. 438 (73d Cong.) are hereby repealed and all Treasury rules and regulations made in pursuance of said sections 6, 7, and 8 of Public Law No. 438 are declared null and void and inoperative.

Mr. ROBINSON. Mr. President, will the Senator from Nevada yield to me to suggest the absence of a quorum?

Mr. McCARRAN. I yield.

Mr. ROBINSON. I suggest the absence of a quorum.

Mr. HARRISON. Mr. President, will not the Senator withhold his suggestion of the absence of a quorum for a moment?

Mr. ROBINSON. For just a moment.

Mr. HARRISON. Is the Senator from South Carolina ready now to proceed with the conference report on the Agricultural Adjustment Administration amendments conference report?

Mr. SMITH. If the Senator from California [Mr. Johnson] is prepared, I am ready to take the report up at this time.

Mr. ROBINSON. I withdraw the suggestion of the absence of a quorum.

Mr. SMITH. Mr. President, will the Senator yield?

Mr. McCARRAN. I yield to the Senator from South Carolina.

Mr. SMITH. Under the agreement, we were to postpone consideration of the conference report until 4 o'clock. The Senator from California indicates that he is now ready to proceed with the consideration of the report.

The VICE PRESIDENT. The Chair understands that the conference report is before the Senate. The question is on agreeing to the conference report.

Mr. JOHNSON. Mr. President, I have no desire, of course, to delay in any degree the consideration of the conference report. I desire of record, however, to say that the amendment which was adopted by the Senate after due deliberation and debate, involving the fundamental doctrine of the right of the American to go to the courts and have free access thereto, has been emasculated by the report which is presented by the conferees. The report hedges about the

right of the individual in such fashion as to make it extremely difficult for that right to be exercised at all.

I regret that it is so. I do not like the conference substitution for the Senate amendment. I believe it ought never to have been made. I can only voice the objection that is mine, and to say that I do not approve, and that I regret exceedingly that we have gone so far as we have in this conference report in the endeavor to deprive the ordinary American of access to the courts of the land.

With that statement, sir, I am ready to vote "no" upon the conference report, and permit it to be accepted.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. BAILEY. Mr. President, I understand that prior to the adoption of the report the chairman in charge of it will inform us of certain amendments which are to be offered. On the face of the bill, as agreed to by the conferees, there is a very serious blunder made, as I understand, not by any Member of the Congress. In order that that blunder may be corrected, and that the bill may operate as the Congress intended, it will be necessary to have unanimous consent for the passage of a concurrent resolution. Before we pass upon the report I desire to have that matter fully cleared up, so that we may know precisely what to expect.

Mr. SMITH. The parliamentary procedure, as I understand, will be to agree to the report, and then have the error corrected by means of the adoption of a concurrent resolution. As chairman of the committee I intend, as soon as the report shall have been agreed to, to ask unanimous consent for the adoption of a concurrent resolution which will correct the error which was made.

The VICE PRESIDENT. Let the Chair state the parliamentary situation as he understands it.

A conference report is before the Senate. If the conference report shall be agreed to, there is a House amendment which the Chair understands the Senator from South Carolina desires to have disposed of. When that shall have been done the bill will go back to the House for consideration of the Senate amendment. Then, if there is an error in the engrossment or enrollment of the bill, it will be in order for the Senate or the House to correct it.

Mr. BAILEY. Do I understand from the statement of the Chair that the matter may not be taken up immediately after adoption of the motion to agree to the conference report?

The VICE PRESIDENT. The Senate may do it at any time it wishes.

Mr. BAILEY. I am going to suggest now, as a matter of sound and intelligent procedure, that we should thoroughly understand that we intend to proceed in that way. We do not wish the bill to pass in the present condition. I do not hesitate to say to the Senate that if the bill shall pass in its present shape the price of tobacco now being sold in the South Carolina and the Georgia markets will drop probably 3 cents a pound tomorrow. We ought not to run any risk of that sort.

Mr. SMITH. I take it for granted that the Senate would not hesitate to correct an error which would bring about such a situation, and that was what it was contemplated by the concurrent resolution to correct. If it is in order, and in accordance with parliamentary usage, I shall ask that the concurrent resolution be adopted at this time.

Mr. BAILEY. I think that is the better plan.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. SMITH. I yield.

Mr. McKELLAR. I am not concerned about what the Senate will do. I know the Senate will adopt the concurrent resolution. However, has the Senator any information as to what the House is going to do with it?

Mr. SMITH. The House is now acting upon the matter. The blunder referred to was largely its blunder.

Mr. BORAH. Mr. President—

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from Idaho?

Mr. SMITH. I yield.

Mr. BORAH. What is the nature of the resolution which the Senator is going to propose?

Mr. SMITH. I will read from it, so that it may be understood. It is proposed to strike out:

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any 12 months' period ending after the date of the adoption of this amendment consisting of the 2 months immediately preceding and the first 10 months of any marketing year—

We did not intend the bill to say "after the adoption of this amendment", so the proposed correction is:

(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of 12 successive months ending after July 1, 1935, consisting of the first 10 months of any marketing year and the last 2 months of the preceding marketing year—

So the reduction in taxes takes place immediately, in the current year.

Mr. BORAH. Mr. President, would the concurrent resolution be subject to amendment?

Mr. SMITH. No; the concurrent resolution is simply to correct the bill so that it will provide as it was intended it should provide in both the House and Senate. In some manner the words were put in "after the date of the adoption of this amendment." It was not intended that those words should be inserted. Both the House and Senate intended that when the parity price had been reached preceding the next marketing year the reduction intended should take place.

Mr. BORAH. The conferees, as I understand—speaking to another subject—intended that the claimants who had claims against the Government should have the right to file their claims with the internal-revenue collector of their district. Would not the Senator be willing to insert that in his concurrent resolution?

Mr. SMITH. The only point is that the House has recognized this amendment; and if any other amendment shall be offered, heaven only knows when the bill will ever be enacted. This matter is already under consideration in the House. I desire the action of the Senate to be concurrent, so that we may dispose of the bill this afternoon, for the House is now considering certain amendments in connection with the blunder which has been made.

Mr. BORAH. Mr. President, this other matter is a very vital and important one. It would not take the House 15 minutes to approve it.

Mr. SMITH. Suppose they do not approve it, what will happen then?

Mr. BORAH. But they will approve it. The House is not going to deny the right to a man to file his claim in his own district. That evidently was an omission.

Mr. SMITH. Mr. President, I do not think any part of the bill was discussed with greater care than that which was amendatory of the provisions to which the Senator from California [Mr. JOHNSON] has addressed himself, and concerning which the Senator from Georgia has offered an amendment to the bill. The House inserted an amendatory provision, and we endeavored to make the amendments conform to the present tax law, making use of all the knowledge we had of the law. I do not think anyone for a moment believes that the right of the citizen to go before his local collector would be denied. That was explained by the Senator from Alabama [Mr. BANKHEAD], and it was worked out with care by the conferees. In any case, if it should become apparent before the next meeting of Congress that, as the Senator from Idaho contends, claimants will be brought all the way from Idaho to Washington—if that should become evident in the 4 months intervening between now and January next we certainly could correct the situation then. I have not the slightest doubt that the local collector of internal revenue will be designated, as he has been in all the tax cases, as the person to get the evidence and to pass upon it, with the consent of the collector in Washington.

Mr. BORAH. Mr. President, I should not be so insistent about this matter if I did not sincerely feel that the small claimant, the man living at a distance from the city of Washington, will be the one who will suffer by reason of this situation. I feel, as the Senator from California [Mr. JOHNSON] does, that by reason of the amendment, the provision which the Senator placed in the bill has been so changed that the persons who have small claims, those residing at a distance, will never undertake to recover, for the reason that they must come to the city of Washington in order to present their claims.

Mr. SMITH. Mr. President, I do not think that will ever occur under this amendment. I think the local collector of internal revenue will be designated as the one to settle the claim.

Mr. BORAH. Of course, I know the Senator thinks so; but I cannot understand why we do not write it into the law, so that the citizen will know that his rights are absolutely protected.

Mr. SMITH. If it had been intimated that we were departing from the law in the adjudication of cases under the internal-revenue law, we should not have taken the action we took; but if, in the ordinary tax cases, the local authority settles them, why should not the local authority settle such cases as those under discussion?

I shall join with the Senator in an effort to amend the law if it shall be found desirable. It will be only 3 months before we will know whether or not they are going to do such an absurd thing.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. BAILEY. Mr. President, may I ask the Senator from South Carolina if he does not have other amendments at hand? I understand there are two, one to that section of the bill which is known as the "potato rider."

Mr. SMITH. That, as the Senator has been informed, was an omission in the transcription. In transcribing, that provision was dropped out inadvertently. It is not an amendment in the real sense. It is merely a reincorporation of what the conferees agreed upon.

Mr. BAILEY. It requires action here?

Mr. SMITH. Yes; to correct the blunder that was made in the transcription.

Mr. BAILEY. Does the Senator intend to bring up that matter?

Mr. SMITH. Right away, so as to complete the matter and get it off my hands.

Mr. BAILEY. I wish to make inquiry why we should not bring up the amendment proposed by the Senator from Idaho [Mr. BORAH]?

Mr. SMITH. Because this has been acted on and the House wants to correct its error. If we open it up to further amendment, we will be here until the snow flies.

Mr. BAILEY. I do not want to delay the passage of the bill. I am in sympathy with the efforts of the chairman to get the bill through, but I wish everyone to know that I am in utmost sympathy with the position taken by the Senator from Idaho [Mr. BORAH] and the position taken by the Senator from Georgia [Mr. GEORGE]. I do not wish to leave any question as to whether a taxpayer in North Carolina must come all the way to Washington to make a record for a court in my State. I understand the argument, but I know how the law is. I take the position of the Senator from Idaho that we want the law to read in the interest of the taxpayer who may establish his right on the basis of the law and leave nothing to the discretion of a bureau head.

Mr. SMITH. I am no more in favor of bureaucracy than is the Senator from North Carolina, but I do not like to have lawyers rise here and indict their own fraternity. I do not think the Senator ought to say that in the case of a tax adjustment this Government and its lawyers would do such a thing. The Senator knows there is some common sense even among lawyers.

Mr. BAILEY. I rose to make inquiry of the Senator. I do not even know that the Commissioner of Internal Revenue or the Secretary of the Treasury is a lawyer. I am willing for

the Senator to indict the lawyers, but I do not see how that is referable to these gentlemen. I assume only that the Senator will enable the courts to protect the rights which he so eloquently expounded in South Carolina the other day.

Mr. SMITH. I think they are incorporated in the bill.

Mr. ROBINSON. Mr. President, will the Senator yield to enable me to ask a question?

Mr. BAILEY. Certainly.

Mr. ROBINSON. Was the provision to permit the filing of claims for the recovery of taxes illegally paid under this measure incorporated in the Senate amendment which we adopted?

Mr. BAILEY. I do not think so.

Mr. ROBINSON. That is my recollection. Then, as implied by the statement of the Senator from South Carolina, this is a substantial change in the bill. It opens up the subject matter to additional amendments, which is an entirely different proposition from correcting the text. It never occurred to anyone, during the long period of several weeks when we were discussing the bill here, that it was necessary to have an express provision of that nature. Now, when the bill comes back through a conference report and it is proposed to correct certain admitted errors, it is suggested that a substantial amendment be incorporated. I think the Senator from South Carolina is justified in his suggestion.

Mr. BAILEY. I am not disputing that fact. He may be justified. I wish to make a matter of record, and I think that is all we can do, in the humble hope that when some taxpayer crawls up here before the Commissioner, the Commissioner will take judicial notice of the fact that there were Senators on both sides of the Chamber who undertook to maintain that the Commissioner, in his discretion, should allow the taxpayer to plead his case within some reasonable distance of his home neighborhood. Having done that, I am satisfied.

I have another remark to make, and I shall then take my seat. I am going to make a protest.

An amendment introduced by myself and now to be found on page 68 of the bill as passed reads as follows:

(h) Nothing in this section (32) shall be construed to validate or legalize acts, taxes, penalties, or regulations or proceedings thereunder, that were done, imposed, had or issued contrary to said prior acts, or any action not in conformity with the terms of said prior acts.

That amendment was stricken out in conference. When we pass this bill let us take full notice that without this amendment acts done not in conformity with the laws which we wrote are condoned and legalized.

I do not think that is sound procedure. I know it is too late to change it. I understand that, but it is not too late to make the record. It is not too late to say that it does not become a great legislative body, representing the people and accountable to them, to undertake to exonerate appointive officers in direct and intimate relation to the people, but not responsible to them for acts done beyond the law; it does not become us to exonerate them from acts and transactions done not in conformity with the laws under which they were presumed to act.

I deeply regret that this amendment was stricken from the bill in conference. I cannot believe that the conferees understood the import of their action. I wish to be heard about it.

To whom are the administrative officers of our country accountable? They are not accountable to us. The judicial, the executive, and the legislative branches are separate and distinct. They are accountable to the citizen, on the one hand, and in the forum of a court, on the other hand. Here we deprive the citizen of his power to hold them to account in the forum of the court. Not being accountable in a court of law they are not accountable to anybody, but you and I will be held responsible when we go to answer to the people for the deeds which they have done not in conformity with acts passed by ourselves.

I thought, when the head of Charles I fell in the basket under the stroke of the headsman, that official irresponsibility had come to an end amongst the English-speaking

people. If I had my way about it, they would be held responsible. I have one more word to say about it.

This bill did not originate in the Congress. It originated in the Department of Agriculture. It was not drawn by a Senator. It was not drawn by a Member of the House. Those who originated it wrote into it language exonerating them from liability for acts done beyond their power, not in conformity with the law.

Mr. President, that sort of thing ought not to happen in our Republic. It ought not to happen anywhere. The fact that it did happen points the finger of suspicion at the Department which is responsible for it. I am sorry it is too late to remedy the matter. If I had the power, if I had the opportunity, I should submit this matter to the Senate and to the House, and I think I know what they would do; but we are told, and I am afraid only too truly, that if we should undertake now to insist upon simple, elementary rights it would destroy the legislation, and we should have to assume the responsibility for destroying it.

Mr. President, Congress will be in session again in the month of January of the coming year.

Mr. ASHURST. Mr. President—

Mr. BAILEY. I yield to the Senator from Arizona.

Mr. ASHURST. If I correctly understand the Senator, the Senate conferees have been guilty of no delinquency.

Mr. BAILEY. I am not lecturing anybody on either side.

Mr. ASHURST. I understand; but I rise to make an inquiry. Inasmuch as the Senate conferees have not been discharged, is it not within their power to make the correction by an additional conference?

Mr. BAILEY. It is; but we are told that if we delay a moment we shall defeat the bill, and I say that I do not wish to defeat the bill.

Mr. ROBINSON. Mr. President, if the bill should be sent back to conference for the purpose of incorporating a provision which was neither in the House bill nor in the Senate amendments, the conference report would be subject to a point of order in either body, and the bill probably would be defeated; so, in my judgment, if the Senator from North Carolina will permit me, the Senate not having incorporated the language in its original amendment, it ought not to be incorporated in a conference report. I am speaking now of the amendment proposing to permit the filing of claims for the recovery of taxes with the local revenue collectors.

Mr. ASHURST. If the Senator from North Carolina will yield, of course, the able Senator from Arkansas is absolutely correct. No one, I am sure, would contend that the conferees should insert in their report matter which was never agreed to by either House. My understanding was that matter agreed to by one of the two Houses had been eliminated against the protest of some of the Members of the Senate. I agree fully with the Senator from Arkansas.

Mr. BAILEY. Mr. President, my final word is just this: I understand the situation. I understand that we are driven into a corner. The Senator from Idaho [Mr. BORAH] is driven into a corner with his proposal that the taxpayer should have the right, at the only point where he can do so, to present his claim. The little taxpayer cannot come to Washington from California, nor can he come from North Carolina. We are driven to the point where he is deprived of the right of a hearing at the only place he could be heard; and we are now driven to the point where we must enact legislation, mind you, condoning acts—not acts done in conformity with law, but acts done not in conformity with law.

Mr. GORE. Mr. President—

Mr. BAILEY. I will yield to the Senator from Oklahoma in a minute.

I do not have to say to the Senate, I should not have to say anywhere on earth, that that is wrong. I should not have to say anywhere amongst intelligent men that that is a precedent which will destroy any government—the very fact that the Congress undertakes, after transactions done in violation of law, to ratify and confirm them; and we are told that we are helpless to correct it.

I have made my protest. I hope the Congress of the United States will take action. We have only four or five months to wait until we may do something, at least, to prevent anything like this happening again.

Mr. GORE. Mr. President—

Mr. BAILEY. I now yield to the Senator from Oklahoma.

Mr. GORE. I desire to ask the Senator if he means to say that administrative and appointive officers who have taken an oath to observe and enforce the law have violated and disregarded the law they were sworn to enforce.

Mr. BAILEY. No; I do not mean to say that they have done that; I do not know what they have done; but I know that we have proposed legislation here the effect of which is to exonerate them from acts of that sort if they have committed them.

Mr. GORE. Very well. Then I put the question in this form: Would administrative and appointive officers who have taken an oath to observe and enforce the law, if they have violated and disregarded the law and their oath to enforce it, be granted immunity under this measure?

Mr. BAILEY. If I read the measure aright, they would be.

Mr. GORE. And did administrative officers who would enjoy such immunity write this bill, instead of a Member of the House or the Senate?

Mr. BAILEY. That is conceded. I am not sure of our power to do these things. I will not go that far. I am saying what we undertake to do. There is, after all, a law above the law with which we are dealing. There is a law of human rights underlying these statutes.

Mr. GORE. I appreciate the Senator's idealism, and hope he is right.

Mr. BAILEY. I still entertain it; and I call the Senator's attention to the paragraph on page 62.

Mr. President, having said that, I wish to add that I am not obstructing the passage of the bill. I am for the bill. I voted for it. I am going to vote for the conference report; and I can vote for it more freely by reason of having said to the Senate what I have here said.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives with respect to certain amendments of the Senate to House bill 8492, which was read as follows:

IN THE HOUSE OF REPRESENTATIVES, UNITED STATES,
August 14, 1935.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 152 to the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes", and concur therein.

That the House recede from its disagreement to the amendment of the Senate numbered 128 to said bill and concur therein with the following amendment:

In lieu of the matter inserted by said amendment insert:

"SEC. 37. There is hereby authorized to be appropriated the sum of \$40,000,000, of which sum \$10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds appropriated by or in pursuance of the authorization contained in this section and the funds appropriated by the second paragraph of Public Resolution No. 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the act entitled 'An act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes', approved April 7, 1934. The sums appropriated or reappropriated by this section shall remain available until June 30, 1936, and such sums and the sums appropriated in pursuance of the authorization contained in this section shall be available to carry out the purposes of both this section and such section 6, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution No. 27 to carry out the purposes of section 2 of such act of April 7, 1934, shall remain available for the purposes of such section 2 until June 30, 1936."

Mr. SMITH. I move that the Senate concur in the amendment of the House to Senate amendment numbered 128.

The motion was agreed to.

The Chief Clerk read as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 155 to said bill and concur therein with the following amendment: In lieu of the matter inserted by said amendment insert:

"Sec. 55. There is hereby made available, out of any money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and land utilization. The sums so allotted may be used, in the discretion and under the direction of the President, for the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

"In carrying out the provisions of this section the President is authorized:

"(a) To make contracts and grants; and

"(b) To acquire, by purchase, any real property or any interest therein (with or without reservations) in accordance with the policy herein set forth."

Mr. SMITH. I move that the Senate concur in the amendment of the House to Senate amendment numbered 155.

The motion was agreed to

The Chief Clerk read as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 163 to said bill and concur therein with the following amendment.

In lieu of the matter inserted by said amendment insert:

"POTATO CONTROL

"Sec. 61. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word 'rice' a comma and the word 'potatoes', and by adding at the end of said section 11 a new sentence, as follows: 'As used in this title, the term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*.'

Sec. 62. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "tobacco", in both the second and third sentences of said subsection, the words "and potatoes."

TITLE II DEFINITIONS

SECTION 201. When used in this title, unless the context otherwise requires—

(a) The term "person" includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means a collector of internal revenue.

(d) The term "sale" includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

(e) The term "allotment year" means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

(f) The term "change in the form of potatoes" means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(g) The term "tax stamp" means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

(h) The term "tax-exemption stamp" means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from the tax has been established.

(i) The term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.

(j) The term "producer" means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

(k) The term "continental United States" means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

(l) The term "operator" means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

(m) The term "farm" means all the land operated by the producer as a single operating unit with work stock, farm ma-

chinery, and labor substantially separate from that of any other tract of land.

IMPOSITION OF THE TAX

SEC. 202. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof.

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

(c) At least 30 days prior to the beginning of each allotment year after the first allotment year, the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer shall be entitled to one vote for each 60 pounds of potatoes apportioned to him pursuant to sections 205, 206, and 207 of this title for the last allotment year for which such apportionments were made. If one-third of the votes cast in such referendum are cast in opposition to continuing such taxes in effect, the provisions of this title shall not be operative with respect to potatoes produced during such succeeding allotment year.

(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal revenue collections.

(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The Commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal revenue collections.

ALLOTMENTS

SEC. 203. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least 30 days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919-July 1929 without reducing the total net income of potato producers from potatoes below the largest probable net income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall, for each allotment year, be apportioned by the Secretary of Agriculture as hereinafter provided.

SEC. 204. When a quantity is determined in accordance with section 203 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the 4 years in which the highest potato acreage was harvested in such State in the years 1927-34, inclusive, multiplied by the average yield per acre for the 4 years that the yield of potatoes per acre for such State was highest in the years 1927-34, inclusive, multiplied by the average annual percentage of

the crop produced in such State during the years 1929-34, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing prices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 percent of the quantity of potatoes determined in accordance with section 203 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

Sec. 205. Ninety-five percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any 1 or more years within the period 1932-34, inclusive. Such apportionment to any farm shall be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any 2 or more years during the years 1932-34, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

Sec. 206. Not in excess of 5 percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 205 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 205 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 205 of this title.

Sec. 207. If an apportionment is made to a farm under section 206 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 206 of this title but shall be made from the quantity available for apportionment under section 205 of this title.

Sec. 208. For the purposes of the apportionments to be made pursuant to sections 204, 205, 206, and 207 of this title, the District of Columbia shall be considered as a part of the State of Maryland.

Sec. 209. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 205, 206, and 207 of this title: *Provided*, That, under such regulations as the Secretary of Agriculture shall prescribe, he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 202 of this title for the amount of potatoes stated on the face of each such stamp.

(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each

such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 202 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant, or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area; (2) speculation in tax-exempt stamps; or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes, or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exemption stamps.

Sec. 210. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year.

PACKAGING

Sec. 211. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 202 of this title, all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe, be packed in closed and marked containers, to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of such tax. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 202 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

RULES AND REGULATIONS

Sec. 212. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the

issue, sale, custody, production, cancelation, destruction, and disposition of tax stamps and the cancelation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

SEC. 213. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

SEC. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commission has reason to believe to have information with respect to potatoes produced or sold may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records, or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 1 year, or both.

REFUNDS

SEC. 215. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within 1 year after the date of payment of such tax, penalty, interest, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this title alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of 6 months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of 2 years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within 2 years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within 90 days after such disallowance, notify the taxpayer thereof by registered mail.

(c) The amount of the taxes imposed by subsection (a) of section 202, paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

APPROPRIATION

SEC. 216. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, for refunds of taxes and for other payments under this title. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected during a period following any such estimate not in excess of 4 months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 230 of this title, collected upon potatoes coming from the possessions or territories of the United States, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories, respectively, to be used and expended by the governments thereof for the benefit of agriculture.

(b) The Secretary of Agriculture is hereby authorized to expend, out of the sums available to the Secretary of Agriculture under the Agricultural Adjustment Act, as amended, such sums as may be necessary for administrative expenses, for refunds of taxes and for other payments under this title.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of references, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

(d) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

(e) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses for refunds of taxes, and for other advances or payments under this title.

GENERAL AND PENAL PROVISIONS

SEC. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufac-

ture, that the imposition of the taxes imposed by subsection (a) of section 202 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 211, and from the taxes imposed by subsection (a) of section 202 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

SEC. 218. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

SEC. 219. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act and to establish regional, State, and local committees and associations of producers of potatoes.

(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of section 219 of this title, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

SEC. 220. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than 1 year.

SEC. 221. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than 1 year's imprisonment, or both.

SEC. 222. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon. Any revenue officer may destroy the tax stamps or tax-exemption stamps upon any emptied potato package.

SEC. 223. Any person who willfully violates any provision of this title, or who willfully fails to pay, when due, any tax imposed under this title, or who, with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession, any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this title without destroying the tax stamp and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding 6 months, or both.

SEC. 224. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a

special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200.

SEC. 225. All provisions of law, including penalties applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926, except section 1121 of the Revenue Act of 1926, and except section 614 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to all taxes imposed by this title.

SEC. 226. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who changes the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

SEC. 227. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change of form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than 2 years after such sale or change of form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

EXPORTS

SEC. 228. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 202 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

IMPORTS

SEC. 229. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 202 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 202 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929-34, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary under section 203 of this title is of the annual average of the quantity of potatoes sold in the continental United States during the years 1929-34, inclusive; and

(b) Allot the quotas provided for by subsection (a) to the importers of such potatoes in the United States in such manner as he may deem fair and equitable, having due regard to the respective amounts of potatoes imported during the years 1932-34, inclusive, by such persons.

SEC. 230. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States.

SEC. 231. During any period the tax imposed by subsection (a) of section 202 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry into the continental United States, shall be in packages in the same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States.

SEC. 232. The provisions of sections 229 and 230 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the

following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens or results in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 229 and 230 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

Mr. JONES moves that the House recede from its disagreement to the amendment of the Senate no. 163, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"POTATO CONTROL"

"SEC. 61. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word 'rice' a comma and the word 'potatoes' and by adding at the end of said section 11 a new sentence as follows: 'As used in this title, the term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*.'

"SEC. 62. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word 'tobacco', in both the second and third sentences of said subsection, the words 'and potatoes.'

"TITLE II"

"DEFINITIONS"

"SECTION 201. When used in this title, unless the context otherwise requires—

"(a) The term 'person' includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

"(b) The term 'Commissioner' means the Commissioner of Internal Revenue.

"(c) The term 'collector' means a collector of internal revenue.

"(d) The term 'sale' includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

"(e) The term 'allotment year' means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

"(f) The term 'change in the form of potatoes' means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

"(g) The term 'tax stamp' means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

"(h) The term 'tax-exemption stamp' means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from a tax levied by this title has been established.

"(i) The term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*.

"(j) The term 'producer' means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

"(k) The term 'continental United States' means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

"(l) The term 'operator' means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

"(m) The term 'farm' means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land.

"IMPOSITION OF THE TAX"

"SEC. 202. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof.

"(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

"(c) At least 30 days prior to the beginning of each allotment year the Secretary of Agriculture shall conduct a referendum which

will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer who is entitled to an allotment for the last allotment year for which such apportionments were made shall be entitled to one vote; and such taxes shall not be in effect and the provisions of this title shall not be operative with respect to potatoes produced in such succeeding year unless the majority of the votes cast in such referendum are cast in favor of continuing such taxes in effect.

"(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

"(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal-revenue collections.

"(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

"ALLOTMENTS

"SEC. 203. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least 30 days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919–July 1929 without reducing the total net income of potato producers from potatoes below the largest probable income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall for each allotment year be apportioned by the Secretary of Agriculture as hereinafter provided.

"SEC. 204. When a quantity is determined in accordance with section 203 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the 4 years in which the highest potato acreage was harvested in such State in the years 1927–34, inclusive, multiplied by the average yield per acre for the 4 years that the yield of potatoes per acre for such State was highest in the years 1927–34, inclusive, multiplied by the average annual percentage of the crop produced in such State during the years 1929–34, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing practices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 percent of the quantity of potatoes determined in accordance with section 203 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

"SEC. 205. Ninety-five percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932–34, inclusive. Such apportionment to any farm may be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

"(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any 2 or more years during the years 1932–34, inclusive, providing the operators of such farm for the allot-

ment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

"(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

"SEC. 206. Not in excess of 5 percent of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 205 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 205 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 205 of this title.

"SEC. 207. If an apportionment is made to a farm under section 206 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 206 of this title but shall be made from the quantity available for apportionment under section 205 of this title.

"SEC. 208. For the purposes of the apportionments to be made pursuant to sections 204, 205, 206, and 207 of this title, the District of Columbia shall be considered as a part of the State of Maryland.

"SEC. 209. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary of Agriculture, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 205, 206, and 207 of this title: *Provided*, That under such regulations as the Secretary of Agriculture shall prescribe he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 202 of this title for the amount of potatoes stated on the face of each such stamp.

"(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

"(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

"(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 202 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

"(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any

such landlord, any such share-tenant or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

"(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

"(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area, (2) speculation in tax-exemption stamps, or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exemption stamps.

"SEC. 210. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year.

"PACKAGING

"SEC. 211. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 202 of this title, all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner with the approval of the Secretary of the Treasury shall prescribe, be packed in closed and marked containers to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner with the approval of the Secretary of the Treasury may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of the taxes levied by this title. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

"(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 202 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

"RULES AND REGULATIONS

"SEC. 212. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancellation, destruction, and disposition of tax stamps and the cancellation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

"SEC. 213. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

"SEC. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced, or sold, or subject to a tax on a change in the form of potatoes, may be required, under regulation prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

"(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records, or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding 1 year, or both.

"REFUNDS

"SEC. 215. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within 1 year after the date of payment of such tax, penalty, interest, or sum.

"(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this title alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of 6 months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of 2 years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within 2 years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within 90 days after such disallowance, notify the taxpayer thereof by registered mail.

"(c) The amount of the taxes imposed by subsection (a) of section 202 paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

"APPROPRIATION

"SEC. 216. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, as amended, for refunds of taxes, and for other payments under this title. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected under this title during a period following any such estimate not in excess of 4 months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 230 of this title collected upon potatoes coming from the possessions or territories of the United States shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories, respectively, to be used and expended by the governments thereof for the benefit of agriculture.

"(b) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of reference, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

"(c) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

"(d) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses, for refunds of taxes, and for other advances or payments under this title.

"GENERAL AND PENAL PROVISIONS

"SEC. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 202 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 211, and from the taxes imposed by subsection (a) of section 202 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

"SEC. 218. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities,

duties, responsibilities, and tenure, and, without regard to the Classification Act of 1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

"Sec. 219. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, and to establish regional, State, and local committees and associations of producers of potatoes.

"(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of section 219 of this title, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

"Sec. 220. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than 1 year.

"Sec. 221. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than 1 year's imprisonment, or both.

"Sec. 222. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps affixed thereto. Any revenue officer may destroy the tax stamps or tax-exemption stamps affixed to any emptied potato package.

"Sec. 223. Any person who willfully violates any provision of this title, or who willfully fails to pay when due any tax imposed under this title, or who, with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another, or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding 6 months, or both.

"Sec. 224. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200.

"Sec. 225. All provisions of law, including penalties, applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926, except section 1121 of the Revenue Act of 1926, and except section 614 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to all taxes imposed by this title.

"Sec. 226. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who affects a change in the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

"Sec. 227. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change in the form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than 2 years after such sale or change in the form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

"EXPORTS

"Sec. 228. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 202 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

"IMPORTS

"Sec. 229. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 202 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

"(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 202 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929–34, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary of Agriculture under section 203 of this title is of the annual average of the quantities of potatoes sold in the continental United States during the years 1929–34, inclusive; and

"(b) Allot the quotas provided for by subsection (a) to the importers of such potatoes in the United States in such manner as he may deem fair and equitable, having due regard to the respective amounts of potatoes imported during the years 1932–34, inclusive, by such persons.

"Sec. 230. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to an internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States.

"Sec. 231. During any period the tax imposed by subsection (a) of section 202 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States.

"Sec. 232. The provisions of sections 229 and 230 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens to result in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 229 and 230 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

"Sec. 233. This title may be cited as the "Potato Act of 1935."

Mr. SMITH: I move that the Senate agree to the amendment of the House to the amendment of the Senate numbered 163 with an amendment, as follows: On page 7, line 4, of the House amendment, after "year", insert "after the first allotment year."

The VICE PRESIDENT. Without objection, the amendment offered by the Senator from South Carolina, to the amendment of the House to Senate amendment numbered 163, is agreed to.

Without objection, the House amendment, as amended, is concurred in.

The Chair understands that that completes the conference report.

Mr. SMITH. Yes. I submit a concurrent resolution to correct an error and ask for its present consideration.

The VICE PRESIDENT. The concurrent resolution will be read.

The concurrent resolution (S. Con. Res. 24) was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives is authorized and directed, in the enrollment of the bill (H. R. 8492) entitled "An act to amend the Agricultural Adjustment Act, and for other purposes", to make the following necessary changes in the language of the bill:

In paragraph (4) of the amendment made by section 12 of the bill to subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, strike out "August 15" wherever it appears and in lieu thereof insert "September 1."

Strike out so much of subdivision (B) of paragraph (6) of the amendment made by section 12 of the bill to subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, as reads as follows:

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), or (5) of this subsection or is established pursuant to this paragraph (6), during any 12-month period ending after the date of the adoption of this amendment, consisting of the 2 months immediately preceding and the first 10 months of any marketing year—"; and insert in lieu thereof the following:

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraphs (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of 12 successive months ending after July 1, 1935, consisting of the first 10 months of any marketing year and the last 2 months of the preceding marketing year—."

In subsection (f) of section 21, added by section 30 of the bill to the Agricultural Adjustment Act, as amended, strike out "refund or credit" wherever it appears (except in the last sentence thereof) and in lieu thereof insert "refund, credit, or abatement."

The VICE PRESIDENT. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

Mr. COPELAND. Mr. President, I ask that a telegram I have received relating to the subject of the concurrent resolution just agreed to be inserted in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NEW YORK, N. Y., August 14, 1935.

HON. ROYAL COPELAND,

United States Senator, Senate Office Building:

Examination of conferees' report on agricultural bill submitted and passed in the House yesterday discloses in the first two lines on page 7 an unannounced and entirely unexpected amendment in paragraph (b), page 42, of Senate bill relative to reduction of processing tax, which as passed by Senate provided that adjustment of tax be based on the average farm price of any commodity during the 12-month period consisting of the 2 months immediately preceding and the first 10 months of any marketing year. After the word "period", the conferees inserted the words "ending after the date of the adoption of this amendment." Since 1934 marketing year for all types of tobacco was officially opened on October 1, the 10 months of the marketing year expired on July 31 last or prior to the adoption of this new bill. Thus it seems that according to the new amendment there can be no reduction under this paragraph until beginning of marketing year in 1936. In fairness to struggling cigar industry, which has declined 40 percent in last 6 years, and whose entities are losing substantial amount, I appeal to you to do what you can to have this surprise and unfair amendment stricken from the bill.

HOWARD S. CULLMAN.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 5159) to authorize the Postmaster General to contract for air mail service in Alaska.

The message also announced that the House had agreed to the amendment of the Senate to the bill (H. R. 7659) to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable, and for other purposes.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. 6914) to authorize cooperation with the several States for the purpose of stimulating the acquisition, development, and proper administration and management of State forests and coordinating Federal and State activities in carrying out a national program of forest-land management, and for other purposes.

The message also announced that the House had agreed to the amendments of the Senate to the joint resolution (H. J. Res. 351) authorizing the use of public parks, reservations, and other public spaces in the District of Columbia, and the use of tents, cots, hospital appliances, flags, and other decorations, property of the United States, by Washington (D. C.) 1935 Improved Benevolent and Protective Order of Elks of the World, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 6732) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MANSFIELD, Mr. GAVAGAN, Mr. DEROUEN, Mr. SEGER, and Mr. CULKIN were appointed managers on the part of the House at the conference.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 739. An act to provide for the establishment of a national monument on the site of Fort Stanwix, in the State of New York;

S. 985. An act for the relief of Hudson Bros., of Norfolk, Va.;

S. 1046. An act for the relief of E. Jeanmonod;

S. 2073. An act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes;

S. 2247. An act directing the conveyance of certain lands to the regents of the University of New Mexico;

S. 2361. An act to fix the compensation of registers of district land offices;

S. 2577. An act to eliminate the requirement of cultivation in connection with certain homestead entries;

S. 2695. An act to add certain lands to the Medicine Bow National Forest Wyo.;

S. 2993. An act for the relief of Carrie Price Roberts; and H. J. Res. 351. Joint resolution authorizing the use of public parks, reservations, and other public spaces in the District of Columbia, and the use of tents, cots, hospital appliances, flags, and other decorations, property of the United States, by Washington (D. C.) 1935 Improved, Benevolent, and Protective Order of Elks of the World, and for other purposes.

INCOME AND INHERITANCE TAXATION

The Senate resumed the consideration of the bill (H. R. 8974) to provide revenue, equalize taxation, and for other purposes.

Mr. HARRISON. Mr. President, I have two committee amendments, perfecting amendments, which I should like to have disposed of.

The VICE PRESIDENT. The clerk will state the first amendment.

The CHIEF CLERK. On page 118, after line 18, it is proposed to insert a new subsection to read as follows:

(b) Section 505 (a) (1) of the Revenue Act of 1932 (relating to the specific exemption for gift-tax purposes) is amended by striking out "\$50,000" and inserting in lieu thereof "\$40,000."

The amendment was agreed to.

The CHIEF CLERK. On page 118, it is proposed to strike out line 19, and to insert in lieu thereof the following: "(c) The amendments made by subsections (a) and (b) of this" and on page 118, line 23, to strike out "amendment" and in lieu thereof to insert "amendments."

The amendments were agreed to.

Mr. HARRISON. Mr. President, I have an amendment to submit which is not a committee amendment, but I have had the clerks work out something with reference to the policy to be applied to holding companies in case of forced liquidation, and the experts think the amendment I am about to offer is the best that can be drafted. I offer the amendment and should like to have it agreed to.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 20, after line 24, it is proposed to add a new section to read as follows:

SEC. 110. CORPORATE LIQUIDATIONS

(a) Section 112 (b) of the Revenue Act of 1934 is amended by adding after paragraph 5 a new paragraph reading as follows: "(6) No gain or loss shall be recognized upon the receipt by a corporation of property or money distributed in complete or partial liquidation of another corporation, if the corporation receiving such property owns at least 80 percent of the voting stock of such other corporation. As used in this paragraph 'partial liquidation' means any one of a series of distributions by a corporation in complete cancellation or redemption of all of its stock."

(b) The amendment made by subsection (a) shall apply only in the case of taxable years beginning after December 31, 1935.

The amendment was agreed to.

Mr. HARRISON. Mr. President, the Senator from Nevada has an amendment which seeks to repeal a portion of the Silver Act which prevents trade in silver stocks in this country. If others are agreeable, I am perfectly willing to let the amendment go to conference.

Mr. McCARRAN. Mr. President, in view of the statement of the Chairman of the Committee on Finance, I now offer the amendment.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to insert the following, at the proper place:

Sec. —. That section 6, section 7, and section 8 of Public Law No. 438, Seventy-third Congress, are hereby repealed and all Treasury rules and regulations made in pursuance of said section 6, 7, and 8 of Public Law No. 438 are declared null and void and inoperative.

The amendment was agreed to.

Mr. BORAH. Mr. President, I desire to offer an amendment which provides against the issuance of tax-exempt securities in the future.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 10, after line 2, it is proposed to add a new section, to read as follows:

SEC. 104½. FEDERAL OBLIGATIONS

(a) Section 22 (b) (4) of the Revenue Act of 1934 (relating to tax-free interest) is amended by striking out the last sentence and inserting in lieu thereof the following:

"In the case of obligations of the United States issued after September 1, 1917 (other than postal-savings certificates of deposit), and in the case of obligations of a corporation organized under act of Congress, the interest shall be exempt—

"(1) Only if such obligations were issued or reissued prior to the date of enactment of the Revenue Act of 1935; and

"(2) Only if and to the extent provided in the respective acts authorizing the issue thereof as amended and supplemented; and shall be excluded from gross income only if and to the extent it is wholly exempt from the taxes imposed by this bill."

(b) Section 25 (a) (2) of the Revenue Act of 1934 (relating to interest on United States obligations) is amended by inserting after the words "United States" the words "issued or reissued prior to the enactment of the Revenue Act of 1935."

(c) Section 25 (a) (3) of the Revenue Act of 1934 (relating to interest on obligations of instrumentalities of the United States) is amended by inserting after the words "normal tax" a semicolon and the following: "and (D) such obligations were issued or reissued prior to date of enactment of the Revenue Act of 1935."

On page 17, line 13, strike out "and 104" and insert in lieu thereof the following: "104, and 104½."

Mr. HARRISON. As I understand the amendment, the Senator seeks to impose the surtax and the normal tax on future issues of municipal bonds, county bonds, and State bonds.

Mr. BORAH. Oh, no; this relates to Federal issues.

Mr. HARRISON. Merely Federal issues?

Mr. BORAH. Yes. We cannot cover State issues without a constitutional amendment.

Mr. HARRISON. The Senator seeks to impose not only the surtax but the normal tax.

Mr. BORAH. Yes; I wish to provide against tax-exempt securities from this time on. If this amendment is adopted, the Federal Government will have established a policy doing away with tax-exempt securities. That is my purpose. I believe these tax-exempt securities are in the nature of subsidies to those who are able to own them. This is the first step toward their banishment from the economic and financial world.

Mr. HARRISON. I am in thorough sympathy with the Senator in trying to find some method to do that, if it can be done legally.

Mr. BORAH. It can be done legally in the way I propose. We are not undertaking by this amendment to invade the States' issuance of securities of any kind. This relates entirely to Federal securities.

Mr. LEWIS. Mr. President, may I ask the Senator from Idaho whether he means that this can be carried without a constitutional amendment changing the present status of Federal securities, as provided and protected under the Constitution?

Mr. BORAH. I have no doubt that, as this is limited to Federal securities, we have the constitutional power to provide against tax-exempt securities.

Mr. BARKLEY. Mr. President, will the Senator from Idaho yield to me?

Mr. BORAH. I yield.

Mr. BARKLEY. What effect would this have upon the interest rates to be borne by future Federal bonds and securities as compared with those already outstanding, and what effect would it have on the relative prices of those outstanding compared with those which may be issued in the future?

Mr. BORAH. Of course, that would be a matter of speculation, but those who have studied the subject, and those who have undertaken to inform themselves upon that particular feature of this question of the tax-exempt securities, are of the opinion that it would have very little if any effect whatever upon the sale of securities.

Mr. BARKLEY. To what extent would it require an increase in the rate of interest?

Mr. BORAH. I would answer in the same way.

Mr. BARKLEY. It would be expected that there would be some increase in interest to take care of the tax paid.

Mr. BORAH. Possibly so, but not necessarily so.

Mr. BARKLEY. It would make past issues more valuable, by comparison, than future issues.

Mr. BORAH. Yes; but we cannot reach the past issues, and some time or other, if we believe what we have been saying, we will have to start on this question of tax-exempt securities.

Mr. BARKLEY. That depends on who has been talking. There is a wide controversy as to the matter of policy and principle, with respect to the whole subject of tax-exempt securities.

Mr. BORAH. I know. I was not referring personally to the Senator.

Mr. BARKLEY. I understand the Senator.

Mr. GERRY. Mr. President, does that relate to future issues of Federal securities?

Mr. BORAH. Yes; I limit it to Federal securities because Congress has no power to deal with State securities. That is a matter for the States. If we had the power, I should be happy to cover all securities, but we have not the power. I feel if the movement is started, the States may be induced to do away with these tax-exempt securities.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. LA FOLLETTE. In response to the suggestion made by the Senator from Kentucky [Mr. BARKLEY], I should like to point out that in Great Britain, with a very much larger total per capita debt than we have in the United States, there is not a dollar of tax-exempt securities in existence; so that is some criterion of the ability of the Government to finance itself with tax-bearing obligations. Only recently Great Britain carried on one of the most outstanding conversion operations, in which they very drastically reduced the interest on their outstanding obligations, which, it seems to me, has something to do with what we may consider the effect of the Senator's amendment upon the interest which will have to be paid.

Mr. BORAH. Mr. President, I thank the Senator for the statement he has made. I think it quite relevant. Now, are we in favor of tax-exempt securities or are we opposed to them? I feel we ought to do away with them, and we will

BANKRUPTCY PROCEEDINGS

The Clerk called the bill (S. 1425), to amend Section 80 of Chapter 9 of an act to amend the act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1893.

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

RELIEF OF PUBLIC-SCHOOL DISTRICTS

The Clerk called the bill (H. R. 8628), to provide for the relief of public-school districts and other public-school authorities, and for other purposes.

The SPEAKER. Is there objection?

Mr. TABER. Mr. Speaker, I reserve the right to object.

Mr. TERRY. Mr. Speaker, this is a bill authorizing the Reconstruction Finance Corporation to make loans to public-school districts where, in the opinion of the R. F. C., the security offered by the school districts is adequate and the need is demonstrated. The bill provides that, when the school district applies to it for a loan, the R. F. C. shall investigate the financial ability of the district, and if the R. F. C. finds an agreement has been made by the school districts with the bondholders which agreement will, in the opinion of the R. F. C., furnish a sufficient reduction in the outstanding obligations, then the R. F. C. is authorized to make the loan upon such terms as it may see proper. The House bill was passed on by the Banking and Currency Committee of the House and unanimously approved. A similar Senate bill was passed on by the Senate Banking Committee and unanimously approved, and passed the Senate last week.

Mr. TABER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

Mr. TERRY. Mr. Speaker, I ask unanimous consent that a similar Senate bill, S. 3123, be substituted for the House bill.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That the Reconstruction Finance Corporation is hereby authorized and empowered to make loans out of the funds of the Corporation in an aggregate amount not exceeding \$10,000,000 to or for the benefit of tax-supported public-school districts or other similar public-school authorities in charge of public schools, organized pursuant to the laws of the several States, Territories, and the District of Columbia. Such aggregate amount shall be allocated equitably among the several States and Territories and the District of Columbia on the basis of demonstrated need. Such loans shall be made for the purpose of enabling any such district or authority which, or any State, municipality, or other public body which, is authorized to incur indebtedness for the benefit of public schools (herein referred to as the "borrower") to reduce and refinance outstanding indebtedness or obligations which have been incurred prior to the enactment of this act for the purpose of financing the construction, operation, and/or maintenance of public-school facilities.

Such loans shall be subject to the same terms and conditions as loans made under section 5 of the Reconstruction Finance Corporation Act, as amended, except that (1) the term of any such loans shall not exceed 33 years; (2) each such loan shall, in the opinion of the Corporation, be reasonably and adequately secured, and, in respect to the type of security, shall be secured (a) by bonds, notes, or other obligations for the payment of which shall be pledged the full faith and credit and taxing power of the borrower or of such taxing authority as may be authorized pursuant to State law to levy assessments, taxes, or other charges for the benefit of public schools, and/or (b) by bonds, notes, or other obligations which are a lien on real property of the borrower, and/or (c) by such other collateral as may be acceptable to the Corporation; (3) the borrower shall agree not to issue during the term of the loan any other obligations so secured, and insofar as it may lawfully do so, shall agree not to assume during such term any further indebtedness for the benefit of public schools, except with the consent of the Corporation; (4) the borrower shall agree, insofar as it may lawfully do so, that so long as any part of such loan shall remain unpaid the borrower will in each year apply to the repayment of such loan or to the purchase or redemption of the obligations issued to evidence such loan, an amount equal to the amount by which the assessments, taxes, and other funds received by it for the benefit

of public schools exceeds (a) the cost of operation and maintenance of the public-school facilities which are financed in whole or in part by such amount of assessments, taxes, or other charges, received by it; (b) the debt charges on its outstanding obligations; and (c) provisions for such reasonable reserves as may be approved by the Corporation.

No loan shall be made under this section until the Corporation (a) has caused an appraisal to be made of the taxpaying ability of the taxing district or other territory throughout which assessments, taxes, or other charges are authorized to be levied for the purpose of paying the costs of, or for the purpose of securing funds to repay indebtedness incurred to finance the construction, operation, and/or maintenance of the public-school facilities on account of which the indebtedness was incurred or obligations assumed which are to be reduced and refinanced in connection with a loan from the Corporation made under this section; (b) has been satisfied that an agreement has been entered into with the holders of outstanding bonds, notes, and/or other obligations incurred by or for the benefit of the tax-supported public-school district or other similar public-school authority in charge of public schools which indebtedness or obligations are to be reduced and refinanced in connection with a loan from the Corporation, under which agreement it will be possible to purchase, reduce, or refund all or a major portion of the aggregate of outstanding indebtedness and obligations incurred by or on behalf of such district or authority at a price determined by the Corporation to be reasonable after taking into consideration the average market price of the evidences of the indebtedness or obligations to be reduced and refinanced over the 6 months' period ending January 1, 1935, and under which a substantial reduction will be brought about in the aggregate of such outstanding indebtedness and obligations; and (c) has determined, in view of such appraisal of taxpaying ability and of such substantial reduction in the aggregate of such outstanding indebtedness and obligations, that the operation of the public-school facilities to refinance indebtedness or obligations incurred for the benefit of which a loan from the Corporation is applied for under this section, is economically sound and will promote the general welfare of the community.

When any loan is authorized pursuant to the provisions of this section and it shall then or thereafter appear that repairs and necessary extensions or improvements to the public-school facilities, to refinance the indebtedness or obligations incurred for the benefit of which such loan is authorized, are necessary or desirable for the further assurance of the ability of the borrower to repay such loan, the Corporation, within the limitation as to total amount provided in this section, may make an additional loan or loans to such borrower for such purposes.

The proceeds of any loan applied for by a borrower under this section may be paid either to such borrower or to the holders or representatives of the holders of the bonds, notes, and/or other obligations to be reduced and refinanced in connection with such loan, and such loans may be made upon promissory notes collateralized by such bonds, notes, and/or other obligations, or through the purchase of securities issued or to be issued by such borrower.

SEC. 2. No loan shall be made by the Corporation under this act where any part of the proceeds of such loan are to be used for purposes authorized by section 16 of the act approved June 19, 1934 (Public, No. 417, 73d Cong.).

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

A House bill (H. R. 8628) was laid on the table.

House Resolution 310 was laid on the table.

FRANK P. ROSS

Mr. SABATH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 1186) for the relief of Frank P. Ross.

Mr. SNELL. Has that bill been under consideration before?

Mr. SABATH. It has been, and was objected to.

Mr. TABER. Mr. Speaker, I object.

AGRICULTURAL ADJUSTMENT ACT

Mr. JONES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 8492) to amend the Agricultural Adjustment Act, and for other purposes, with a Senate amendment, and agree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 7, line 4 of the House amendment, after the word "year", insert "after the first allotment year."

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Senate amendment was agreed to and a motion to reconsider was laid on the table.

Mr. JONES. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate Concurrent Resolution No. 24.

The Clerk read as follows:

Senate Concurrent Resolution 24

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives is authorized and directed, in the enrollment of the bill (H. R. 8492) entitled "An act to amend the Agricultural Adjustment Act, and for other purposes", to make the following necessary changes in the language of the bill:

In paragraph "(4)" of the amendment made by section 12 of the bill to subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, strike out "August 15" wherever it appears and in lieu thereof insert "September 1."

Strike out so much of subdivision "(B)" of paragraph "(6)" of the amendment made by section 12 of the bill to subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, as reads as follows:

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any 12 months' period ending after the date of the adoption of this amendment consisting of the 2 months immediately preceding and the first 10 months of any marketing year—

; and insert in lieu thereof the following:

"(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of 12 successive months ending after July 1, 1935, consisting of the first 10 months of any marketing year and the last 2 months of the preceding marketing year."

In subsection "(f)" of "Section 21", added by section 30 of the bill to the Agricultural Adjustment Act, as amended, strike out "refund or credit" wherever it appears (except in the last sentence thereof) and in lieu thereof insert "refund, credit, or abatement."

The SPEAKER. Is there objection to the consideration of the Senate concurrent resolution?

Mr. SNELL. Reserving the right to object, as I understand, that is merely a clerical change?

Mr. JONES. Clerical changes and one clarifying change. That is all.

The SPEAKER. Is there objection?

There was no objection.

The Senate concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WARREN. Mr. Speaker, I offer a concurrent resolution and ask unanimous consent for its immediate consideration.

The Clerk read the House concurrent resolution as follows:

House Concurrent Resolution 34

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives is authorized and directed in the enrollment of the bill (H. R. 8492), entitled "An act to amend the Agricultural Adjustment Act, and for other purposes", to make the following necessary changes in the language of the bill:

In title II of the said act following section 204, insert the following new section:

"Section 204(a). The quantity determined and proclaimed by the Secretary of Agriculture pursuant to section 203, and the quantity apportioned to each State pursuant to section 204, may at such intervals as the Secretary of Agriculture finds necessary to effectuate the declared policy and purposes of this act be adjusted by him: *Provided*, That the quantity so determined and proclaimed shall not be increased or decreased by more than 5 percent."

And in section 229 of said title II of said act, strike out all of paragraph "(b)."

The SPEAKER. Is there objection to the request of the gentleman from North Carolina [Mr. WARREN]?

There was no objection.

The House concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

House Resolution 320 was laid on the table.

THE CONSENT CALENDAR

UNIFORM SYSTEM OF BANKRUPTCY THROUGHOUT THE UNITED STATES

The Clerk called the next bill on the Consent Calendar, H. R. 7858, to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MARCANTONIO. Reserving the right to object, will the gentleman explain the bill?

Mr. SUMNERS of Texas. Mr. Speaker, this bill is deemed necessary by the Treasury Department because of the fact that some of the lower courts are holding that the claim of the Government for taxes may be adjudicated as any other claims.

This bill provides that the Secretary of the Treasury may adjust taxes in those cases where the corporations cannot settle, but makes it impossible for the Government to be deprived of its taxes without the consent of the Secretary of the Treasury.

Mr. HANCOCK of New York. May I add that it leaves the claims of corporations whose stock is entirely owned by the Government in the same class as general creditors. It gives them no preference.

Mr. SUMNERS of Texas. We are unanimous about it, I believe.

The SPEAKER. Is there objection to the consideration of the bill?

There was no objection.

The Clerk read the bill as follows:

Be it enacted, etc., That the act of July 1, 1898, entitled "An act to establish a uniform system of bankruptcy throughout the United States", as amended, be, and is hereby, amended by striking out the last sentence of subdivision (e), clause (1), of section 77B, and inserting in lieu thereof the following:

"If the United States of America, or any agency thereof, or any corporation, the majority of the stock of which is owned by the United States of America, is a creditor or stockholder of the corporation seeking reorganization under this section, the Secretary of the Treasury is hereby authorized to accept or reject a plan in respect of such interests or claims of the United States which shall be deemed to be affected by the plan. As long as the United States of America, or any agency thereof, or any corporation the majority of the stock of which is owned by the United States of America, is a creditor or stockholder of the corporation seeking reorganization under this section, no plan of reorganization, which does not provide for payment in full of such interests or claims of the United States within 90 days after confirmation by the judge, shall be confirmed in any proceeding under this section except upon the acceptance, as aforesaid, by the Secretary of the Treasury, certified to the court."

With the following committee amendments:

Strike out all after the enacting clause and insert the following: "That subdivision (1) of subsection (e) of section 77B of the act of July 1, 1898, entitled 'An act to establish a uniform system of bankruptcy throughout the United States', as amended, be, and is hereby, amended to read as follows:

"(e) A plan of reorganization shall not be confirmed until it has been accepted in writing, whether before or after the filing of the petition or answer under this section, and such acceptance shall have been filed in the proceeding by or on behalf of creditors holding two-thirds in amount of the claims of each class whose claims have been allowed and would be affected by the plan and by or on behalf of stockholders of the debtor holding a majority of the stock of each class: *Provided, however*, That such acceptance shall not be requisite to the confirmation of the plan by any creditor or class of creditors (a) whose claims are not affected by the plan, or (b) if the plan makes provision for the payment of their claims in cash in full, or (c) if provision is made in the plan for the protection of the interests, claims, or liens of such creditor or class of creditors in the manner provided in subdivision (b), clause (5), of this section: *And provided further*, That such acceptance shall not be requisite to the confirmation of the plan by any stockholder or class of stockholders (1) if the judge shall have determined either that the debtor is insolvent or that the interests of such stockholder or stockholders will not be affected by the plan, or (2) if provision is made in the plan for the protection of the interests of such stockholder or class of stockholders in the manner provided in subdivision (b), clause (4), of this section. With such acceptance there shall be set forth, verified in such manner as the judge shall require, what, if any, contracts of the debtor are executory in whole or in part, and what unexpired leases have been rejected and surrendered. With such acceptance there shall be filed a statement, verified in such manner as the judge shall require, showing what, if any, claims and shares of stock have been purchased or transferred by those accepting the plan after the commencement or in contemplation of the proceeding, and the circumstances of such purchase or transfer: *Provided, however*, That if the judge is satisfied that by reason of the number of securities outstanding and the extent of the public dealing therein the preparation of such a statement would be impractical, he may direct that it be not final. If the United States of America is a creditor on claims for taxes, the claims thereof shall be deemed to be affected by the plan, and the Secretary of the Treasury is hereby authorized to accept a plan in

Faint, illegible handwriting

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SEC. 9. The monetary units mentioned in this act are to be taken to be gold value.

The amendment was agreed to.

The next amendment was, in section 13, on page 15, line 2, after the word "its", to strike out "island possessions and Alaska" and insert "districts, territories, and possessions", so as to make the section read:

SEC. 13. This act shall apply to all contracts for carriage of goods by sea to or from ports of the United States in foreign trade. As used in this act the term "United States" included its districts, territories, and possessions: *Provided, however,* That the Philippine Legislature may by law exclude its application to transportation to or from ports of the Philippine Islands. The term "foreign trade" means the transportation of goods between the ports of the United States and ports of foreign countries. Nothing in this act shall be held to apply to contracts for carriage of goods by sea between any port of the United States or its possessions, and any other port of the United States or its possessions: *Provided, however,* That any bill of lading or similar document of title which is evidence of a contract for the carriage of goods by sea between such ports, containing an express statement that it shall be subject to the provisions of this act, shall be subjected hereto as fully as if subject hereto by the express provisions of this act: *Provided further,* That every bill of lading or similar document of title which is evidence of a contract for the carriage of goods by sea from ports of the United States, in foreign trade, shall contain a statement that it shall have effect subject to the provisions of this act.

The amendment was agreed to.

The next amendment was, in section 14, on page 15, line 23, after the word "certification", to strike out "of the United States Shipping Board and"; and, on page 16, line 3, after the word "Act", to insert "or by the laws of any foreign country or countries relating to the carriage of goods by sea", so as to make the section read:

SEC. 14. Upon the certification of the Secretary of Commerce that the foreign commerce of the United States in its competition with that of foreign nations is prejudiced by the provisions, or any of them, of title I of this act, or by the laws of any foreign country or countries relating to the carriage of goods by sea, the President of the United States may, from time to time, by proclamation, suspend any or all provisions of title I of this act for such periods of time or indefinitely as may be designated in the proclamation. The President may at any time rescind such suspension of title I hereof, and any provisions thereof which may have been suspended shall thereby be reinstated and again apply to contracts thereafter made for the carriage of goods by sea. Any proclamation of suspension or rescission of any such suspension shall take effect on a date named therein, which date shall be not less than 10 days from the issue of the proclamation.

Any contract for the carriage of goods by sea, subject to the provisions of this act, effective during any period when title I hereof, or any part thereof, is suspended, shall be subject to all provisions of law now or hereafter applicable to that part of title I which may have thus been suspended.

The amendment was agreed to.

Mr. WHITE. Mr. President, I ask that the clerk be authorized to renumber the sections.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AGRICULTURAL ADJUSTMENT ADMINISTRATION—ENROLLMENT OF HOUSE BILL 8492

The PRESIDENT pro tempore laid before the Senate House Concurrent Resolution 34, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives is authorized and directed in the enrollment of the bill (H. R. 8492), entitled "An act to amend the Agriculture Adjustment Act, and for other purposes", to make the following necessary changes in the language of the bill:

In title II of said act following section 204, insert the following new section:

"SEC. 204. (a) The quantity determined and proclaimed by the Secretary of Agriculture, pursuant to section 203, and the quantity apportioned to each State, pursuant to section 204, may at such intervals as the Secretary of Agriculture finds necessary to effectuate the declared policy and purposes of this act be adjusted by him: *Provided,* That the quantity so determined and proclaimed shall not be increased or decreased by more than 5 percent."

And in section 229 of said title II of said act, strike out all of paragraph "(b)."

Mr. SMITH. I move that the Senate concur in the resolution.

The motion was agreed to.

JOINT RESOLUTION AND BILL PASSED OVER

The joint resolution (S. J. Res. 133) for designation of a street to be known as "Missouri Avenue" was announced as next in order.

Mr. BULKLEY. Let that go over.

The PRESIDENT pro tempore. The bill will be passed over.

The bill (S. 916) to carry into effect the decision of the Court of Claims in favor of claimants in French spoliation was announced as next in order.

Mr. BURKE. Let that go over.

The PRESIDENT pro tempore. The bill will be passed over.

COMMODITY DIVISIONS IN DEPARTMENT OF AGRICULTURE

The bill (S. 2583) establishing certain commodity divisions in the Department of Agriculture was announced as next in order.

Mr. KING. Let that bill go over.

Mr. SMITH. Mr. President, I do not know that I shall insist upon this bill being considered, but I call attention to the fact that there was never a more important measure reported from the Committee on Agriculture and Forestry than is this. It proposes to divide the Agricultural Department into groups officered by those familiar with the products over which they are supposed to have jurisdiction. I do not feel disposed, because objection has been made, to insist on the bill being considered now; but the Congress will again meet in January, and I shall then insist that men familiar with the things with which they have to deal shall be the administrators and executors of our laws.

The PRESIDENT pro tempore. Objection is heard, and the bill will be passed over.

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT

The bill (S. 1389) to amend section 7, title 1, of the Agricultural Adjustment Act (Public, No. 10, 73d Cong., 48 Stat. 31 (1933), 7 U. S. C., art. 601 et seq., as amended by sec. 221 of the National Industrial Recovery Act, Public, No. 67, 73d Cong., 48 Stat. 210, 15 U. S. C., art. 607), so as to eliminate from said section as amended the limitation of time allowed to the Secretary of Agriculture for disposing of all cotton held by him, and for other purposes, was announced as next in order.

Mr. KING. I should like to have an explanation of the bill.

Mr. BANKHEAD. Mr. President, the provisions of this bill were incorporated in the amendments to the Agricultural Adjustment Act recently passed, and I ask that the bill be indefinitely postponed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLIC UTILITIES COMMISSION OF THE DISTRICT

The Senate proceeded to consider the bill (H. R. 3462) to amend an act entitled "An act to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, approved March 4, 1913", and for other purposes, which had been reported from the Committee on the District of Columbia with amendments, on page 6, line 7, to strike out the comma after the word "Commission" and the words "if supported by substantial evidence."

The amendment was agreed to.

The next amendment was, on page 6, line 9, before the word "arbitrary", to insert the word "unreasonable", so as to read:

PAR. 66. In the determination of any appeal from an order or decision of the Commission the review by the court shall be limited to questions of law, including constitutional questions; and the findings of fact by the Commission shall be conclusive unless it shall appear that such findings of the Commission are unreasonable, arbitrary, or capricious.

Mr. LA FOLLETTE. Mr. President, I am very much opposed to the amendment under consideration, because I think it weakens the position of the Public Utilities Commission. I appreciate, however, that we are near the close of the session, and that it is not possible at this time to enter

into protracted debate concerning this proposition. Therefore, I content myself with making this statement, and shall rest upon the determination of the Senate on this amendment, because the bill, even with the committee amendment agreed to, is somewhat an improvement over the existing law. But I sincerely hope that the pending committee amendment will be rejected.

Mr. KING. Mr. President, there has been some controversy over this bill for some time. It was referred to a subcommittee and they had hearings, reported back to the full committee, and a few days ago the full committee considered the bill, the Commissioners of the District of Columbia were present, together with representatives of the public utilities and the corporation counsel, and they all agreed that the bill in its present form is agreeable, and recommended its passage.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. LA FOLLETTE. I ask for a division.

On a division, the amendment was rejected.

Mr. KING. Mr. President, I ask that the bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

Mr. KING subsequently said: Mr. President, a short time ago the Senator from Wisconsin, when House bill 3462 was under consideration, opposed an amendment which had been offered by the committee, and the amendment was rejected. I have conferred with the Senator, and I now ask unanimous consent to return to the consideration of that bill.

There being no objection, the Senate resumed the consideration of the bill.

Mr. LA FOLLETTE. Mr. President, I have not changed my opinion concerning the fact that these two committee amendments weaken the bill from the point of view of the public interest. Nevertheless, it is to be recognized that we have reached the point in the session where the objection of one Senator can defeat a bill of this character. Therefore I think after a more deliberate consideration that the bill, even with the committee amendments is an improvement on the existing law. Therefore I ask unanimous consent for the reconsideration of the vote by which the second committee amendment was rejected.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the vote is reconsidered. The question now is on the second committee amendment, which will be stated.

The CHIEF CLERK. On page 6, line 9, before the word "arbitrary", it is proposed to insert the word "unreasonable."

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ANNUITIES TO CIVILIAN TEACHERS

The Senate proceeded to consider the bill (S. 2845) to provide for the retirement and retirement annuities of civilian members of the teaching staffs at the United States Naval Academy and the Postgraduate School, United States Naval Academy, which had been reported from the Committee on Naval Affairs with an amendment, in section 3, on page 2, line 15, to strike out "13th" and to insert in lieu thereof "30th", so as to make the section read:

SEC. 3. The retiring age for all civilian members of the teaching staffs set forth in this act shall be the 30th day of June following their sixty-fifth birthday, or any date between their sixty-fifth birthday and the following 30th day of June upon which their employment may be terminated; *Provided*, That in the discretion of the Secretary of the Navy, such retiring age may be extended to not beyond the seventieth birthday in individual and special cases.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 379) to provide for the deportation of certain alien seamen, and for other purposes, was announced as next in order.

Mr. COPELAND. Let that go over.

The PRESIDENT pro tempore. The bill will be passed over.

DON C. FEES

The bill (H. R. 4827) for the relief of Don C. Fees was considered, ordered to a third reading, read the third time, and passed.

BILL PASSED OVER

The bill (S. 2524) amending section 112 of the United States Code, annotated (title 28; subtitle "Civil Suits; where to be brought"), was announced as next in order.

Mr. BARBOUR. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

REPATRIATION OF NATIVE-BORN WOMEN

The bill (S. 2912) to repatriate native-born women who have heretofore lost their citizenship by marriage to an alien, and for other purposes, was announced as next in order.

Mr. KING. Let that bill go over.

Mr. COPELAND. Mr. President, is there any use in my attempting any oratory on this bill, I ask the Senator from Utah?

Mr. KING. None.

Mr. COPELAND. It seems to me that we really ought to pass the bill. The women affected by the bill are entitled to be repatriated, but under the law as it is now they have to come back to the United States to have it done.

Mr. KING. I insist on my objection.

Mr. SMITH. Mr. President, I do not think we ought to pass a measure of this kind. If they see fit to leave this country, let them stay away.

The PRESIDENT pro tempore. On objection, the bill will be passed over.

CHOCTAW INDIANS OF MISSISSIPPI

The Senate proceeded to consider the bill (S. 1440) to enroll on the citizenship rolls certain persons of the Choctaw and Chickasaw Nations or Tribes, which had been reported from the Committee on Indian Affairs with an amendment, on page 1, line 4, after the word "the", to strike out the words "citizenship rolls of the Choctaw and Chickasaw Nations or Tribes of" and to insert in lieu thereof the words "final citizenship roll of the Mississippi Choctaw", so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and directed to enroll on the final citizenship roll of the Mississippi Choctaw Indians the following persons: Robert Fix, Clara Fix Nichols, Philip Fix, and Gertrude Fix Dalton, said persons being the children and descendants of Jesse Fix and Elizabeth Fix, Oklahoma Choctaw Indians. Said persons, when enrolled by the Secretary of the Interior, shall be entitled to a share in the common property of said nations or tribes; and the Secretary of the Interior shall inscribe the names of such persons on the property rolls of said nation or tribes, and they shall be entitled to participate in all future payments made to persons of like status.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to enroll certain persons on the final citizenship rolls of the Mississippi Choctaw Indians."

BILLS PASSED OVER

The bill (S. 2998) to control the trade in arms, ammunition, and implements of war was announced as next in order.

Mr. JOHNSON. Let that bill go over.

The PRESIDENT pro tempore. The bill will be passed over.

BILL AND JOINT RESOLUTION PASSED OVER

The bill (S. 1632) to amend the Interstate Commerce Act, as amended, by providing for the regulation of the transportation of passengers and property by water carriers operat-

finds the existence of such facts, he shall proclaim such determination, and shall not exercise any of such powers with respect to such commodity after the end of the marketing year current at the time when such proclamation is made and prior to a new proclamation under subsection (1) of this section, except insofar as the exercise of such power is necessary to carry out obligations of the Secretary assumed, prior to the date of such proclamation made pursuant to this subsection, in connection with the exercise of any of the powers conferred upon him under subsections (2) or (3) of this section.

"(5) In the course of any investigation required to be made under subsection (1) or subsection (4) of this section, the Secretary of Agriculture shall hold one or more hearings, and give due notice and opportunity for interested parties to be heard.

"(6) No payment under this title made in an agricultural commodity acquired by the Secretary in pursuance of this title shall be made in a commodity other than that in respect of which the payment is being made. For the purposes of this subsection, hogs and field corn may be considered as one commodity.

"(7) In the case of sugar beets or sugarcane, in the event that it shall be established to the satisfaction of the Secretary of Agriculture that returns to growers or producers, under the contracts for the 1933-1934 crop of sugar beets or sugarcane, entered into by and between the processors and producers and/or growers thereof, were reduced by reason of the payment of the processing tax, and/or the corresponding floor stocks tax, on sugar beets or sugarcane, in addition to the foregoing rental or benefit payments, the Secretary of Agriculture shall make such payments, representing in whole or in part such tax, as the Secretary deems fair and reasonable, to producers who agree, or have agreed, to participate in the program for reduction in the acreage or reduction in the production for market, or both, of sugar beets or sugarcane.

"(8) In the case of rice, the Secretary of Agriculture, in exercising the power conferred upon him by subsection (2) of this section to provide for rental or benefit payments, is directed to provide in any agreement entered into by him with any rice producer pursuant to such subsection, upon such terms and conditions as the Secretary determines will best effectuate the declared policy of this title, that the producer may pledge for production credit in whole or in part his right to any rental or benefit payments under the terms of such agreement and that such producer may designate therein a payee to receive such rental or benefit payments.

"(9) Under regulations of the Secretary of Agriculture requiring adequate facilities for the storage of any nonperishable agricultural commodity on the farm, inspection and measurement of any such commodity so stored, and the locking and sealing thereof, and such other regulations as may be prescribed by the Secretary of Agriculture for the protection of such commodity and for the marketing thereof, a reasonable percentage of any benefit payment may be advanced on any such commodity so stored. In any such case, such deduction may be made from the amount of the benefit payment as the Secretary of Agriculture determines will reasonably compensate for the cost of inspection and sealing but no deduction may be made for interest."

SEC. 3. The first sentence of subsection (b) of section 12 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "In addition to the foregoing, for the purpose of effectuating the declared policy of this title, a sum equal to the proceeds derived from all taxes imposed under this title is hereby appropriated to be available to the Secretary of Agriculture for (1) the acquisition of any agricultural commodity pledged as security for any loan made by any Federal agency, which loan was conditioned upon the borrower agreeing or having agreed to cooperate with a program of production adjustment or marketing adjustment adopted under the authority of this title, and (2) the following purposes under part 2 of this title: Administrative expenses, payments authorized to be made under section 8, and refunds on taxes."

SEC. 4. Subsection (2) of section 8 of the Agricultural Adjustment Act, as amended, is amended by designating said subsection as section 8b, by inserting said section at the end of section 8a, and by amending the first sentence thereof to read as follows: "In order to effectuate the declared policy of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof."

SEC. 5. The Agricultural Adjustment Act, as amended, is amended by striking out section 8 (3) thereof and by adding after section 8b, the following new section:

" ORDERS

"SEC. 8c. (1) The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this title as 'handlers'. Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

"COMMODITIES TO WHICH APPLICABLE

"(2) Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores), or to any regional, or market classification of any such commodity or product: Milk, fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning), tobacco, vegetables (not including vegetables, other than asparagus, for canning), soybeans and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin).

“ NOTICE AND HEARING

“(3) Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

“ FINDING AND ISSUANCE OF ORDER

“(4) After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this title with respect to such commodity.

“ TERMS—MILK AND ITS PRODUCTS

“(5) In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

“(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers.

“(B) Providing:

“(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

“(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d)

a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their production of milk during a representative period of time.

“(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection (5), providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) hereof.

“(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection (5).

“(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection (5), for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

“(F) Nothing contained in this subsection (5) is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the ‘Capper-Volstead Act’, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all market in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection (5) for such milk.

“(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

“TERMS—OTHER COMMODITIES

“(6) In the case of fruits (including pecans and walnuts but not including apples and not including fruits, other than olives, for canning) and their products, tobacco and its products, vegetables (not including vegetables, other than asparagus, for canning) and their products, soybeans and their products, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin), orders issued pursuant to

this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7)) no others:

“(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

“(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts produced or sold by such producers in such prior period as the Secretary determines to be representative, or upon the current production or sales of such producers, or both, to the end that the total quantity thereof to be purchased or handled during any specified period or periods shall be apportioned equitably among producers.

“(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

“(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

“(E) Establishing, or providing for the establishment of, reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

“TERMS COMMON TO ALL ORDERS

“(7) In the case of the agricultural commodities and the products thereof specified in subsection (2) orders shall contain one or more of the following terms and conditions:

“(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

"(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

"(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

"(i) To administer such order in accordance with its terms and provisions;

"(ii) To make rules and regulations to effectuate the terms and provisions of such order;

"(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

"(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph (C) shall be deemed to be acting in an official capacity, within the meaning of section 10 (g) of this title, unless such person receives compensation for his personal services from funds of the United States.

"(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5), (6), and (7) and necessary to effectuate the other provisions of such order.

"ORDERS WITH MARKETING AGREEMENT

"(8) Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 8b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection (8) shall become effective until the handlers of not less than 80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided*, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

"(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of

such commodity for sale in the marketing area specified in such marketing agreement, or order, or

“(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

“ORDERS WITH OR WITHOUT MARKETING AGREEMENT

“(9) Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture, with the approval of the President, determines:

“(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this title with respect to such commodity or product, and

“(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

“(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

“(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such repre-

sentative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

" MANNER OF REGULATION AND APPLICABILITY

"(10) No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

" REGIONAL APPLICATION

"(11) (A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this title.

"(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

"(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

" COOPERATIVE ASSOCIATION REPRESENTATION

"(12) Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

" RETAILER AND PRODUCER EXEMPTION

"(13) (A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities

or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

“(B) No order issued under this title shall be applicable to any producer in his capacity as a producer.

“ VIOLATION OF ORDER

“(14) Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15).

“ PETITION BY HANDLER AND REVIEW

“(15) (A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

“(B) The District Courts of the United States (including the Supreme Court of the District of Columbia) in any district in which such handler is an inhabitant, or has his principal place of business, are hereby vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 8a (6) of this title. Any proceedings brought pursuant to section 8a (6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

“TERMINATION OF ORDERS AND MARKETING AGREEMENTS

“(16) (A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or such provision thereof.

“(B) The Secretary shall terminate any marketing agreement entered into under section 8b, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

“(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

“PROVISIONS APPLICABLE TO AMENDMENTS

“(17) The provisions of this section, section 8d, and section 8e applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to section 8c, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.”

SEC. 6. The Agricultural Adjustment Act, as amended, is further amended by striking out subsection (4) of section 8 thereof and adding after section 8c thereof the following new sections:

“BOOKS AND RECORDS

“SEC. 8d. (1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms

of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is hereby authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

“(2) Notwithstanding the provisions of section 7, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

“ DETERMINATION OF BASE PERIOD

“ SEC. 8e. In connection with the making of any marketing agreement or the issuance of any order, if the Secretary finds and proclaims that, as to any commodity specified in such marketing agreement or order, the purchasing power during the base period specified for such commodity in section 2 of this title cannot be satisfactorily determined from available statistics of the Department of Agriculture, the base period, for the purposes of such marketing agreement or order, shall be the post-war period, August 1919–July 1929, or all that portion thereof for which the Secretary finds and proclaims that the purchasing power of such commodity can be satisfactorily determined from available statistics of the Department of Agriculture.”

SEC. 7. Subsection (5) of section 8 of the Agricultural Adjustment Act, as amended, is further amended by designating said subsection as section 8f, by inserting said section at the end of section 8e, and by striking out the last sentence thereof.

SEC. 8. Subsection (1) of section 8a of the Agricultural Adjustment Act, as amended, is amended as follows:

(a) by striking out the word "handlers" wherever it appears and by inserting in lieu thereof the words "persons engaged in the handling";

(b) by striking out the phrase "or in competition with" and the comma following such phrase in paragraph (B);

(c) by inserting the word "directly" before the words "to burden" in paragraph (B);

(d) by striking out the words "in any way" in paragraph (B).

SEC. 9. Subsection (6) of section 8a of the Agricultural Adjustment Act, as amended, is amended by inserting the word "or" after the comma following the word "regulation," and by striking out the words "or license".

SEC. 10. Subsection (7) of section 8a of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new sentence: "Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this title, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action."

SEC. 11. (a) Subsection (a) of section 9 of the Agricultural Adjustment Act, as amended, is amended by striking out all of the second sentence preceding the semicolon and inserting in lieu thereof the following: "When the Secretary of Agriculture determines that any one or more payments authorized to be made under section 8 are to be made with respect to any basic agricultural commodity, he shall proclaim such determination, and a processing tax shall be in effect with respect to such commodity from the beginning of the marketing year therefor next following the date of such proclamation".

(b) The eighth sentence of such subsection (a) is amended by striking out "rental or benefit payments" and inserting in lieu thereof: "all payments authorized under section 8 which are in effect".

SEC. 12. Subsection (b) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"TAX RATE GENERALLY

"(b) (1) The processing tax shall be at such rate as equals the difference between the current average farm price for the commodity and the fair exchange value of the commodity, plus such percentage of such difference, not to exceed 20 per centum, as the Secretary of Agriculture may determine will result in the collection, in any marketing year with respect to which such rate of tax may be in effect pursuant to the provisions of this title, of an amount of tax equal to (A) the amount of credits or refunds which he estimates will be allowed or made during such period pursuant to section 15 (c) with respect to the commodity and (B) the amount of tax which he estimates would have been collected during such period upon all

processings of such commodity which are exempt from tax by reason of the fact that such processings are done by or for a State, or a political subdivision or an institution thereof, had such processings been subject to tax. If, prior to the time the tax takes effect, or at any time thereafter, the Secretary has reason to believe that the tax at such rate, or at the then existing rate, on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, will cause or is causing such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks of the commodity or products thereof or in the depression of the farm price of the commodity, then the Secretary shall cause an appropriate investigation to be made, and afford due notice and opportunity for hearing to interested parties. If thereupon the Secretary determines and proclaims that any such result will occur or is occurring, then the processing tax on the processing of the commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be at such lower rate or rates as he determines and proclaims will prevent such accumulation of surplus stocks and depression of the farm price of the commodity, and the tax shall remain during its effective period at such lower rate until the Secretary, after due notice and opportunity for hearing to interested parties, determines and proclaims that an increase in the rate of such tax will not cause such accumulation of surplus stocks or depression of the farm price of the commodity. Thereafter the processing tax shall be at the highest rate which the Secretary determines will not cause such accumulation of surplus stocks or depression of the farm price of the commodity, but it shall not be higher than the rate provided in the first sentence of this paragraph.

" SPECIFIC TAX RATES

" (2) In the case of wheat, cotton, field corn, hogs, peanuts, tobacco, paper, and jute, and (except as provided in paragraph (8) of this subsection) in the case of sugarcane and sugar beets, the tax on the first domestic processing of the commodity generally or for any particular use, or in the production of any designated product for any designated use, shall be levied, assessed, collected, and paid at the rate prescribed by the regulations of the Secretary of Agriculture in effect on the date of the adoption of this amendment, during the period from such date to December 31, 1937, both dates inclusive.

" SPECIFIC TAX RATE—RICE

" (3) For the period from April 1, 1935, to July 31, 1936, both inclusive, the processing tax with respect to rice shall be levied, assessed, collected, and paid at the rate of 1 cent per pound of rough rice.

" SPECIFIC TAX RATE—MARKETING YEAR—FLOOR STOCKS—RYE

" (4) For the period from September 1, 1935, to December 31, 1937, both inclusive, the processing tax with respect to rye shall be levied,

assessed, collected, and paid at the rate of 30 cents per bushel of fifty-six pounds. In the case of rye, the first marketing year shall be considered to be the period commencing September 1, 1935, and ending June 30, 1936. Subsequent marketing years shall commence on July 1 and end on June 30 of the succeeding year. The provisions of section 16 of this title shall not apply in the case of rye.

“ SPECIFIC TAX RATE—FLOOR STOCKS—BARLEY

“(5) If at any time prior to December 31, 1937, a tax with respect to barley becomes effective pursuant to proclamation as provided in subsection (a) of this section, such tax shall be levied, assessed, collected, and paid during the period from the date upon which such tax becomes effective to December 31, 1937, both inclusive, at the rate of 25 cents per bushel of forty-eight pounds. The provisions of section 16 of this title shall not apply in the case of barley.

“ ADJUSTMENT OF RATE

“(6) (A) Any rate of tax which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) on the processing of any commodity generally or for any designated use or uses, or on the processing of the commodity in the production of any designated product or products thereof for any designated use or uses, shall be decreased (including a decrease to zero) in accordance with the formulae, standards, and requirements of paragraph (1) of this subsection, in order to prevent such reduction in the quantity of such commodity or the products thereof domestically consumed as will result in the accumulation of surplus stocks of such commodity or the products thereof or in the depression of the farm price of the commodity, and shall thereafter be increased in accordance with the provisions of paragraph (1) of this subsection but subject to the provisions of subdivision (B) of this paragraph (6).

“(B) If the average farm price of any commodity, the rate of tax on the processing of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or is established pursuant to this paragraph (6), during any period of twelve successive months ending after July 1, 1935, consisting of the first ten months of any marketing year and the last two months of the preceding marketing year—

“(i) is equal to, or exceeds by 10 per centum or less, the fair exchange value thereof, or, in the case of tobacco, is less than the fair exchange value by not more than 10 per centum, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 20 per centum of the fair exchange value thereof.

“(ii) exceeds by more than 10 per centum, but not more than 20 per centum, the fair exchange value thereof, the rate of such tax shall (subject to the provisions of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 15 per centum of the fair exchange value thereof.

“(iii) exceeds by more than 20 per centum the fair exchange value thereof, the rate of such tax shall (subject to the provisions

of subdivision (A) of this paragraph (6)) be adjusted, at the beginning of the next succeeding marketing year, to such rate as equals 10 per centum of the fair exchange value thereof.

“(C) Any rate of tax which has been adjusted pursuant to this paragraph (6) shall remain at such adjusted rate unless further adjusted or terminated pursuant to this paragraph (6), until December 31, 1937, or until July 31, 1936, in the case of rice.

“(D) In accordance with the formulae, standards, and requirements prescribed in this title, any rate of tax prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6) shall be increased.

“(E) Any tax, the rate of which is prescribed in paragraph (2), (3), (4), or (5) of this subsection or which is established pursuant to this paragraph (6), shall terminate pursuant to proclamation as provided in section 9 (a) of this title or pursuant to section 13 of this title. Any such tax with respect to any basic commodity which terminates pursuant to proclamation as provided in section 9 (a) of this title shall again become effective at the rate prescribed in paragraph (2), (3), (4), or (5) of this subsection, subject however to the provisions of subdivisions (A) and (B) of this paragraph (6), from the beginning of the marketing year for such commodity next following the date of a new proclamation by the Secretary as provided in section 9 (a) of this title, if such marketing year begins prior to December 31, 1937, or prior to July 31, 1936, in the case of rice, and shall remain at such rate until altered or terminated pursuant to the provisions of section 9 or terminated pursuant to section 13 of this title.

“(F) After December 31, 1937 (in the case of the commodities specified in paragraphs (2), (4), and (5) of this subsection), and after July 31, 1936 (in the case of rice), rates of tax shall be determined by the Secretary of Agriculture in accordance with the formulae, standards, and requirements prescribed in this title but not in this paragraph (6), and shall, subject to such formulae, standards, and requirements, thereafter be effective.

“(G) If the applicability to any person or circumstances of any tax, the rate of which is fixed in pursuance of this paragraph (6), is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be levied, assessed, collected, and paid (in lieu of all rates of tax fixed in pursuance of this paragraph (6) with respect to all tax liabilities incurred under this title on or after the effective date of each of the rates of tax fixed in pursuance of this paragraph (6)), rates of tax fixed under paragraph (2), (3), (4), or (5), and such rates shall be in effect (unless the particular tax is terminated pursuant to proclamation, as provided in section 9 (a) or pursuant to section 13) until altered by Act of Congress; except that, for any period prior to the effective date of such holding of invalidity, the amount of tax which represents the difference between the tax at the rate fixed in pursuance of this paragraph (6) and the tax at the rate fixed under paragraphs (2), (3), (4), and (5) shall not be levied, assessed, collected, or paid.

“RICE—SPECIAL RULE

“(7) In the case of rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to a processor, except that, where the producer processes his own rice, the weight to which the rate of tax shall be applied shall be the weight of rough rice when delivered to the place of processing.

“SUGAR—SPECIAL RULE

“(8) In the case of sugar beets or sugarcane the rate of tax shall be applied to the direct-consumption sugar, resulting from the first domestic processing, translated into terms of pounds of raw value according to regulations to be issued by the Secretary of Agriculture, and in the event that the Secretary increases or decreases the rate of tax fixed by paragraph (2) of this subsection, pursuant to the provisions of paragraph (6) of this subsection, then the rate of tax to be so applied shall be the higher of the two following quotients: The difference between the current average farm price and the fair exchange value (A) of a ton of sugar beets and (B) of a ton of sugarcane, divided in the case of each commodity by the average extraction therefrom of sugar in terms of pounds of raw value (which average extraction shall be determined from available statistics of the Department of Agriculture); the rate of tax fixed by paragraph (2) of this subsection or adjusted pursuant to the provisions of paragraph (6) of this subsection shall in no event exceed the amount of the reduction by the President on a pound of sugar raw value of the rate of duty in effect on January 1, 1934, under paragraph 501 of the Tariff Act of 1930, as adjusted to the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, and/or the provisions of the Act of December 17, 1903, chapter 1.

“WHEAT PREMIUMS

“(9) In computing the current average farm price in the case of wheat, premiums paid producers for protein content shall not be taken into account.”

SEC. 13. Subsection (c) of section 9 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

“(c) For the purposes of part 2 of this title, the fair exchange value of a commodity shall be the price therefor that will give the commodity the same purchasing power, with respect to articles farmers buy, as such commodity had during the base period specified in section 2; and, in the case of all commodities where the base period is the pre-war period, August 1909 to July 1914, will also reflect interest payments per acre on farm indebtedness secured by real estate and tax payments per acre on farm real estate, as contrasted with such interest payments and tax payments during said base period; and the current average farm price and the fair exchange value shall be ascertained by the Secretary of Agriculture from available statistics of the Department of Agriculture. The rate of tax upon the processing of any commodity, in effect on the date on which this amendment is adopted, shall not be affected by the adoption of this amendment and shall not be required to be

adjusted or altered, unless the Secretary of Agriculture finds that it is necessary to adjust or alter any such rate pursuant to section 9 (a) of this title."

SEC. 14. (a) Paragraph (1) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is amended by inserting following the word "wheat" in the two instances in which it occurs, a comma, and the following: "rye, barley,"

(b) Paragraph (5) of subsection (d) of section 9 of the Agricultural Adjustment Act, as amended, is hereby repealed.

SEC. 15. Section 9 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) Nothing contained in this title shall be construed to authorize any tax upon the processing of any commodity which processing results in the production of newsprint."

SEC. 16. Subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, is amended to read as follows:

"(b) (1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this title, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 8. The Secretary, in the administration of this title, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

"(2) Each order issued by the Secretary under this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. Any such authority or agency may maintain in its own name, or in the names of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several District Courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy."

SEC. 17. Subsection (e) of section 10 of the Agricultural Adjustment Act, as amended, is amended by striking out "rental or benefit payment" and inserting in lieu thereof "payment authorized to be made under section 8".

SEC. 18. Section 10 of the Agricultural Adjustment Act, as amended, is amended by inserting at the end thereof the following new subsection:

"(i) The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 8c) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 8d (1) hereof shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 8d (2) hereof."

SEC. 19. The first sentence of subsection (a) of section 12 of the Agricultural Adjustment Act, as amended, is amended by striking out "rental and benefit payments made with respect to reduction in acreage or reduction in production for market under part 2 of this title" and inserting in lieu thereof "payments authorized to be made under section 8".

SEC. 20. (a) The second sentence of section 13 of the Agricultural Adjustment Act, as amended, is amended by striking out "at the end of three years after the adoption of this amendment" and inserting in lieu thereof "on December 31, 1937".

(b) Subsection (c) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out the last sentence thereof.

SEC. 21. Subsection (a) of section 15 of the Agricultural Adjustment Act, as amended, is amended by striking out the period at the end of the subsection and inserting in lieu thereof a comma and the following: "or shall credit against any tax due and payable under this title the amount of tax which would be refundable. During the period in which any certificate under this section is effective, the provisions of subsection (e) of this section shall be suspended with respect to all imported articles of the kind described in such certificate; and notwithstanding the provisions of section 21, any compensating taxes, which have heretofore, during the period in which any certificate under this section has been effective, become due and payable upon imported articles of the kind described in such certificate, shall be refunded by the Secretary of the Treasury if the same have been paid, or, if the same have not been paid the amount thereof shall be abated. Notwithstanding the provisions of section 21, the Secretary of the Treasury shall refund or credit any processing tax paid on or

before June 12, 1934, with respect to such amount of cotton as was used in the manufacture of large cotton bags (as defined in the Certificate of the Secretary of Agriculture, dated June 12, 1934) between June 13 and July 7, 1934, both inclusive."

SEC. 22. Subsection (c) of section 15 of the Agricultural Adjustment Act, as amended, is amended by striking out the next to the last sentence, which reads as follows: "No refund shall be allowed under this section unless claim therefor is filed within six months after delivery of the products to the organization for charitable distribution, or use."

SEC. 23. The first sentence of subsection (d) of section 15 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "processors" the words "or producers".

SEC. 24. Subsection (e) of section 15 of the Agricultural Adjustment Act, as amended, is amended by inserting after the words "with respect to domestic processing of such commodity" the following: "into such an article".

SEC. 25. Subsection (a) of section 16 of the Agricultural Adjustment Act, as amended, is amended by striking out subdivision (2) thereof and inserting in lieu thereof the following:

"(2) Whenever the processing tax is wholly terminated, (A) there shall be refunded or credited in the case of a person holding such stocks with respect to which a tax under this title has been paid, or (B) there shall be credited or abated in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is the processor liable for the payment of such tax, or (C) there shall be refunded or credited (but not before the tax has been paid) in the case of a person holding such stocks with respect to which a tax under this title is payable, where such person is not the processor liable for the payment of such tax, a sum in an amount equivalent to the processing tax which would have been payable with respect to the commodity from which processed if the processing had occurred on such date: *Provided*, That in the case of any commodity with respect to which there was any increase, effective prior to June 1, 1934, in the rate of the processing tax, no such refund, credit, or abatement, shall be in an amount which exceeds the equivalent of the initial rate of the processing tax in effect with respect to such commodity."

SEC. 26. The second sentence of subsection (b) of section 16 of the Agricultural Adjustment Act, as amended, is amended to read as follows: "Except as to flour and prepared flour, and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1, and as to any article processed wholly or in chief value from cotton, the tax refund, credit, or abatement provided in subsection (a) of this section shall not apply to the retail stocks of persons engaged in retail trade, nor to any article (except sugar) processed wholly or in chief value from sugar beets, sugarcane, or any product thereof, nor to any article (except flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1) processed wholly or in chief value from wheat, held on the date the processing tax is wholly terminated."

SEC. 27. (a) Paragraph (1) of subsection (e) of section 16 of the Agricultural Adjustment Act, as amended, is amended by inserting after the first word in the first sentence a comma and the following: "subsequent to June 26, 1934," by inserting in the proviso after the word "made", the following: "in the case of hogs"; and by inserting at the end of such paragraph the following: "In the case of wheat the provisions of this paragraph and of paragraph (2) of this subsection shall apply to flour, prepared flour and cereal preparations made chiefly from wheat, as classified in Wheat Regulations, Series 1, Supplement 1 only; in the case of sugarcane and sugar beets the provisions of this paragraph and of paragraph (2) of this subsection shall apply to sugar only.

(b) Section 16 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(g) No refund, credit, or abatement of any amount of any tax shall be made or allowed under this section, unless, within one hundred and twenty days after the right to such refund, credit, or abatement accrued, or within one hundred and twenty days after the date of the adoption of this amendment, whichever is the later, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, and no such claim shall be allowed for an amount less than \$10."

SEC. 28. Subsection (a) of section 17 of the Agricultural Adjustment Act, as amended, is amended by striking out the first two sentences thereof and inserting in lieu thereof the following: "Upon the exportation to any foreign country (and/or to the Philippine Islands, the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam) of any product processed wholly or partly from a commodity with respect to which product or commodity a tax has been paid or is payable under this title, the tax due and payable or due and paid shall be credited or refunded. Under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, the credit or refund shall be allowed to the consignor named in the bill of lading under which the product is exported or to the shipper or to the person liable for the tax provided the consignor waives any claim thereto in favor of such shipper or person liable for the tax."

SEC. 29. (a) Subsection (b) of section 19 of the Agricultural Adjustment Act, as amended, is amended by inserting in the proviso, after the words "of the payment of" the following: "not exceeding three-fourths of the amount of the", and by adding at the end of the proviso the following: "but postponement of all taxes covered by returns under this title for a period not exceeding one hundred and eighty days may be permitted in cases in which the Secretary of the Treasury authorizes such taxes to be paid each month on the amount of the commodity marketed during the next preceding month".

(b) Section 19 of the Agricultural Adjustment Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) Under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, any

person required pursuant to the provisions of this title to file a return may be required to file such return and pay the tax shown to be due thereon to the collector of internal revenue for the district in which the processing was done or the liability was incurred. Whenever the Commissioner of Internal Revenue deems it necessary, he may require any person or class of persons handling or dealing in any commodity or product thereof, with respect to which a tax is imposed under the provisions of this title, to make a return, render under oath such statements, or to keep such records, as the Commissioner deems sufficient to show whether or not such person, or any other person, is liable for the tax."

SEC. 30. The Agricultural Adjustment Act, as amended, is amended by adding after section 20 the following new section:

"SEC. 21. (a) No suit, action, or proceeding (including probate, administration, receivership, and bankruptcy proceedings) shall be brought or maintained in any court if such suit, action, or proceeding is for the purpose or has the effect (1) of preventing or restraining the assessment or collection of any tax imposed or the amount of any penalty or interest accrued under this title on or after the date of the adoption of this amendment, or (2) of obtaining a declaratory judgment under the Federal Declaratory Judgments Act in connection with any such tax or such amount of any such interest or penalty. In probate, administration, receivership, bankruptcy, or other similar proceedings, the claim of the United States for any such tax or such amount of any such interest or penalty, in the amount assessed by the Commissioner of Internal Revenue, shall be allowed and ordered to be paid, but the right to claim the refund or credit thereof and to maintain such claim pursuant to the applicable provisions of law, including subsection (d) of this section, may be reserved in the court's order.

"(b) The taxes imposed under this title, as determined, prescribed, proclaimed and made effective by the proclamations and certificates of the Secretary of Agriculture or of the President and by the regulations of the Secretary with the approval of the President prior to the date of the adoption of this amendment, are hereby legalized and ratified, and the assessment, levy, collection, and accrual of all such taxes (together with penalties and interest with respect thereto) prior to said date are hereby legalized and ratified and confirmed as fully to all intents and purposes as if each such tax had been made effective and the rate thereof fixed specifically by prior Act of Congress. All such taxes which have accrued and remain unpaid on the date of the adoption of this amendment shall be assessed and collected pursuant to section 19, and to the provisions of law made applicable thereby. Nothing in this section shall be construed to import illegality to any act, determination, proclamation, certificate, or regulation of the Secretary of Agriculture or of the President done or made prior to the date of the adoption of this amendment.

"(c) The making of rental and benefit payments under this title, prior to the date of the adoption of this amendment, as determined, prescribed, proclaimed and made effective by the proclamations of the Secretary of Agriculture or of the President or by regulations of the Secretary, and the initiation, if formally approved by the Secretary of Agriculture prior to such date of adjustment programs under

section 8 (1) of this title, and the making of agreements with producers prior to such date, and the adoption of other voluntary methods prior to such date, by the Secretary of Agriculture under this title, and rental and benefit payments made pursuant thereto, are hereby legalized and ratified, and the making of all such agreements and payments, the initiation of such programs, and the adoption of all such methods prior to such date are hereby legalized, ratified, and confirmed as fully to all intents and purposes as if each such agreement, program, method, and payment had been specifically authorized and made effective and the rate and amount thereof fixed specifically by prior Act of Congress.

“(d) (1) No recovery, recoupment, set-off, refund, or credit shall be made or allowed of, nor shall any counter claim be allowed for, any amount of any tax, penalty, or interest which accrued before, on, or after the date of the adoption of this amendment under this title (including any overpayment of such tax), unless, after a claim has been duly filed, it shall be established, in addition to all other facts required to be established, to the satisfaction of the Commissioner of Internal Revenue, and the Commissioner shall find and declare of record, after due notice by the Commissioner to such claimant and opportunity for hearing, that neither the claimant nor any person directly or indirectly under his control or having control over him, has, directly or indirectly, included such amount in the price of the article with respect to which it was imposed or of any article processed from the commodity with respect to which it was imposed, or passed on any part of such amount to the vendee or to any other person in any manner, or included any part of such amount in the charge or fee for processing, and that the price paid by the claimant or such person was not reduced by any part of such amount. In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. The provisions of this subsection shall not apply to any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title, or to any refund or credit to the processor of any tax paid by him with respect to the provisions of section 317 of the Tariff Act of 1930.

“(2) In the event that any tax imposed by this title is finally held invalid by reason of any provision of the Constitution, or is finally held invalid by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, there shall be refunded or credited to any person (not a processor or other person who paid the tax) who would have been entitled to a refund or credit pursuant to the provisions of subsections (a) and (b) of section 16, had the tax terminated by proclamation pursuant to the provisions of section 13, and in lieu thereof, a sum in an amount equivalent to the amount to which such person would have been entitled had the Act been valid and had the tax with respect to the particular commodity terminated immediately prior to the effective date of such holding of invalidity, subject, however, to the following condition: Such claimant shall establish to the satisfaction of the Commissioner, and the Commissioner shall find and declare of record, after due notice by the Commissioner to the claimant and

opportunity for hearing, that the amount of the tax paid upon the processing of the commodity used in the floor stocks with respect to which the claim is made was included by the processor or other person who paid the tax in the price of such stocks (or of the material from which such stocks were made). In any judicial proceeding relating to such claim, a transcript of the hearing before the Commissioner shall be duly certified and filed as the record in the case and shall be so considered by the court. Notwithstanding any other provision of law: (1) no suit or proceeding for the recovery, recoupment, set-off, refund or credit of any tax imposed by this title, or of any penalty or interest, which is based upon the invalidity of such tax by reason of any provision of the Constitution or by reason of the Secretary of Agriculture's exercise or failure to exercise any power conferred on him under this title, shall be maintained in any court, unless prior to the expiration of six months after the date on which such tax imposed by this title has been finally held invalid a claim therefor (conforming to such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled thereto; (2) no such suit or proceeding shall be begun before the expiration of one year from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum, unless suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall within 90 days after such disallowance notify the taxpayer thereof by mail.

"(3) The District Courts of the United States shall have jurisdiction of cases to which this subsection applies, regardless of the amount in controversy, if such courts would have had jurisdiction of such cases but for limitations under the Judicial Code, as amended, on jurisdiction of such courts based upon the amount in controversy.

"(e) In connection with the establishment, by any claimant, of the facts required to be established in subsection (d) of this section, the Commissioner of Internal Revenue is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda, relative to any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section, to require the attendance of the claimant or of any officer or employee of the claimant, or the attendance of any other person having knowledge in the premises, and to take, or cause to be taken, his testimony with reference to any such matter, with power to administer oaths to such person or persons. It shall be lawful for the Commissioner, or any collector designated by him, to summon witnesses on behalf of the United States or of any claimant to appear before the Commissioner, or before any person designated by him, at a time and place named in the summons, and to produce such books, papers, correspondence, memoranda, or other records as the Commissioner may deem relevant or material, and to give testimony or answer interrogatories, under oath, relating to

any matter affecting the findings to be made by the Commissioner pursuant to subsection (d) of this section. The provisions of Revised Statutes 3174 and of Revised Statutes 3175 shall be applicable with respect to any summons issued pursuant to the provisions of this subsection. Any witness summoned under this subsection shall be paid, by the party on whose behalf such witness was summoned, the same fees and mileage as are paid witnesses in the courts of the United States. All information obtained by the Commissioner pursuant to this subsection shall be available to the Secretary of Agriculture upon written request therefor. Such information shall be kept confidential by all officers and employees of the Department of Agriculture, and any such officer or employee who violates this requirement shall, upon conviction, be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or both, and shall be removed from office.

“(f) No refund, credit, or abatement shall be made or allowed of the amount of any tax, under section 15, or section 17, unless, within one year after the right to such refund, credit, or abatement has accrued, a claim for such refund, credit, or abatement (conforming to such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe) is filed by the person entitled to such refund, credit, or abatement, except that if the right to any such refund, credit, or abatement accrued prior to the date of the adoption of this amendment, then such one year period shall be computed from the date of this amendment. No interest shall be allowed or paid, or included in any judgment, with respect to any such claim for refund or credit.

“(g) The provisions of section 3226, Revised Statutes, as amended, are hereby extended to apply to any suit for the recovery of any amount of any tax, penalty, or interest, which accrued, before, on, or after the date of the adoption of this amendment under this title (whether an overpayment or otherwise), and to any suit for the recovery of any amount of tax which results from an error in the computation of the tax or from duplicate payments of any tax, or any refund or credit authorized by subsection (a) or (c) of section 15, section 16, or section 17 of this title or any refund or credit to the processor of any tax paid by him with respect to articles exported pursuant to the provisions of section 317 of the Tariff Act of 1930.”

SEC. 31. The Agricultural Adjustment Act, as amended, is amended by inserting after section 21 the following:

“IMPORTS

“SEC. 22. (a) Whenever the President has reason to believe that any one or more articles are being imported into the United States under such conditions and in sufficient quantities as to render or tend to render ineffective or materially interfere with any program or operation undertaken, or to reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such

investigation shall be made after due notice and opportunity for hearing to interested parties and shall be conducted subject to such regulations as the President shall specify.

“(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such limitations on the total quantities of any article or articles which may be imported as he finds and declares shown by such investigation to be necessary to prescribe in order that the entry of such article or articles will not render or tend to render ineffective or materially interfere with any program or operation undertaken, or will not reduce substantially the amount of any product processed in the United States from any commodity subject to and with respect to which an adjustment program is in operation, under this title: *Provided*, That no limitation shall be imposed on the total quantity of any article which may be imported from any country which reduces such permissible total quantity to less than 50 per centum of the average annual quantity of such article which was imported from such country during the period from July 1, 1928, to June 30, 1933, both dates inclusive.

“(c) No import restriction proclaimed by the President under this section nor any revocation, suspension, or modification thereof shall become effective until fifteen days after the date of such proclamation, revocation, suspension, or modification.

“(d) Any decision of the President as to facts under this section shall be final.

“(e) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended by the President whenever he finds that the circumstances requiring the proclamation or provision thereof no longer exist, or may be modified by the President whenever he finds that changed circumstances require such modification to carry out the purposes of this section.”

SEC. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) finance adjustments in the quantity planted or produced for market of agricultural commodities. The amounts appropriated under this section shall be expended for such of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of

Agriculture finds will tend to increase the exportation of agricultural commodities and products thereof, and increase the domestic consumption of agricultural commodities and products thereof: *Provided*, That no part of the funds appropriated by this section shall be expended pursuant to clause (3) hereof unless the Secretary of Agriculture determines that the expenditure of such part pursuant to clauses (1) and (2) is not necessary to effectuate the purposes of this section: *Provided further*, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton.

SEC. 33. Section 7 of Title 1 of the Agricultural Adjustment Act, as amended by section 221 of the National Industrial Recovery Act (48 Stat. 210, 15 U. S. C., art. 607), is amended by striking it out and inserting in lieu thereof the following:

"SEC. 7. The Secretary shall sell cotton held or acquired by him pursuant to authority of this Act at his discretion subject only to the conditions and limitations of Title 1 of this Act: *Provided*, That the Secretary shall have authority to enter into option contracts with producers of cotton to sell to or for the producers such cotton held and/or acquired by him in such amounts and at such prices and upon such terms and conditions as he, the Secretary, may deem advisable, and such option contracts may be transferred or assigned in such manner as the Secretary of Agriculture may prescribe.

"Notwithstanding any provisions contained in option contracts heretofore issued and/or any provision of law, assignments made prior to January 11, 1934, of option contracts exercised prior to January 18, 1934, shall be deemed valid upon determination by the Secretary that such assignment was an assignment in good faith of the full interest in such contract and for full value and is free from evidence of fraud or speculation by the assignee.

"Notwithstanding any provision of existing law, the Secretary of Agriculture may, in the administration of the Agricultural Adjustment Act, make public such information as he deems necessary in order to effectuate the purposes of such Act."

SEC. 34. Section 6 of the Agricultural Adjustment Act, is hereby repealed.

SEC. 35. Section 4 (b) of Title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by striking out the words "to be available until March 1, 1936" and inserting at the end of said section a new sentence to read as follows: "This sum shall be available until the cotton acquired by the Secretary of Agriculture under authority of Title 1 of this Act, including cotton futures, shall have been finally marketed by any agency which may have been or may be established by the Secretary of Agriculture for the handling, carrying, insuring, or marketing of any cotton acquired by the Secretary of Agriculture."

SEC. 36. Section 4 (f) of Title 1 of the Agricultural Adjustment Act, as amended by the Emergency Appropriation Act, fiscal year 1935, is amended by adding at the end thereof a new paragraph to read as follows:

"The word 'obligation' when used in this section shall include (without being limited to) administrative expenses, warehouse charges, insurance, salaries, interest, costs, commissions, and other

expenses incident to handling, carrying, insuring, and marketing of said cotton."

SEC. 37. There is hereby authorized to be appropriated the sum of \$40,000,000, of which sum \$10,000,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of Agriculture, under rules and regulations to be promulgated by him and upon such terms as he may prescribe, to eliminate diseased dairy and beef cattle, including cattle suffering from tuberculosis or Bang's disease, and to make payments to owners with respect thereto. The Secretary of Agriculture is authorized to use for scientific experimentation and efforts to eradicate disease in cattle, as much as he finds advisable of the funds appropriated by or in pursuance of the authorization contained in this section and the funds appropriated by the second paragraph of Public Resolution Numbered 27, Seventy-third Congress, approved May 25, 1934, to carry out section 6 of the Act entitled "An Act to amend the Agricultural Adjustment Act so as to include cattle and other products as basic agricultural commodities, and for other purposes", approved April 7, 1934. The sums appropriated or reappropriated by this section shall remain available until June 30, 1936, and such sums and the sums appropriated in pursuance of the authorization contained in this section shall be available to carry out the purposes of both this section and such section 6, and may be used for all necessary expenses in connection therewith, including the employment of persons and means in the District of Columbia and elsewhere. The unexpended balance of the funds appropriated by the second paragraph of such Public Resolution Numbered 27 to carry out the purposes of section 2 of such Act of April 7, 1934, shall remain available for the purposes of such section 2 until June 30, 1936.

SEC. 38. Nothing contained in this Act shall (a), invalidate any marketing agreement or license in existence on the date of the enactment hereof, or any provision thereof, or any act done pursuant thereto, either before or after the enactment of this Act, or (b) impair any remedy provided for on the date of the enactment thereof for the enforcement of any such marketing agreement or license, or (c) invalidate any agreement entered into pursuant to section 8 (1) of the Agricultural Adjustment Act prior to the enactment of this Act, or subsequent to the enactment of this Act in connection with a program the initiation of which has been formally approved by the Secretary of Agriculture under such section 8 (1) prior to the enactment of this Act, or any act done or agreed to be done or any payment made or agreed to be made in pursuance of any such agreement, either before or after the enactment of this Act, or any change in the terms and conditions of any such agreement, or any voluntary arrangements or further agreements which the Secretary finds necessary or desirable in order to complete or terminate such program pursuant to the declared policy of the Agricultural Adjustment Act: *Provided*, That the Secretary shall not prescribe, pursuant to any such agreement or voluntary arrangement, any adjustment in the acreage or in the production for market of any basic agricultural commodity to be made after July 1, 1937 except pursuant to the provisions of section 8 of the Agricultural Adjustment Act as amended by this Act.

AMENDMENTS TO BANKHEAD COTTON ACT

SEC. 39. (a) Section 2 and the first sentence of section 3 (a) of the Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes", approved April 21, 1934, as amended, are amended by inserting after the phrase "the crop year 1935-1936", wherever such phrase appears, the phrase "or the crop year 1936-1937 or the crop year 1937-1938".

(b) Section 3 (a) of such Act, as amended, is amended by adding at the end thereof the following new sentence: "In ascertaining the sentiment of the producers with respect to the crop year 1936-1937 or the crop year 1937-1938, the vote in favor of the compulsory tax features of this Act, by two-thirds of the producers voting, shall be deemed sufficient for the purposes of this subsection."

(c) Section 5 (a) of an Act entitled "An Act to place the cotton industry on a sound commercial basis, to prevent unfair competition and practices in putting cotton into the channels of interstate and foreign commerce, to provide funds for paying additional benefits under the Agricultural Adjustment Act, and for other purposes," approved April 21, 1934, as amended, is amended by inserting after the sentence "that no State shall receive an allotment of less than 200,000 bales of cotton if in any one year of five years prior to this date the production of the State equaled 250,000 bales" the following: "And be it further provided that after the year 1935 no State shall receive an allotment of less than 80,000 bales of cotton if in any one year of five years prior to the date of the passage of said Act the production of the State equaled 100,000 bales."

(d) The action of the Secretary of Agriculture in ascertaining and proclaiming, pursuant to section 3 (a) and (b) of such Act, as amended, 10,500,000 bales as the maximum amount of cotton of the crop harvested in the crop year 1935-1936 that may be marketed exempt from payment of the tax levied by such Act, as amended, is hereby legalized and ratified, and all apportionments and other action taken pursuant to such ascertainment and proclamation are legalized and ratified and confirmed as fully to all intents and purposes as if such amount had been fixed and such apportionments and action had been authorized and made effective specifically by Act of Congress.

(e) Section 7 of such Act, as amended, is amended by adding at the end thereof the following new subsection:

"(d) For each crop year subsequent to the crop year 1934-1935 in which this Act is in effect the Secretary of Agriculture shall make (1) to each farm with an established average production for the applicable base period of 956 pounds or less of lint cotton an allotment equal to the full amount of such production and (2) to each farm with an established average production for such base period of more than 956 pounds of lint cotton an allotment of not less than 956 pounds. For each crop year subsequent to the crop year 1935-1936, the amount of each such allotment (and for the crop year 1935-1936 and subsequent crop years, the additional amount required

for apportionment under the provisions of the Public Resolution entitled "Public Resolution To provide for certain State allotments under the Cotton Control Act") which is in excess of the allotment which, without regard to this subsection or such Public Resolution, would have been made to any farm, shall be in addition to the national allotment and the allotments to the State and county in which such farm is situated. The first sentence of this subsection shall not be held to increase any allotment to any farm for the crop year 1935-1936 which allotment was made under regulations of the Secretary of Agriculture prior to the date of the adoption of this amendment, or to require any reallocation."

SEC. 40. Section 17 of such Act of April 21, 1934, as amended, is amended by inserting "(a)" before the first sentence thereof and by inserting at the end thereof the following new subsection:

"(b) Appropriations for administrative expenses under this Act are authorized to be made available to enable the Secretary of Agriculture to pay any person, who, in connection with the operation of any cotton gin, incurred additional expenses in connection with the administration of this Act with respect to cotton ginned during the crop year 1935-1936 or any subsequent crop year in which this Act is in effect, and who applies to the Secretary therefor, compensation in the amount of such additional expenses, but not in excess of the rate of 25 cents per bale of such cotton ginned by such person, provided proof satisfactory to the Secretary of Agriculture is furnished that the additional expenses for which such person makes application have not been passed on in any manner whatsoever."

SEC. 41. Section 9 (d) of such Act of April 21, 1934, as amended (relating to transfer of exemption certificates), is amended by inserting after the first sentence thereof the following new sentence. "No rule or regulation of the Secretary of Agriculture shall prohibit the transfer or assignment by a cotton producer of certificates issued or reissued to him if such transfer or assignment is to another cotton producer who is a resident of the same State."

SEC. 42. Section 4 of such Act of April 21, 1934, as amended, is amended by inserting at the end thereof the following new subsection:

"(h) The Secretary of Agriculture is directed to exempt by regulation from the payment of the tax on the ginning of cotton as levied under authority of this Act, an amount of lint cotton not in excess of one hundred and ten pounds, produced by or for any producer and retained for domestic use in his household."

AMENDMENTS TO KERR TOBACCO ACT

SEC. 43. The title of the Act entitled "An Act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels of interstate and foreign commerce, and for other purposes", approved June 28, 1934, is amended to read as follows:

"An Act to place the tobacco-growing industry on a sound financial and economic basis, to prevent unfair competition and practices in the production and marketing of tobacco entering into the channels

of interstate and foreign commerce, to raise revenue, and for other purposes."

SEC. 44. Section 1 of said Act is amended by adding at the end thereof the following new subsections:

"(1) The term 'Puerto Rican tobacco' means all leaf tobacco classified as type 46 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

"(m) The term 'cigar-wrapper tobacco' means all leaf tobacco classified in class 6 in the United States Department of Agriculture, Bureau of Agricultural Economics, Service and Regulatory Announcements Numbered 118."

SEC. 45. Section 2 of said Act is amended by inserting after the words "consumption of tobacco" a comma and the words "to raise revenue,".

SEC. 46. Subsection (b) of section 3 of said Act is amended by striking out the period and the remainder of the subsection following the first sentence and inserting in lieu thereof the following: "and to all tobacco harvested in the crop year 1935-1936, except Maryland tobacco, Puerto Rican tobacco, and cigar wrapper tobacco. Thereafter whenever the Secretary of Agriculture determines (1) that the imposition of the tax upon any particular type of tobacco is necessary for the orderly marketing of such tobacco in interstate and foreign commerce and to effectuate the declared policy of this Act, and (2) that two-thirds of the land engaged in the production of such type of tobacco during the crop year in which such determination is made is voted in favor of the levy of the tax upon the sale of such type of tobacco, he shall proclaim such determination at least sixty days prior to the next succeeding crop year, and the tax shall thereafter apply to the sale of tobacco of such type harvested during the crop year next following the date of such proclamation. All persons who have the right, during the crop year in which such determination is made, to sell or to receive a share of the proceeds derived from the sale of tobacco of any type produced by them, or produced on land owned or leased by them, shall be entitled to vote, and the proportion of all the votes cast in each county which are cast in favor of levying the tax upon the sale of such type of tobacco shall determine the proportion of the total amount of tobacco land in such county which shall be deemed to have been voted in favor of levying such tax. The tax provided for by subsection (a) of this section shall not apply to any tobacco harvested after April 30, 1939."

SEC. 47. Subsection (a) of section 5 of said Act is amended by inserting after the designation "(a)" at the beginning thereof the following: "(1)"; and by inserting at the end of said subsection the following paragraph:

"(2) The Secretary of Agriculture shall issue to any person, who, because of religious or moral scruples, is unwilling or unable to become a contracting producer, similar tax-payment warrants covering the quantity of tobacco produced by such person: *Provided*, That the Secretary determines that such person has not planted a greater acreage of tobacco nor sold a greater quantity of tobacco than he could have planted or sold as a contracting producer."

SEC. 48. Subsection (b) of section 5 of said Act is amended by striking out the first sentence of said subsection and inserting in lieu thereof the following:

"There shall be available for issuance by the Secretary of Agriculture further warrants, covering an amount of tobacco of any type equal to 3 per centum of the amount of tobacco of such type covered by the warrants issuable or issued to all contracting producers under the provisions of subsection (a) of this section, to persons engaged in the production of tobacco of such type who do not enter into such contracts and as to whom the Secretary determines that no equitable allotment of tobacco acreage or production is possible under such tobacco contracts. Such warrants shall be issued, upon application therefor, upon such basis or classification as the Secretary deems will effectuate the declared policy of this Act and will be fair and just, and as will apply to all persons eligible to receive warrants under this subsection uniformly on the basis or classification adopted: *Provided*, That warrants covering two-thirds of the amount of any type of tobacco to cover which warrants are available under this subsection shall be issued, upon application therefor, only to persons who receive warrants covering one thousand five hundred pounds or less of any type of tobacco."

SEC. 49. Subsection (d) of section 5 of said Act is amended to read as follows:

"If any tax-payment warrant is erroneously issued to any person, or if the Secretary of Agriculture determines pursuant to this subsection that any person to whom any tax-payment warrant is issued has failed to comply in any crop year with any provision of any agreement entered into by such person pursuant to the Agricultural Adjustment Act or has failed to comply with any rule or regulation issued by the Secretary of Agriculture pursuant to this Act or the Agricultural Adjustment Act, any warrant issued during such crop year to such person shall be void upon demand in writing for the return of such warrant made by the Secretary of Agriculture to the person to whom such warrant was issued. If any tax-payment warrant which has been accepted in payment of the tax imposed by this Act upon the sale of tobacco becomes void pursuant to this subsection either before or after such acceptance, the person to whom such warrant was issued shall, notwithstanding such acceptance of such warrant, be liable for the full amount of the tax upon such sale."

SEC. 50. Section 8 of said Act is amended by striking out subsection (b) of that section and inserting in lieu thereof two new subsections as follows:

"(b) All persons, in whatever capacity acting, including producers, warehousemen, processors of tobacco, and common carriers, having information with respect to tobacco produced or sold, may be required to make a return in regard thereto, setting forth the amount of tobacco produced, sold, or delivered, the name and address of the person who produced, sold, or delivered said tobacco, or to whom said tobacco was sold or delivered, the price paid on such sale, and any other and further information which the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations prescribe as necessary for the proper administration and collection of the tax. Any person

required to make any such return shall render a true and accurate return to the Commissioner of Internal Revenue.

“(c) Any person willfully failing or refusing to file any return required to be filed under this section, or filing willfully any false return, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000.”

SEC. 51. Section 9 of said act is amended by adding at the end thereof the following new subsection:

“(c) Any person who is authorized in writing by the Secretary of Agriculture to act as his agent in the administration of this Act shall, while he is acting as such agent, have the power to administer oaths in connection with the execution of forms required by regulations issued pursuant to sections 7 and 8 of this Act, but no fee or compensation shall be charged or received by any such agent for administering such an oath.”

SEC. 52. The first sentence of subsection (a) of section 10 of said Act is amended to read as follows: “The proceeds heretofore and hereafter derived from the tax are hereby appropriated to be available to the Secretary of Agriculture for rental and benefit payments under the Agricultural Adjustment Act to contracting producers, for administrative expenses, refunds of taxes, redemption of tax-payment warrants heretofore or hereafter received by contracting producers subsequent to the sale of the tobacco covered by said warrants and subsequent to payment of the tax imposed upon such sale by section 3 of this Act, and other payments under this Act.”

SEC. 53. Subsection (a) of section 11 of said Act is amended effective as of the date of the enactment of the said Act by striking out the words “six months” and by inserting in lieu thereof the words “one year”.

SEC. 54. Section 14 of said Act is amended to read as follows:

“The Secretary of Agriculture is directed not to refuse on the ground of lateness any offer by a tobacco producer to become a contracting producer, if such offer is filed with the Secretary of Agriculture within thirty days after the date of the proclamation by the Secretary of Agriculture, pursuant to subsection (b) of section 3 of this Act.”

SEC. 55. There is hereby made available, out of any money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and land utilization. The sums so allotted may be used, in the discretion and under the direction of the President, for the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

In carrying out the provisions of this section, the President is authorized:

(a) To make contracts and grants; and

(b) To acquire, by purchase, any real property or any interest therein (with or without reservations) in accordance with the policy herein set forth.

ANTI-HOG-CHOLERA SERUM AND HOG-CHOLERA VIRUS

SEC. 56. It is hereby declared to be the policy of Congress to insure the maintenance of an adequate supply of anti-hog-cholera serum

and hog-cholera virus by regulating the marketing of such serum and virus in interstate and foreign commerce, and to prevent undue and excessive fluctuations and unfair methods of competition and unfair trade practices in such marketing.

SEC. 57. In order to effectuate the policy declared in section 56 of this Act the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with manufacturers and others engaged in the handling of anti hog-cholera serum and hog-cholera virus only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects interstate or foreign commerce in such serum and virus. Such persons are hereafter in this Act referred to as "handlers." The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful.

SEC. 58. Marketing agreements entered into pursuant to section 57 of this Act shall contain such one or more of the following terms and conditions and no others as the Secretary finds, upon the basis of the hearing provided for in section 57, will tend to effectuate the policy declared in section 56 of this Act:

(a) One or more of the terms and conditions specified in subsection (7) of section 8c of the Agricultural Adjustment Act, as amended.

(b) Terms and conditions requiring each manufacturer to have available on May 1 of each year a supply of completed serum equivalent to not less than 40 per centum of his previous year's sales.

SEC. 59. Whenever all the handlers of not less than 75 per centum of the volume of anti-hog-cholera serum and hog-cholera virus which is handled in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, have signed a marketing agreement entered into with the Secretary of Agriculture pursuant to section 57 of this Act, the Secretary of Agriculture shall issue an order which shall regulate only such handling in the same manner as, and contain only such terms and conditions as are contained in such marketing agreement, and shall from time to time amend such order in conformance with amendments to such marketing agreement. Such order shall terminate upon termination of such marketing agreement as provided in such marketing agreement.

SEC. 60. Subject to the policy declared in section 56 of this act, the provisions of subsections (6), (7), (8), and (9) of section 8a and of subsections (14) and (15) of section 8c of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with orders issued pursuant to section 59 of this Act, and the provisions of section 8d of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with marketing agreements entered into pursuant to section 57 and orders issued pursuant to section 59 of this Act. The provisions of subsections (a), (b) (2), (c), (f), (h), and (i) of section 10 of the Agricultural Adjustment Act, as amended, are hereby made applicable in connection with the administration of sections 56 to 60, inclusive, of this Act.

POTATO CONTROL

SEC. 61. Section 11 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "rice" a comma and the word "potatoes" and by adding at the end of said section 11 a new sentence as follows: "As used in this title, the term 'potatoes' means all varieties of potatoes included in the species *Solanum tuberosum*."

SEC. 62. Subsection 1 of section 2 of the Agricultural Adjustment Act, as amended, is amended by adding after the word "tobacco", in both the second and third sentences of said subsection, the words "and potatoes".

TITLE II

DEFINITIONS

SEC. 201. When used in this title, unless the context otherwise requires—

(a) The term "person" includes an individual, a corporation, a partnership, a business trust, a joint-stock company, an association, a syndicate, group, pool, joint venture, or any other unincorporated organization or group.

(b) The term "Commissioner" means the Commissioner of Internal Revenue.

(c) The term "collector" means a collector of internal revenue.

(d) The term "sale" includes any agreement or delivery whereby the seller transfers the property in, or right to consume, potatoes to another for a consideration, and any sum of money, services, property, or anything of value whatsoever, may constitute consideration for such transfer, but does not include the transfer of the right to consume potatoes to a member of the household of a producer of such potatoes or a transfer for consumption by the household of a person employed in the farming operations of the producer of such potatoes.

(e) The term "allotment year" means the period commencing December 1 and ending November 30: *Provided*, That the first allotment year shall commence December 1, 1935, and shall end November 30, 1936.

(f) The term "change in the form of potatoes" means an intentionally effected change in the form of potatoes in preparation for the sale of such potatoes, or any product thereof, as such change is defined by rules and regulations prescribed by the Commissioner, with the approval of the Secretary of the Treasury.

(g) The term "tax stamp" means an appropriate stamp or other means of identifying potatoes with respect to which a tax levied by this title has been paid.

(h) The term "tax-exemption stamp" means an appropriate stamp or other means of identifying potatoes with respect to which an exemption from a tax levied by this title has been established.

(i) The term "potatoes" means all varieties of potatoes included in the species *Solanum tuberosum*.

(j) The term "producer" means a person who has the right to sell, or to receive a share of the proceeds derived from the sale of, potatoes cultivated by him, or on land owned or leased by him.

(k) The term "continental United States" means the several States of the United States and the District of Columbia and does not include any Territory or possession of the United States.

(l) The term "operator" means any person operating his own farm, any tenant operating a farm rented for cash or for a fixed-commodity payment, any crop-share tenant, and any crop-share landlord.

(m) The term "farm" means all the land operated by the producer as a single operating unit with work stock, farm machinery, and labor substantially separate from that of any other tract of land.

IMPOSITION OF THE TAX

SEC. 202. (a) There is hereby levied and assessed upon each first sale of potatoes harvested on or after December 1, 1935, in the continental United States a tax, to be paid by the seller, at the rate of three-fourths of 1 cent per pound: *Provided*, That when there is a change in the form of potatoes harvested on or after December 1, 1935, in the continental United States prior to the first sale thereof, a tax at the rate of three-fourths of 1 cent per pound, to be paid by the owner at the time such change is effected, is hereby levied and assessed upon the effecting of such change, and no tax shall be levied upon the first sale of such potatoes or any product or products thereof.

(b) If the Secretary of Agriculture finds at any time that the total apportionments to producers in any potato-producing region or regions (as established and defined pursuant to subsection (c) of section 209 of this title) are in excess of the probable supply of potatoes in the continental United States during the marketing periods for such region or regions, he shall proclaim such determination, and the provisions of this title shall not be operative during such marketing periods.

(c) At least thirty days prior to the beginning of each allotment year after the first allotment year, the Secretary of Agriculture shall conduct a referendum which will afford to producers of potatoes a reasonable opportunity to vote in favor of or in opposition to continuing in effect with respect to potatoes produced during the succeeding allotment year the taxes levied by subsection (a) of this section. Each producer who is entitled to an allotment for the last allotment year for which such apportionments were made shall be entitled to one vote; and such taxes shall not be in effect and the provisions of this title shall not be operative with respect to potatoes produced in such succeeding year unless the majority of the votes cast in such referendum are cast in favor of continuing such taxes in effect.

(d) If the Secretary of Agriculture determines and proclaims that the taxes levied by subsection (a) of this section will at the rate therein specified for such taxes, (1) tend to adversely affect the orderly marketing of potatoes, or (2) tend to depress the farm price of potatoes, or (3) tend to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities, then the rate of such taxes shall for such period as the Secretary of

Agriculture designates, be at the highest rate which is lower than three-fourths of 1 cent (not less than one-half of 1 cent per pound) as he finds and proclaims will not adversely affect such orderly marketing, or cause such depression of the farm price, or cause such disadvantages in competition.

(e) The taxes levied by subsection (a) of this section shall be represented by tax stamps, and the proceeds of taxes levied under this title shall be paid into the Treasury of the United States as internal revenue collections.

(f) The Commissioner shall cause to be prepared, for the payment of such taxes, tax stamps of suitable denominations and shall furnish same to the collectors of internal revenue. The Commissioner shall also furnish to the Postmaster General without prepayment a suitable quantity of such stamps to be distributed to, and kept on sale by, the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of, and render accounts to, the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal revenue collections.

ALLOTMENTS

SEC. 203. The Secretary of Agriculture shall investigate probable production and market conditions for each allotment year and shall determine from available statistics of the Department of Agriculture and proclaim, at least thirty days prior to the beginning of each allotment year, the quantity of potatoes which, if produced during such year and sold during or after such year, will, in his opinion, tend to establish and maintain such balance between the production, sale, and consumption of potatoes and the marketing conditions therefor as will, in his opinion, tend to establish prices to potato producers at a level that would give potatoes a purchasing power with respect to articles that farmers buy equivalent to the purchasing power of potatoes in the period August 1919–July 1929 without reducing the total net income of potato producers from potatoes below the largest probable income of potato producers from potatoes produced during such allotment year, and without tending to cause to producers of potatoes disadvantages in competition by reason of an excessive shift in consumption from potatoes to some other commodity or commodities; and the quantity so proclaimed shall, for each allotment year, be apportioned by the Secretary of Agriculture as hereinafter provided.

SEC. 204. When a quantity is determined in accordance with section 203 of this title, the Secretary of Agriculture shall apportion such quantity among the several States. The apportionment to each State shall be determined on the basis of the ratio that the annual average acreage of the four years in which the highest potato acreage was harvested in such State in the years 1927–1934, inclusive, multiplied by the average yield per acre for the four years that the yield of potatoes per acre for such State was highest in the years 1927–1934, inclusive, multiplied by the average annual percentage of the crop

produced in such State during the years 1929-1934, inclusive, which was sold, bears to the sum of the products of such average acreages, such average yields, and such percentages of sales for all States: *Provided*, That if the Secretary of Agriculture finds that the application of the foregoing formula alone would, because of differences in production practices and marketing practices among the several States, result in an inequitable and unfair apportionment to any State or States, not in excess of 2 per centum of the quantity of potatoes determined in accordance with section 203 of this title may be deducted from such quantity and may be used by the Secretary of Agriculture to adjust on the basis of equity and fairness the apportionments made or to be made to any State or States.

SEC. 204a. The quantity determined and proclaimed by the Secretary of Agriculture pursuant to Section 203, and the quantity apportioned to each State pursuant to Section 204, may at such intervals as the Secretary of Agriculture finds necessary to effectuate the declared policy and purposes of this Act be adjusted by him: *Provided*, That the quantity so determined and proclaimed shall not be increased or decreased by more than 5 per cent.

SEC. 205. Ninety-five per centum of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall be apportioned by the Secretary of Agriculture to farms on which potatoes have been grown within such State during any one or more years within the period 1932-1934, inclusive. Such apportionment to any farm shall be made upon application therefor and may, in order to secure equitable apportionments to producers, be made by the Secretary based upon either—

(1) A percentage of the average sales of potatoes produced on such farm for a representative base period, prescribed by the Secretary, of any two or more years during the years 1932-1934, inclusive, providing the operators of such farm for the allotment year for which the apportionment is made produced potatoes on such farm during at least one of the base-period years. The representative base period prescribed by the Secretary and the percentage applied to the average sales of potatoes produced during such period in establishing apportionments for each farm under this paragraph shall, so far as practicable, be uniform for farms similarly situated upon the basis or classification prescribed by the Secretary of Agriculture, but in the case of any farm for which such average sales are 300 pounds or less, such average sales shall be exempt from any percentage reduction thereof and such farm shall receive an apportionment equal to such average sales; or

(2) Such basis as the Secretary of Agriculture deems fair and just and will apply to all farms to which an apportionment is made under this paragraph 2 uniformly on the basis or classification adopted. In making an apportionment to a farm under this paragraph, due consideration shall be given to the quantity of potatoes produced and sold in the past by the operators who will operate such farm for the allotment year for which the apportionment is made, the quantity of potatoes produced on such farm and sold in the past, and the acreage of the farm available for the production of potatoes and which the operators are currently equipped to devote to the production of potatoes.

SEC. 206. Not in excess of 5 per centum of the quantity of potatoes apportioned to any State pursuant to section 204 of this title shall, upon application therefor, be available for apportionment by the Secretary of Agriculture to farms operated by persons engaged or evidencing a desire to engage in the production and sale of potatoes in such State and which farms are ineligible to receive an apportionment under section 205 or in respect to which the Secretary of Agriculture determines that the apportionments made pursuant to section 205 are inequitable: *Provided*, That apportionments under this section shall be made upon such basis as the Secretary of Agriculture deems fair and just and which will, so far as practicable, apply to all such farms uniformly upon the basis or classification prescribed by the Secretary. Any quantity not apportioned under this section shall be available for apportionment under section 205 of this title.

SEC. 207. If an apportionment is made to a farm under section 206 of this title for any allotment year, for each succeeding allotment year that the operation of such farm is continued by the operators who operated it during the allotment year for which such apportionment was made, the apportionment to such farm shall be made upon the basis provided in section 206 of this title but shall be made from the quantity available for apportionment under section 205 of this title.

SEC. 208. For the purposes of the apportionments to be made pursuant to sections 204, 205, 206, and 207 of this title, the District of Columbia shall be considered as a part of the State of Maryland.

SEC. 209. (a) The Secretary of Agriculture, or any agent or agency designated for such purpose by the Secretary of Agriculture, shall, upon application therefor, issue for each farm tax-exemption stamps for an amount of potatoes equal to the apportionment made to such farm pursuant to sections 205, 206, and 207 of this title: *Provided*, That under such regulations as the Secretary of Agriculture shall prescribe he shall refuse to issue such tax-exemption stamps to any applicant in any allotment year in which such applicant is not a bona fide producer of potatoes. Each such tax-exemption stamp, during the period of its validity as determined pursuant to subsection (c) of this section, shall establish an exemption from the taxes imposed by subsection (a) of section 202 of this title for the amount of potatoes stated on the face of each such stamp.

(b) The right to tax-exemption stamps shall be evidenced in such manner as the Secretary of Agriculture may by regulations prescribe, and such tax-exemption stamps shall be issued in such form or forms, and under such terms and conditions as may be prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury.

(c) The Secretary of Agriculture shall establish and define potato-producing regions for the continental United States upon the basis of the marketing periods for potatoes produced in such regions during an allotment year, and shall from time to time by regulation and upon the basis of such marketing periods for each such region, determine and fix the period during which tax-exemption stamps issued, or pursuant to subsection (g) of this section transferred, to producers in such regions for any allotment year shall be valid, provided that all tax-exemption stamps shall be valid for a period of at least the allotment year for which they are issued.

(d) If any tax-exemption stamp is erroneously issued, the person to whom such stamp is so issued shall, upon demand by the Secretary of Agriculture in writing and mailed to the last-known address of such person, be obligated to return such stamp or pay to the Secretary a sum equal to the amount of the taxes imposed by subsection (a) of section 202 of this title upon the amount of potatoes covered by such stamp, at the rate in effect at the time such stamp was issued.

(e) Any sale, assignment, pledge, or transfer, and any agreement or power of attorney to sell, assign, apply, pledge, or transfer made or entered into by any person of his right to or claim for tax-exemption stamps or any part thereof not accompanied by actual delivery of such stamps shall, for all purposes, be null and void; except agreements between landlords and share-tenants or share-croppers which, in accordance with such regulations as the Secretary of Agriculture shall prescribe, provide for a division of the tax-exemption stamps received or to be received by any such landlord, any such share-tenant or any such share-cropper, or any or all of them, in accordance with their respective shares in the potatoes or the proceeds thereof to be produced by them.

(f) Where a farm is operated by share-tenants, or with the aid of share-croppers, tax-exemption stamps issued for an apportionment made to such farm shall be used by the landlord, the share-tenants, and/or the share-croppers in accordance with their respective shares in the potatoes produced on such farm, during the allotment year for which such apportionment is made, or the proceeds of such potatoes, and the Secretary of Agriculture shall issue regulations protecting the interests of share-croppers and tenants in the issuance and use of such tax-exemption stamps.

(g) If accompanied by delivery thereof, tax-exemption stamps may be transferred or assigned in such manner and upon such terms and conditions, including conditions governing the consideration which must be given therefor, as the Secretary of Agriculture may determine are reasonably necessary to prevent (1) transfers and assignments which would tend to depress the market price for potatoes produced in any potato-producing area, (2) speculation in tax-exemption stamps, or (3) fraud or coercion in the transfer of such stamps, or which the Secretary of Agriculture finds to be necessary or desirable to facilitate the identification of tax-paid or tax-exempt potatoes or which the Secretary of Agriculture finds to be necessary or desirable to protect the interests of tenants and share-croppers in the issuance and use of tax-exemption stamps.

SEC. 210. Tax-exemption stamps issued to a person, and a person's right to and claim for, tax-exemption stamps shall be exempt from the claims of the creditors of such person and from any and all process for the enforcement of such claims. The Secretary of Agriculture shall by regulation provide for the issuance to, and/or use by, the person who by devise, bequest, or descent becomes the owner of potatoes planted by a person dying during an allotment year, of the tax-exemption stamps which have been, or would have been, issued to such deceased person for such allotment year.

PACKAGING

SEC. 211. (a) To facilitate the collection of the tax upon the first sale of potatoes imposed by subsection (a) of section 202 of this title,

all potatoes harvested on and after December 1, 1935, and sold in the continental United States, during any period such tax is in effect, shall, in accordance with such rules and regulations as the Commissioner with the approval of the Secretary of the Treasury shall prescribe, be packed in closed and marked containers to which shall be attached or affixed tax stamps or tax-exemption stamps equal in face value to the amount of tax per pound in effect on the potatoes contained therein: *Provided*, That, subject to such regulations as the Commissioner with the approval of the Secretary of the Treasury may prescribe, packaging may be postponed beyond the time of the first sale of potatoes which are to be stored in bulk, or which are to be graded, at such places as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury. The time and method of such packaging and the time and method of attaching or affixing such stamps and the time and circumstances under which packages may be broken shall be established in accordance with such regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe as desirable or necessary to facilitate the collection of the taxes levied by this title. In prescribing and approving rules and regulations for the packaging of potatoes and the attaching or affixing of stamps, the Commissioner and the Secretary of the Treasury shall give due weight to the customs of the industry.

(b) To facilitate the collection of the tax upon a change in the form of potatoes imposed by subsection (a) of section 202 of this title, the Commissioner, with the approval of the Secretary of the Treasury, is authorized by regulation to prescribe appropriate means of identifying potatoes, the change of form of which is subject to such tax, and for the identification of the products of such potatoes.

RULES AND REGULATIONS

SEC. 212. The Commissioner, with the approval of the Secretary of the Treasury, shall prescribe and publish such rules and regulations as he may deem needful in administering provisions of this title relating to the revenue including rules and regulations for the issue, sale, custody, production, cancelation, destruction, and disposition of tax stamps and the cancelation and destruction of tax-exemption stamps, and the substitution or replacement of tax stamps in cases of loss, destruction, or defacement thereof.

SEC. 213. The Secretary of Agriculture is authorized to make such rules and regulations as may be necessary to carry out the powers vested in him by the provisions of this title.

SEC. 214. (a) All producers, warehousemen, processors, carriers, retailers, factors, handlers, and any other person who the Commissioner has reason to believe to have information with respect to potatoes produced, or sold, or subject to a tax on a change in the form of potatoes, may be required, under regulations prescribed jointly by the Secretary of the Treasury and the Secretary of Agriculture, to make such returns, render such statements, give such information, and keep such records as they may deem necessary for the proper administration of this title.

(b) Any person willfully failing or refusing to file such a return, render such statement, give such information, or keep such records,

or filing a willfully false return, or rendering or giving willfully false statements or information or willfully keeping false records, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

REFUNDS

SEC. 215. (a) No refund of any tax, penalty, interest, or sum of money paid shall be allowed under this title unless claim therefor is presented within one year after the date of payment of such tax, penalty, interest, or sum.

(b) No suit or proceeding shall be maintained in any court for the recovery of any tax under this title alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner illegally or wrongfully collected until a claim for refund or credit has been duly filed with the Commissioner according to the provisions of law in that regard and the regulations of the Secretary of the Treasury established in pursuance thereof. No suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of two years from the date of payment of such tax, penalty, or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit or proceeding relates. The Commissioner shall, within ninety days after such disallowance, notify the taxpayer thereof by registered mail.

(c) The amount of the taxes imposed by subsection (a) of section 202, paid by a person, which taxes would not have been paid had the tax-exemption stamps to which such person was entitled been delivered to such person prior to the payment of such taxes, shall be refunded to such person.

APPROPRIATION

SEC. 216. (a) The proceeds derived from the taxes imposed by this title are hereby authorized to be appropriated to be available to the Secretary of Agriculture for administrative expenses, for all purposes of the Agricultural Adjustment Act, as amended, for refunds of taxes and for other payments under this title. The Secretary of Agriculture and the Secretary of the Treasury shall estimate from time to time the amount of taxes which will be collected under this title during a period following any such estimate not in excess of four months, and the Secretary of the Treasury shall, out of any money in the Treasury not otherwise appropriated, advance to the Secretary of Agriculture the amounts so estimated. The amount of any such advance shall be deducted from such tax proceeds as shall subsequently become available under this subsection: *Provided*, That all taxes imposed by section 230 of this title, collected upon potatoes coming from the possessions or territories of the United States, shall not be covered into the general fund of the Treasury of the United States but shall be held as a separate fund and paid into the treasuries of the said possessions and territories,

respectively, to be used and expended by the governments thereof for the benefit of agriculture.

(b) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books, periodicals, newspapers, and books of references, for contract stenographic reporting services, for the purchase or hire of vehicles, including motor vehicles, and for printing and paper in addition to allotments under the existing law.

(c) The Secretary of Agriculture may advance or transfer to the Treasury Department, to the Post Office Department, and to any other department or agency, out of funds available for administrative expenses under this title, such sums as are required to pay administrative expenses of, and refunds made by, such departments or agencies in the administration of this title.

(d) There is hereby authorized to be appropriated to be available to the Secretary of Agriculture such sums as may be necessary for administrative expenses, for refunds of taxes, and for other advances or payments under this title.

GENERAL AND PENAL PROVISIONS

SEC. 217. If at any time the Secretary of Agriculture finds that any product or products manufactured from potatoes is of such low value, considering the quantity of potatoes used for its manufacture, that the imposition of the taxes imposed by subsection (a) of section 202 of this title would prevent wholly or in large part the use of potatoes in the manufacture of such product or products or that potatoes used for the feeding of livestock are of such low value that the imposition of such taxes would prevent wholly or in large part the sale of potatoes for any such use, the Secretary of Agriculture shall proclaim such finding and thereafter in accordance with regulations prescribed jointly by the Secretary of Agriculture and the Secretary of the Treasury, the sale, or change in form, of potatoes for such use or uses by the purchaser thereof shall be exempt from the provisions of subsection (a) of section 211, and from the taxes imposed by subsection (a) of section 202 of this title until such time as the Secretary of Agriculture, after further investigation and due notice and opportunity for hearing to the interested parties, revokes such proclamation: *Provided*, That the right to any such exemption shall be evidenced in such manner as joint regulations of the Secretary of Agriculture and the Secretary of the Treasury shall prescribe. If such purchaser uses any potatoes sold to him free of tax under this section or uses any product of such potatoes, for other than an exempt use as above specified, then he shall be liable for a tax in the same manner as if such potatoes were sold by him at a first sale.

SEC. 218. The Secretary of Agriculture is authorized, in order to carry out the provisions of this title, to appoint, without regard to the provisions of the civil-service law, such officers, agents, and employees and to utilize such Federal officers and employees and, with the consent of the State, such State and local officers and employees, as he may find necessary, to prescribe their authorities, duties, responsibilities, and tenure, and, without regard to the Classification Act of

1923, as amended, to fix the compensation of any officers, agents, and employees so appointed.

SEC. 219. (a) For the more effective administration of the functions vested in him by this title, the Secretary of Agriculture is authorized to utilize committees and associations heretofore or hereafter established pursuant to subsection (b) of section 10 of the Agricultural Adjustment Act, as amended, and to establish regional, State, and local committees and associations of producers of potatoes.

(b) The Secretary of Agriculture, out of any funds appropriated for administrative expenses under this title, is authorized to advance funds to the proper fiscal officer of associations established or utilized pursuant to subsection (a) of section 219 of this title, for expenses incurred or to be incurred in the administration of this title, with the approval of the Secretary of Agriculture by such associations. Payment of such expenses of such associations shall be made upon such evidence and in such manner and at such time or times as the Secretary of Agriculture may direct, and the accounting therefor by the associations shall be solely administrative and to the Secretary of Agriculture only.

SEC. 220. Any person who knowingly sells, or offers for sale, or knowingly offers to buy, or buys, potatoes not packaged as required by this title, or any person who knowingly sells, or offers for sale, or who knowingly offers to buy, or buys, potatoes to the packages of which are not affixed or attached tax-exemption stamps or tax stamps as required by this title shall, upon conviction thereof, be fined not more than \$1,000. Any person convicted of a second offense under the provisions of this title may, in addition to such fine, be imprisoned for not more than one year.

SEC. 221. Any person who, in violation of the regulations made by the Secretary of Agriculture, speculates in tax-exemption stamps, and any person securing tax-exemption stamps from another person by fraud or coercion, shall, upon conviction thereof, be fined not more than \$1,000 or sentenced to not more than one year's imprisonment, or both.

SEC. 222. Whenever any potato container, to which are affixed tax stamps or tax-exemption stamps, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps affixed thereto. Any revenue officer may destroy the tax stamps or tax-exemption stamps affixed to any emptied potato package.

SEC. 223. Any person who willfully violates any provision of this title, or who willfully fails to pay, when due, any tax imposed under this title, or who, with intent to defraud, falsely makes, forges, orders, or counterfeits any tax stamps or tax-exemption stamps made or used under this title or who uses, sells, or has in his possession any such forged, ordered, or counterfeited tax stamps or tax-exemption stamps or any plate or die used, or which may be used in the manufacture thereof, or has in his possession any tax stamp or tax-exemption stamp which should have been destroyed as required by this title, or who makes, uses, sells, or has in his possession, any paper in imitation of the paper or other substance used in the manufacture of any such tax stamp or tax-exemption stamp, or who reuses any tax stamp or tax-exemption stamp

required to be destroyed by this title, or who places any potatoes in any package which has been theretofore filled or stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed to such package, or who gives away or accepts from another or who sells or buys any emptied package which had been previously filled and stamped or otherwise identified under this title without destroying the tax stamps and tax-exemption stamps previously affixed or attached to such package, or who makes any false statement in any application for tax-exemption stamps under this title, or who has in his possession any tax-exemption stamps or tax stamps, obtained by him otherwise than as provided in this title, shall, upon conviction, be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding six months, or both.

SEC. 224. Any person who willfully violates any regulation issued or approved pursuant to this title, for the violation of which a special penalty is not provided by law, shall, upon conviction thereof, be punished by a fine not exceeding \$200.

SEC. 225. All provisions of law, including penalties, applicable with respect to the taxes imposed by sections 600 and 800 of the Revenue Act of 1926, except section 1121 of the Revenue Act of 1926, and except section 614 of the Revenue Act of 1932, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to all taxes imposed by this title.

SEC. 226. In order to facilitate the making of apportionments and the collection of the taxes imposed by this title, every producer who sells potatoes during any allotment year, or who affects a change in the form of potatoes, shall keep such books and records as the Commissioner, with the joint approval of the Secretary of the Treasury and the Secretary of Agriculture, shall by regulations require and such books and records shall be open to inspection by any authorized agent of the Secretary of Agriculture or the Commissioner.

SEC. 227. Whenever any potatoes, upon the sale of which a tax is required to be paid, are sold, without the use of the proper stamps, or whenever a change in the form of potatoes upon which a tax is required to be paid occurs, without the payment of such tax, it shall be the duty of the Commissioner, within a period of not more than two years after such sale or change in the form, upon satisfactory proof, to estimate the amount of the tax which has been omitted to be paid, and to make the assessment therefor, and certify the same to a collector. The tax so assessed shall be in addition to the penalties imposed by law.

EXPORTS

SEC. 228. Under such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, may prescribe, the taxes imposed under subsection (a) of section 202 of this title shall not apply in respect to potatoes sold for export to any foreign country or for shipment to a possession or Territory of the United States, and in due course so exported or shipped. Under such rules and regulations the amount of any such tax erroneously or illegally collected in respect to such potatoes so exported or shipped may be

refunded to the exporter or shipper of the potatoes instead of the taxpayer if the taxpayer waives any claim for the amount so to be refunded.

IMPORTS

SEC. 229. In order to secure equality between domestic and foreign producers of potatoes and in order to prevent the taxes imposed by subsection (a) of section 202 from resulting in disadvantages to producers of potatoes in the continental United States, the Secretary of Agriculture is hereby authorized and directed to, from time to time by orders and regulations—

(a) For each allotment year or any part thereof that the taxes imposed by subsection (a) of section 202 of this title are in effect, establish quotas for the entry or the importation into the continental United States of potatoes produced in any Territory or possession of the United States, or any foreign country. Such quotas shall be based upon that percentage of the annual average quantity of such potatoes brought or imported into the continental United States during the years 1929–1934, inclusive, which is equal to the percentage that the quantity proclaimed by the Secretary of Agriculture under section 203 of this title is of the annual average of the quantities of potatoes sold in the continental United States during the years 1929–1934, inclusive; and

SEC. 230. After such quotas have been established, potatoes imported or brought into the continental United States in excess of any such quotas shall, in addition to any import duties, be subject to an internal-revenue tax equal to the amount of the tax then in effect on the first sale of potatoes produced and sold in the continental United States. The tax levied by this section shall be represented by tax stamps and shall be paid by the owner or importer prior to release from customs custody and control, or entry into the continental United States.

SEC. 231. During any period the tax imposed by subsection (a) of section 202 is in effect all potatoes imported or brought into the continental United States from any possession or Territory of the United States or from any foreign country shall, prior to release from customs custody and control, in accordance with such rules and regulations as the Commissioner, with the approval of the Secretary of the Treasury, shall prescribe as necessary or desirable to facilitate the collection of the taxes levied by this title, be packed in closed and marked containers. The time and method of such packaging and the time and method of attaching or affixing the stamps required by the preceding section shall be established in accordance with such regulations as the Commissioner shall prescribe. All sales of such potatoes, after release thereof from customs custody and control or entry in the continental United States, shall be in packages in the same manner and under the same terms and conditions as required for the sales of potatoes harvested and sold in the continental United States.

SEC. 232. The provisions of sections 229 and 230 shall not be applicable to potatoes produced in the Republic of Cuba and imported and entered for consumption into the continental United States during the period from December 1 to the last day of the following

February, inclusive, in any years: *Provided*, That if the Secretary of Agriculture at any time finds that the importation of potatoes from the Republic of Cuba during such period is, or threatens to result in, unduly depressing the potato market in or for any potato-producing area of the continental United States, he shall proclaim such findings and the provisions of sections 229 and 230 shall be applicable to all potatoes thereafter imported into the continental United States from the Republic of Cuba.

SEC. 233. This title may be cited as the "Potato Act of 1935."

Approved, August 24, 1935.

UNITED STATES DEPARTMENT OF AGRICULTURE

AGRICULTURAL ADJUSTMENT ADMINISTRATION

DIVISION OF MARKETING AND MARKETING AGREEMENTS

COMPILATION OF SECTION 32, PUBLIC LAW NO. 320 74TH CONGRESS, APPROVED AUGUST 24, 1935, AS AMENDED AND LEGISLATION RELATING THERETO

[PREFATORY NOTE.—Throughout the text of this compilation, ordinary type is used for the original language of Section 32, Public Law No. 320, 74th Congress, approved August 24, 1935; italics are used for amendatory legislation added by Section 2, Public Law No. 461, 74th Congress, approved February 29, 1936; and bold face type is used for supplementary legislation, Public Law No. 165, 75th Congress, approved June 28, 1937.]

SEC. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936 an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year. Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits or indemnities or by other means, from the normal channels of trade and commerce; and (3) *reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final. The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section:* Provided further, That no part of the funds appropriated by this section shall be used for the payment of benefits in connection with the exportation of unmanufactured cotton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,¹ That in carrying out the provisions of clause (2) of section 32 of the act approved August 24, 1935 (49 Stat. 774), as amended, the Secretary of Agriculture may transfer to the Federal Surplus Commodities Corporation, which corporation is hereby continued, until June 30, 1939, as an agency of the United States under the direction of the Secretary of Agriculture, such funds, appropriated by said section 32, as may be necessary for the purpose of effectuating said clause (2) of section 32: Provided, That such transferred funds, together with other funds of the corporation, may be used for purchasing, exchanging, processing, distributing, disposing, transporting, storing, and handling of agricultural commodities and products thereof and inspection costs, commissions, and other incidental costs and expenses, without regard to the provisions of existing law governing the expenditure of public funds and for administrative expenses, including rent, printing and binding, and the employment of persons and means, in the District of Columbia and elsewhere, such employment of persons to be in accordance with the provisions of law applicable to the employment of persons by the Agricultural Adjustment Administration.

In carrying out clause (2) of section 32, the funds appropriated by said section may be used for the purchase, without regard to the provisions of existing law covering the expenditure of public funds, of agricultural commodities and products thereof, and such commodities, as well as agricultural commodities and products thereof purchased under the preceding paragraph hereof, may be donated for relief purposes.

¹ The title of the supplementary legislation, Public, No. 165, 75th Congress, approved June 28, 1937, is as follows: "An Act to extend the time for purchase and distribution of surplus agricultural commodities for relief purposes and to continue the Federal Surplus Commodities Corporation."

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